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Foreign Policy
at BROOKINGS



CATALYSTS FOR RIGHTS:

The Unique Contribution
of the UN's Independent Experts
on Human Rights

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Final Report of the Brookings Research Project on
Strengthening U.N. Special Procedures

TED PICCONE

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TABLE OF CONTENTS

Acknowledgements	iii
Members of Experts Advisory Group	v
List of Abbreviations	vi
Executive Summary	viii
Introduction	1
Context	2
Methodology	3
A Short Summary of Special Procedures	5
Summary of Findings	9
Country Visits	9
Follow-Up to Country Visits	19
Communications	20
Resources	31
Joint Activities and Coordination	32
Code of Conduct	34
Training	34
Universal Periodic Review	35
Relationship with Treaty Bodies	36
Recommendations	38
Appointments	38
Country Visits and Communications	38
Follow-Up Procedures	40
Resources	41
Training	41
Code of Conduct	42
Relationship with UPR, Treaty Bodies, and other U.N. Actors	42
Appendices	
Appendix A	HRC Resolution 5/1, the Institution Building Package 44
Appendix B	HRC Resolution 5/2, the Code of Conduct 48
Appendix C	Special Procedures of the HRC - Mandate Holders (as of 1 August 2010) 55
Appendix D	Human Rights Council Membership (2006-2010). 59
Appendix E	Examples of how SP Visits and Communications Affect National Action. 61
Appendix F	State Responses to Communications (2004-2008). 69
Appendix G	Status of Country Visits (as of June 2010). 71
Appendix H	Project Methodology on Scoring Communications 75
Appendix I	List of Interviews 78
Appendix J	February 2010 Statement of Experts and Advocates. 84

ACKNOWLEDGEMENTS

When I arrived at The Brookings Institution in April 2008 after running a small non-profit organization devoted to research and advocacy on democracy and human rights, I was struck immediately by the freedom I had to develop my own research agenda. One of the lingering questions that deserved more time and analysis, in my view, was how the United Nations human rights system works and how it could be improved. I was particularly interested in the work of the U.N.'s independent experts on human rights (known in U.N. parlance as the Special Procedures) who had drawn so much praise and a fair amount of criticism for their activities. This issue had attracted more attention than usual in the context of the negotiations in 2005-06 to abolish the Commission on Human Rights and to create a new and more elevated Human Rights Council. Exasperation bordering on outright hostility toward both the Commission and the Council from the Bush Administration and other governments only heightened my interest in examining in more depth the tricky intersection between universal norms and practical implementation of such norms at the country level.

I was drawn to this issue for several reasons. First, I knew from my own experience and further research that sound, empirical studies of the role of the Special Procedures and the effectiveness of this mechanism on the ground had never been published. Second, I was convinced that the main challenge to the international human rights

community is, as then U.N. High Commissioner for Human Rights Louise Arbour declared, implementation, implementation, implementation. While new human rights norms may need to be developed in some areas, the bulk of the main human rights principles, protocols and procedures have already been conceptualized and codified in treaties that have been signed and ratified by most governments. The real challenge is how the international system created since the end of World War II can be more effective in influencing states to promote and protect human rights for all. Third, given the intensity of the debate around creation of the Council, and knowing that its work would be reviewed after five years (2011), I felt there was an opportunity to contribute something meaningful to the discussion.

I am grateful to so many people who helped make this project a reality. Brookings President Strobe Talbott has been a steady and stalwart supporter of the idea of doing more public policy research on questions of human rights, humanitarian affairs and foreign policy. He, along with Martin Indyk, Vice President and Director of Foreign Policy at Brookings, and his predecessor Carlos Pascual, now U.S. Ambassador to Mexico, played an essential leadership role in backing this effort. Bruce Jones, who directs the Managing Global Insecurity project where I sit, challenged me early on to tackle the effectiveness question. Ongoing support from the Foreign Policy team, especially Charlotte Baldwin, Julia Cates, Adrienne Anzanello,

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Finally, I want to thank my dear wife, Susan Gibbs, and our three wonderful children for enduring my long hours away from home.

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LIST OF ABBREVIATIONS

MANDATES:

ED	Special Rapporteur on the right to education
FRDX	Special Rapporteur on the promotion and protection of the right to freedom of opinion or expression
HLTH	Special Rapporteur on the right to everyone to the enjoyment of the highest attainable standard of physical and mental health
HOUSE	Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context
HRD	Special Rapporteur on the situation of human rights defenders
IDP	Special Rapporteur on the human rights of internally displaced persons
IJL	Special Rapporteur on the independence of judges and lawyers
IND	Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people
MIG	Special Rapporteur on the human rights of migrants
RACE	Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
RINT	Special Rapporteur on freedom of religion or belief
SALE	Special Rapporteur on the sale of children, child prostitution and child
SUMX	Special Rapporteur on extrajudicial, summary or arbitrary executions
TOR	Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
TOX	Special Rapporteur on the adverse effects of the movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights
TRAF	Special Rapporteur on trafficking in persons, especially in women and children
VAW	Special Rapporteur on violence against women, its causes and consequences
WGAD	Working Group on Arbitrary Detention
WGEID	Working Group on Enforced or Involuntary Disappearances

OTHER:

AL	Allegation Letter
CAT	Committee against Torture
CD	Community of Democracies
CEDAW	Committee on the Elimination of Discrimination against Women
EEG	Eastern Europe Group
GRULAC	Latin America and Caribbean Group
HCHR	High Commissioner for Human Rights
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
JAL	Joint Allegation Letter
JUA	Joint Urgent Appeal
NGO	Nongovernmental Organization
NHRI	National Human Rights Institution
NSI	No Standing Invitation
OHCHR	Office of the High Commissioner for Human Rights
OIC	Organization of Islamic Conference
QRD	Quick Response Desk
SI	Standing Invitation
SP	Special Procedures
SPB	Special Procedures Branch
SPD	Special Procedures Division
SRSR	Special Representative of the Secretary General
UA	Urgent Appeal
UN	United Nations
UNDP	United Nations Development Program
UNGA	United Nations General Assembly
UNHCR	United Nations High Commissioner for Refugees
UPR	Universal Periodic Review
WEOG	Western Europe and Others Group
WG	Working Group

EXECUTIVE SUMMARY

One of the great questions of international affairs is how to promote respect for universal principles of human rights in a world where sovereign states can be persuaded but rarely compelled to do the right thing. Over decades, the international community has constructed a house with a strong foundation of universal norms that place the individual's right to human dignity at the center. To give meaning to this concept, states have adopted treaties that define the scope and content of a wide variety of political, civil, economic, social and group rights. They have agreed to regulate and limit the state's power to infringe those rights. And they have forged a variety of tools to monitor how states implement their obligations, and to assist, cajole and demand protection of such rights in real time. Building this house was one of the great accomplishments of the second half of the 20th century.

A critical human rights challenge of this century is to ensure that the house functions effectively to shelter those individuals who need protection from discrimination, abuse and violence. To do this, we need to ask and answer a seemingly simple question: What works when it comes to international promotion and protection of human rights at the national level? This report seeks to answer that question as it relates to one piece of the United Nations human rights system: the independent experts mandated by governments to report on how states respect human rights in fact, otherwise known as the "Special Procedures."

The report comes at a time when the main forum states have established to negotiate these questions, the U.N. Human Rights Council in Geneva, continues to face intense scrutiny. For a variety of reasons, most notably the high political sensitivity of human rights, the Human Rights Council has become a battleground for defending a state's reputation at home and abroad. This report does not seek to evaluate all the pros and cons surrounding the body as it comes upon its five-year evaluation. It does aim, however, to evaluate an important element of the Council's work in the hopes it will contribute to a more objective and balanced assessment in the United States and around the world of what works when it comes to promoting human rights.

FINDINGS

After months of research, interviews and field visits, and with the benefit of input from a group of expert advisors, the report draws a compelling portrait of this unique mechanism. Among its conclusions, the report finds:

- The U.N.'s independent experts on human rights are *catalysts for rights*, helping to convert abstract principles into meaningful change. Thanks to their status as *independent* experts mandated by the United Nations, most Special Procedures have played, and continue to play, a critical role in shaping the content of international

human rights norms, shedding light on how states comply with such norms, and influencing how governments behave, to the benefit of millions of people.

- Lack of state cooperation with Special Procedures represents the chief obstacle to their work. Failure to accept requests to visit, to respond to allegations and to follow up on their recommendations as well as hostile attacks on their work are the most glaring and widespread areas needing attention.
- The Special Procedures are also hobbled by a host of other challenges, including inadequate resources and training, insufficient understanding of the local context for their work, and the lack of a systematic process for following up their recommendations.
- Despite these obstacles, the Special Procedures mechanism represents one of the most effective tools of the international human rights system and deserves further strengthening and support from the international community.
- Country visits were seen as the most effective tool for influence in the independent experts' toolbox. The blue U.N. flag they carry on mission when combined with well-prepared and politically skillful judgments have a direct impact on elevating attention to important and sensitive human rights problems by government officials, nongovernmental organizations, the media and politicians.
- Country visits are especially important for human rights defenders to help them mobilize advocacy, involve victims, call attention to problems and remedies, and influence state and international behavior on human rights.
- Country visits have had the effect of influencing government behavior in a variety of positive ways:
 - better treatment and release of political prisoners and journalists
 - new laws and policies to protect migrants and internally displaced persons
 - dismissals and prosecutions of military and police officials charged with abuses
 - monitoring prisons to prevent torture
 - expanding access to health education and services
 - adopting legislation to address domestic violence against women and children including victim and witness protection measures, and
 - protecting freedom of expression through decriminalizing defamation.
- The key factors that facilitate positive state action in response to a country visit are:
 - The credibility and moral power of the United Nations
 - The timing of the visit as it relates to a country's political development
 - The quality and specificity of the expert's research and recommendations
 - The willingness and capacity of the government to cooperate with the expert
 - The ability of local NGOs to articulate their grievances in a timely and effective way and to do follow-up advocacy
 - The freedom and capacity of the media to report on the visit and track results
 - The ability of U.N. staff to support the independent experts through preparation and follow-up activities.
- Written communications from Special Procedures transmitting allegations of human rights problems to governments have some limited impact on influencing state behavior but in general are ineffective.

- Analysis of nearly 9,000 communications sent over a five-year period by 17 mandates to 174 states shows that 58% received no or immaterial responses by governments. In 18% of responses, governments took steps to address the underlying allegation in some way, while 21% showed rejection of the allegation with no evidence of an investigation of the underlying claim.
- On balance, states in Europe and the Americas had better scores on responding to allegations than states in Africa and Asia. Similarly, states considered democratic had a significantly higher positive response rate and a lower rate of non-replies than non-democracies.
- The impact of country visits and communications is negatively affected by the lack of any institutionalized mechanism for following up on an independent expert's recommendations.
- A public record of how states cooperate with the independent experts, including a database on all communications, should be produced on an ongoing basis. States should rely on this record of cooperation when electing members to the Human Rights Council and in making decisions on resource allocation and technical assistance to states.
- Special Procedures should improve their working methods by investing more time to preparation of country visits, more balanced presentation of their findings, more specific and actionable recommendations, and more careful selection of which states to visit.
- A number of follow-up steps are needed to strengthen the impact of the mechanism such as: regular submission of progress reports by states, better coordination among Special Procedures and their staffs, periodic follow-up visits, incorporation of recommendations in U.N. country team work plans, and greater monitoring and reporting by civil society and the media.

RECOMMENDATIONS

Based on these and related findings, and with the endorsement of the project's Experts Advisory Group, the report makes the following recommendations for strengthening the Special Procedures mechanism:

- The selection process for independent experts, while improved, would benefit from a wider variety of qualified candidates and less political interference from member states.
- States should fulfill their obligations to cooperate with Special Procedures by issuing standing invitations, responding quickly to requests for visits, accepting the standard terms of reference for such visits and responding to all communications in a timely and substantive manner.
- Given the quantity and quality of the Special Procedures' work in translating universal norms into improved state practice, states and the U.N. system should increase resources for them, continue to reduce earmarking, and direct funding to support implementation of the experts' recommendations.
- To support further professionalization and greater effectiveness, new and improved training of Special Procedures is necessary, particularly training by former mandate holders and development of diplomatic and communication skills.

- States must refrain from abusing the Special Procedures Code of Conduct to harass independent experts and criticize such behavior when it does occur. Complaints of inappropriate conduct should be directed to the Special Procedures Coordination Committee which should keep the Council informed of steps taken to address allegations.
- The U.N. system should do much more to integrate the work of the Special Procedures into their activities, programs and work plans and find ways to connect their recommendations to funding priorities.

INTRODUCTION

In June 2009, a team of researchers at the Brookings Institution's Foreign Policy Program undertook a research project on a cornerstone of the United Nations human rights system: the U.N. Special Procedures. The term "Special Procedures" refers to the special rapporteurs, special representatives, independent experts and working groups mandated by the U.N.'s political bodies to monitor and report on human rights violations and to recommend ways to promote and protect human rights.¹ U.N. member states created these mechanisms over thirty years ago to serve as independent eyes and ears evaluating the application of international human rights norms to concrete situations.

The Special Procedures carry out this function by undertaking fact-finding missions to countries of concern; issuing communications, including urgent appeals, to governments and requesting corrective action; calling public attention to specific violations; elaborating on human rights norms; and providing periodic reports to the Human Rights Council (HRC) and General Assembly.

They operate as critical nodes in a larger system composed of treaty bodies, political resolutions, the High Commissioner for Human Rights, technical assistance, and field offices, connecting to each part in different and unique ways. They serve as the main entry point into this system for victims and human rights defenders in every corner of the world, offering a practical forum for the promotion and protection of human rights. By most accounts, they have played a critical role in shaping the content of international human rights norms, shedding light on how states comply with such norms, and advancing measures to improve respect for them. They are considered by many to be, in the words of then U.N. Secretary General Kofi Annan, "the crown jewel of the system."²

Despite their well-deserved place in the international human rights architecture, there exists no comprehensive public study of the contribution these key mechanisms have made to implementation of international human rights standards at the national level, leaving a gaping hole in the human rights and foreign policy scholarship that

¹ Under criteria established by the Human Rights Council in 2007, these experts are selected based on their expertise, experience in the field of human rights, independence, impartiality, personal integrity and objectivity. Human Rights Council Resolution 5/1, Section II. A, 18 June 2007. Currently there are 31 thematic mandates and 8 country-specific mandates.

² "The Special Procedures are the crown jewel of the system. They, together with the High Commissioner and her staff, provide the independent expertise and judgment which is essential to effective human rights protection. They must not be politicized, or subjected to governmental control." U.N. Secretary General Kofi Annan, Speech at the Time Warner Center, New York, 8 December 2006, available at <http://www.pfcmc.com/News/ossg/sg/stories/statments_full.asp?statID=39>.

impoverishes debate on the value of the U.N.'s human rights system.³ This debate has intensified with the creation of the Human Rights Council in 2006 and continues as member states take up the five-year review of the Council in 2010-11.

The purpose of this report is to assess what role the Special Procedures mechanism plays in promoting human rights at the national level and to recommend steps for strengthening them.

CONTEXT

Over the last several years, U.N. member states and human rights experts have engaged in intense and acrimonious debate over the purpose and credibility of the international human rights system. This debate, catalyzed by then U.N. Secretary General Kofi Annan's drive for U.N. reform, ultimately led to the establishment in 2006 of a new Human Rights Council to replace the Commission on Human Rights. Key features of the old Commission, like the independence of the Special Procedures and of the Office of the High Commissioner for Human Rights (OHCHR), were preserved, resources to deploy human rights monitors to the field were expanded, and a new universal peer review mechanism to evaluate each country's human rights record was created. A process encouraging competitive elections for seats on the Council was established, allowing, for the first time, for certain candidates with bad

human rights records to be defeated (e.g., Iran, Sri Lanka, Azerbaijan and Belarus), although others with similar records continue to be elected (e.g., Cuba, China, Saudi Arabia and Egypt). The Council retained the Commission's ability to address country-specific situations, and lowered the bar to convene special sessions to examine urgent cases. But some member states, particularly those with worse human rights records, continue to oppose strongly the principle of country scrutiny while simultaneously supporting certain long-standing exceptions like Israel, which is subject to an open-ended mandate on the Occupied Palestinian Territories and often biased treatment. In light of this mixed picture, doubts continue to be expressed in the United States and internationally about whether this new arrangement is able to have a meaningful impact on respect for international human rights.

One important objective of this study is to put this debate in the United States and abroad on firmer empirical ground by examining the effectiveness of one of the system's most important and prolific mechanisms. It is hoped the results will enable policymakers to make more informed decisions concerning the costs and benefits of policy decisions that affect the U.N.'s human rights regime. In this regard, the timing of the report is useful. The U.N. General Assembly, when it created the Council, agreed to review its mandate at the five-year mark in 2011, a process that formally gets

³ A number of other experts have published studies illustrating how the system works and analyzing its working methods. Among the sources consulted in preparation of this study are: Bertrand G. Ramcharan, *The Protection Roles of U.N. Human Rights Special Procedures*, Martinus Nijhoff Publishers, Boston, 2008; Paulo Sérgio Pinheiro, "Musings of a U.N. Special Rapporteur on Human Rights," in *Global Governance*, 2003, pp 7-13; Ingrid Nifosi, *The U.N. Special Procedures in the Field of Human Rights*, Gaunt, Holmes Beach, 2005; Jeroen Gutter, *Thematic Procedures of the United Nations Commission on Human Rights and International Law: in Search of a Sense of Community*, Intersentia, Utrecht, 2006; Miko Lempinen, *Challenges Facing the System of Special Procedures of the United Nations Commission on Human Rights*, Abo Akademi University Institute for Human Rights, Turku/Åbo, 2001; Theo van Boven, "Urgent Appeals on Behalf of Torture Victims," *Libertés, justice, tolérance: mélanges en hommage au doyen, Gérard Cohen-Jonathan* (eds), Bruylant Brussels, 2004; Elvira Domínguez, *Los Procedimientos Públicos Especiales De La Comisión De Derechos Humanos De Naciones Unidas*, Tirant lo Blanch, Valencia, 2005; Markus Schmidt, "Follow-up Activities by U.N. Human Rights Treaty Bodies and Special Procedures Mechanisms of the Human Rights Council – Recent Developments," in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Th. Möller, 2nd Revised Edition*, Gudmundur Alfredsson, Jonas Grimheden, Bertrand G. Ramcharan, and Alfred de Zayas (eds), Martinus Nijhoff Publishers, Boston, 2009; Lyal S. Sunga, "What Effect If Any Will the U.N. Human Rights Council Have on Special Procedures?" in *International Human Rights Monitoring Mechanisms: Essays in Honour of Jakob Möller, 2nd Revised Edition*; Paul Hunt, "The U.N. Special Rapporteur on the Right to Health: Key Objectives, Themes, and Interventions," in *Health and Human Rights*, Vol. 7, No. 1, 2003, pp. 1-27.

underway on October 25, 2010. Furthermore, the Obama Administration faces ongoing challenges about how best to reengage after a period of abstention from the Council adopted by the Bush Administration. Disappointments, such as a continued emphasis on resolutions targeting Israel, the lack of attention to other alarming country situations, the election of serious human rights abusers to the Council, and backsliding on freedom of expression issues have stoked ongoing undercurrents of criticism and hostility from some members of Congress, the media, and advocates who have dismissed the U.N. and its instruments as ineffective.

METHODOLOGY

In evaluating the work of the U.N. Special Procedures and their effects on state behavior, the project focused on state responses to the variety of communications and recommendations issued by the mandate holders. Communications typically convey allegations of an ongoing or imminent human rights violation within the mandate of one or more Special Procedures, and are raised by an allegation letter or an urgent appeal to the relevant government. In accordance with HRC resolutions, governments are expected to reply to the mandate holder in a timely manner with all information regarding the allegations, including, where appropriate, the steps the government is taking to address the alleged human rights violation.⁴

To capture how states respond to these communications, the project team analyzed official

government replies to a set of 19 thematic mandate holders' communications over a five-year period (2004-2008).⁵ This part of the research process involved categorizing state replies to thousands of allegations contained in over 5,000 communications sent to over 140 countries. The team assigned one of five values to each state response, ranging from no reply, on the low end, to steps taken to address the allegation, on the high end.⁶ This comprehensive approach allows us to derive conclusions not only about the timeliness and quality of a state's reply, but also about the effect such communications have on influencing state behavior and advancing human rights at the country level. A more detailed note explaining the methodology for categorizing government replies to SP communications is available in the Appendix.

The project team also examined country visits, another key tool of the Special Procedures. During missions, which are undertaken only with the consent of the state concerned, mandate holders meet with government officials, national human rights institutions, relevant nongovernmental organizations, and alleged victims to assess the situation relating to their respective mandates at the national level. After concluding a visit, mandate holders issue a mission report—including findings and recommendations—to the Human Rights Council.⁷ While most states do not formally reply to the country mission reports, some do submit notes to the OHCHR or HRC, make public statements or answer follow-up inquiries issued by the Special Procedure.

⁴ See U.N. HRC Res. 5/2, "Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council," para. 1.

⁵ These replies are summarized by OHCHR staff and incorporated into the public reports of the mandate holders to the Human Rights Council.

⁶ Government responses to Special Procedure communications were assigned one of the following five categories: No Response (NR), Immaterial Response (IM), Violation Rejected Without Substantiation (VR), Responsive but Incomplete (RI), or Steps Taken to Address Allegations (ST). These categories were slightly altered for assessing the Working Groups due to their different working methods. For more information, see Appendix, Note on Methodology.

⁷ See U.N. HRC Res. 5/2, "Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council," Articles 11-13.

The research team focused on a cross-section of such country visits to conduct qualitative research, including field visits to selected countries that a range of Special Procedures have visited. Field visits allowed us to conduct original, qualitative research by visiting local NGOs, human rights victims, independent experts and government officials with whom Special Procedures have interacted. The objective of these visits was to assess first hand how a variety of states and other stakeholders respond to country visits conducted by Special Procedures and to elucidate findings and recommendations.

In November 2009, the project director traveled to Spain and Morocco to study the work of the Special Procedures on torture, migrants, education, sale of children, housing, and enforced and involuntary disappearances, all of whom conducted visits between 2003 and 2009. In January 2010, he visited the United Kingdom to study the work of Special Procedures on migrants, freedom of religion, and the use of mercenaries. In April 2010, he visited Indonesia to study the work of the Special Procedures on education, independence of judges and lawyers, migrant workers, human rights defenders, and torture. In May 2010, he conducted a research trip to Colombia, one of the countries most visited by Special Procedures. Since 2003, there have been a dozen country visits conducted by Special Procedures to Colombia—including the Special Rapporteur on summary executions, the working group on arbitrary detention, the Special Rapporteur on indigenous peoples, and the Special Rapporteur on internally displaced persons (IDPs).⁸ In addition to the field visits, the project team initiated oral and written interviews with nearly 30 current and

former mandate holders, as well as OHCHR staff, government officials, NGO representatives and independent experts guided by a questionnaire containing over a dozen questions relating to SPs' activities. A list of the more than 230 individuals and groups interviewed can be found in the Appendix.

It is important to note at the onset that the project did not seek to determine the precise causal relationship between the recommendations of Special Procedures and state implementation of international human rights norms. This would be virtually impossible. It would require proving that a state took action on a particular human rights matter as a direct result of an SP's activities. Many factors, of course, contribute to a state's decision to take such action; singling out the specific role of a U.N. mandate holder is unrealistic. That said, the effect or influence of a Special Procedure as a contributing factor or catalyst toward state action is measurable with some confidence. This can be illustrated, for example, through a state's recognition of the mandate holder as the catalyst for compliance. Where the project has obtained credible acknowledgement of such causation—and there are a handful of examples—information is reflected accordingly. Typically, though, when governments make progress towards implementing an SP's recommendations they do not identify the mandate holder as the source of inspiration or change. In these more typical narratives of government action, the project sought to explain what value-added role the Special Procedures play in implementation and to identify best practices and shortcomings to derive recommendations for further strengthening of the mechanism. We further aimed to identify the factors that facilitate or

⁸ From 1992-2004, the official name of the IDP mandate was Representative of the U.N. Secretary-General on Internally Displaced Persons. In 2004, the official name of the mandate became the Representative of the U.N. Secretary General on the Human Rights of Internally Displaced Persons. In June 2010, the title of the mandate was changed to Special Rapporteur on the human rights of internally displaced persons. The titles are used interchangeably throughout the report.

undermine the effectiveness of a mandate holder's activities in a particular country.

During the course of the 18-month study, the project convened an experts working group of former mandate holders, human rights leaders, policy-makers, academics, lawyers, and diplomats to advise on the methodology and scope of the project as well as to shape and endorse final conclusions and recommendations. Members of the group are listed on page vii. This group met two times in Washington and engaged in dozens of substantive exchanges online. The group provided invaluable input into the drafting of the final report and reached consensus on its core recommendations; the research findings, on the other hand, are the sole responsibility of the project director.

The project director also benefited from participation in various meetings and briefings convened by member states and research institutions regarding the current workings of the Human Rights Council and its deliberations regarding the five-year review.⁹ In February 2010, the project and its experts group teamed up with The Carter Center's Human Rights Defenders program to discuss measures to strengthen the U.N. human rights system. The two-day conference held in Washington included private and public meetings aimed at formulating policy recommendations to strengthen the Council and encourage effective U.S. participation. The chief output of the collaboration was the publication and dissemination of a joint statement, found in the Appendix, endorsed by an exceptional group of human rights defenders, academics, and practitioners about the importance of an effective Human Rights Council.

A SHORT SUMMARY OF SPECIAL PROCEDURES: WHO THEY ARE AND WHAT THEY DO

The U.N.'s system of Special Procedures is a unique and effective mechanism that allows independent, periodic, on-the-ground scrutiny of a country's record of respect for human rights. Since the appointment by the Commission on Human Rights of an Ad Hoc Working Group to inquire into the situation of human rights in Chile in 1975, followed by appointment of the first special rapporteur in 1979 on the same subject, this mechanism has grown to become one of the U.N. system's most important instruments for promotion of universal human rights norms at the national and international level. Currently, 31 thematic mandates exist, an increase of 47.6 percent since 2000; eight country-specific mandates are in operation, a decline of 42.8 percent over the same period.¹⁰ This shift reflects two important trends: the creation of new mandates dealing with economic, social and cultural rights of particular concern to developing countries; and the successful efforts by some states, particularly those with bad human rights records, to avoid the "naming and shaming" tactics associated with country-specific mandates in favor of the peer review and technical assistance aspects of the Universal Periodic Review.

The experts appointed by the Human Rights Council to serve as Special Procedures are independent of governments, serve in their personal capacities, and carry out their mandates on a volunteer basis. They may serve no more than six years total (thematic mandate holders typically serve two terms of three years and country-specific mandate holders typically serve for

⁹ These included a Wilton Park conference on the HRC five-year review in January 2010, a symposium hosted by New England College of Law in March 2010, and a research workshop organized by the Centre for International Governance at the University of Leeds in June 2010.

¹⁰ A list of current mandate holders can be accessed at <<http://www2.ohchr.org/english/bodies/chr/special/index.htm>>. The 2000 OHCHR Annual Report refers to 35 mandates, of which 21 were thematic and 14 were country/territory specific. The report can be accessed at <<http://www.ohchr.org/Documents/AboutUs/annualreport2000.pdf>, p. 147>.

one year renewable terms). Their authority is derived from their professional qualifications to address specific human rights situations objectively as well as the political mandate they receive from the Council. Governments rely on them to gather facts, identify problems and make recommendations, but carry out little systematic follow-up. One of their greatest assets is a sense of passion and commitment to the cause of human rights which, combined with subject matter expertise, political skills and good judgment, represents a dynamic force for catalyzing attention and action to protect human rights.

In June 2007, the Human Rights Council agreed upon a new system of appointing its independent experts that moves away from the close control formerly exercised by the President of the Council and the High Commissioner toward greater transparency and consultation with multiple stakeholders.¹¹ Candidates may be nominated by governments, nongovernmental organizations, other U.N. bodies or individuals. OHCHR prepares a public list of eligible candidates. Criteria for appointment include human rights expertise and experience in the field of the mandate, independence, impartiality, personal integrity and objectivity. A Consultative Group composed of representatives from each regional group reviews the candidates and makes recommendations to the President of the Council, who continues a process of consultation before presenting the list to the Council for final approval. While this method has decreased the level of backroom dealing and manipulation that was evident under the old system, and continues to generate on whole an impressive and diverse group of candidates from every region, some states continue to demand that their favorite candidates be chosen,

as was seen most recently in the appointment of certain mandate holders in June 2010.

The Office of the High Commissioner for Human Rights serves as the repository of all official communications of the Special Procedures and has a specialized unit to support them with a team of professionals who rotate around the system.¹² This support structure has improved from the early days when the Center for Human Rights acted as the U.N. Secretariat's staff for human rights; the Center then became the Office of the High Commissioner for Human Rights in 1994 with the appointment of the first High Commissioner that year, an important and positive outcome of the Vienna Conference on Human Rights in 1993. The 2003 creation of a Special Procedures Branch (SPB) in OHCHR allowed for better management of resources and personnel. During the following six years, the Special Procedures Branch evolved into the Special Procedures Division (SPD) and continued to support the majority of thematic mandate holders. In 2010, the OHCHR underwent an internal restructuring which resulted in the creation of the Human Rights Council and Special Procedures Division, which is responsible for supporting the Human Rights Council, the Universal Periodic Review, and the Special Procedures.

These structural adjustments have further improved services to the Special Procedures although much work remains to be done to improve support to the independent experts. OHCHR staff supporting the country-specific mandates, for example, remain in a separate branch located in a separate building with fewer resources.¹³ Furthermore, supporting the mandate is only one of many tasks that these country desk officers handle. Some Special

¹¹ HRC Resolution 5/1, paras. 39-53.

¹² Despite repeated requests, OHCHR was unable to provide a figure of how many of its staff support the Special Procedures, including the number directly assigned to the Special Procedures Branch.

¹³ OHCHR Annual Report 2009, pp. 18-19, available at <http://www.ohchr.org/Documents/Publications/1_OHCHR_Rep_2009_complete_final.pdf>.

Procedures bitterly complain of the lack of professional support they receive from Geneva while others express satisfaction. Tension between the independence of the Special Procedures and the support function of the OHCHR arises frequently, particularly around issues of resource allocation, public communications and the Code of Conduct, and demands ongoing attention from the High Commissioner and her senior staff.

The main reference points for Special Procedures' examination of a state's human rights record range broadly from the general provisions of the Universal Declaration of Human Rights and other internationally recognized human rights standards to the specific terms of their mandates from the HRC. They may rely on particular instruments of "hard" treaty law as well as "soft" law of relevant declarations, resolutions and guiding principles. In this regard, they have several important advantages over treaty bodies: they are not restricted to the text of any one convention; they may examine any U.N. member state, not just those states that have ratified a treaty; they may make *in situ* visits to any country in the world (assuming the government concerned grants permission); and they may receive and act upon individual complaints without prior exhaustion of domestic remedies. This combination of features gives them a uniquely flexible and independent role to play in a system otherwise dominated by governments. They operate, in the words of one researcher, in the space between universal norms and local realities, allowing them to elaborate and interpret international standards grounded in concrete situations, "to define rights in real time."¹⁴

What role such a mechanism plays in engendering state cooperation to defend human rights is the central inquiry of this report. While the U.N. Charter sets forth every state's obligation to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion," and to cooperate with the U.N. to achieve this objective,¹⁵ no specific treaty instrument binds them to cooperate with the Special Procedures or to comply with their recommendations. The Human Rights Council has, however, urged "all states to cooperate with, and assist, the special procedures in the performance of their tasks, and to provide all information in a timely manner, as well as respond to communications ... without undue delay."¹⁶ Furthermore, when creating the Council, the General Assembly decided that states elected to the new body "shall fully cooperate with the Council."¹⁷ Nearly all states that run for a seat on the Council make pledges in which they proclaim a commitment to work cooperatively with the Council and its mechanisms, including its independent experts. These provisions offer some leverage for the Special Procedures to insist on state cooperation, who otherwise rely on political pressure and moral persuasion to influence state behavior. As this report details, a variety of factors help to determine state responses to international scrutiny of their human rights performance.

In carrying out their mandates, the Council's independent experts employ a variety of working methods to bridge the distance between international norms and national-level implementation.

¹⁴ Joanna Irene Naples-Mitchell, "Defining Rights in Real Time: The U.N. Special Procedures' Contribution to the International Human Rights System," Senior Thesis, Harvard College of Arts and Sciences, March 2010 (unpublished).

¹⁵ Charter of the United Nations, Articles 55, 56.

¹⁶ Human Rights Council Resolution A/HRC/RES/5/2, operative paragraph 1, 18 June 2007. See also Human Rights Council Resolution A/HRC/RES/11/11, preamble, 18 June 2009.

¹⁷ A/RES/60/251, para 9.

These include country visits; direct communications with victims and their representatives regarding specific violations; letters of allegation and urgent appeals to governments; thematic and country reports submitted at least annually to the Human Rights Council and where mandated, to the General Assembly; press statements, both

individually and jointly; and press conferences. Of these, the country visits and communications are most directly relevant to evaluating the contribution of Special Procedures to national level implementation of international norms and, therefore, serve as the core focus of our report.

SUMMARY OF FINDINGS

1. Our research found that the U.N.'s independent experts have played a valuable and, in some cases, decisive role in drawing attention to chronic and emerging human rights issues and in catalyzing improvements in respect for human rights on the ground, including direct support to victims.
2. At the same time, state cooperation with the Special Procedures is highly uneven and generally disappointing, with some notable exceptions. Cooperation by states ranges from regularly accepting country visits by multiple independent experts along with high response rates to their communications, to virtually zero recognition or dialogue with the rapporteurs. As further illustrated by the evidence that follows, this failure by member states to fulfill their obligations to cooperate with the Special Procedures and address the recommendations they make is the main obstacle hampering their ability to fulfill the mandates states have given them.
3. The Special Procedures are also hobbled by a host of other challenges, including inadequate training and resources, insufficient understanding of the local context for their work,

and the lack of a systematic process for following up their recommendations. Despite these obstacles, the Special Procedures mechanism represents one of the most effective tools of the international human rights system and deserves further strengthening and support.

COUNTRY VISITS

Scope of Activity

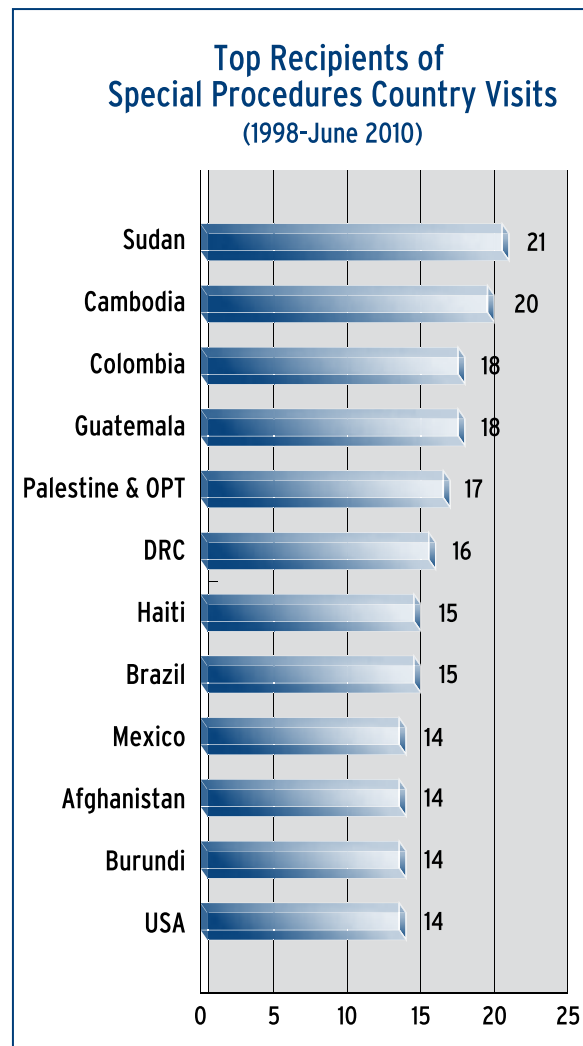
4. The Special Procedures are prolific workers, annually conducting dozens of country visits, producing hundreds of country-specific and thematic reports, and issuing thousands of communications to individual governments. Together, Special Procedures have conducted an average of 50 country visits per year since 2005. This number has grown from 48 visits to 38 countries in 2006, to 53 visits to 48 countries in 2008 and 73 visits to 51 states and territories in 2009.¹⁸ The overwhelming majority of these visits result in country-specific reports presented to the Human Rights Council. In 2009, Special Procedures presented a total of 160 reports to the Human Rights Council and General Assembly—nearly 70 regarding country situations and more than 60 on thematic

¹⁸ One explanation for the increase in country visits since 2006 is the creation of three new mandates on slavery, water and cultural rights. The Special Procedures Facts and Figures from 2006, 2007, 2008, and 2009 provide annual breakdowns of country visits. For 2005 figures, see the 2005 OHCHR Annual Report.

issues.¹⁹ The total number of reports has remained generally consistent over the last several years; from 2006 through 2008, they presented roughly 150 reports annually.²⁰ Notably, the number of mandate holders reporting to the General Assembly has increased since 2008 when Special Rapporteurs on Education and Housing were mandated to report annually to the New York body.²¹

5. While the overall number of states visited by Special Procedures annually has increased in the last decade, the breakdown and make up of those states and mandates in a given year have varied. States in the GRULAC and Africa groups stand out as demonstrating an increased willingness to receive visits compared to other regions. In 1999 GRULAC and Africa hosted thirteen and nine visits respectively. In 2009 they hosted 23 and 19 each. States in the Asia, WEOG, and EEG groups received a slightly higher number of visits in 2009 as they did in 1999.²² For a country-by-country summary of the number of completed and pending SP visits, see the Appendix.

6. The states that have received the highest number of visits—16 states and territories have received ten or more visits in the last ten years—have received an increasingly diverse group of thematic mandate holders, reflecting the introduction of new areas of attention, especially topics concerned with economic, social and cultural rights and group rights.²³ For example,



Guatemala—one of the most frequently visited states—has received the Special Procedures on extrajudicial, summary and arbitrary execution; involuntary disappearances; and in more recent years the mandate holders on food and

¹⁹ Facts and Figures 2009, p. 14, available at <http://www2.ohchr.org/english/bodies/chr/special/docs/Facts_Figures2009.pdf>.

²⁰ Facts and Figures 2007, p. 16, available at <<http://www2.ohchr.org/english/bodies/chr/special/docs/SP2007FactsFigures.pdf>>; Facts and Figures 2008, p. 12, available at <http://www2.ohchr.org/english/bodies/chr/special/docs/Facts_Figures2008.pdf>.

²¹ A total of 22 thematic and three country specific mandate holders currently submit annual reports to the GA. Facts and Figures 2009, pp. 4 and 14, available at <http://www2.ohchr.org/english/bodies/chr/special/docs/Facts_Figures2009.pdf>.

²² The Asia Group received 11 visits in 1999 and 13 in 2009; WEOG received 7 visits in 1999 and 9 in 2009; EEG received 7 in 1999 and 8 in 2009.

²³ The 16 states and territories that have received more than ten visits since 1998 are Sudan, Cambodia, Colombia, Guatemala, Occupied Palestinian Territories, Democratic Republic of Congo, Haiti, Brazil, Mexico, Afghanistan, Burundi, the United States of America, Turkey, Ecuador, United Kingdom and Indonesia.

education. Among its visits, the Russian Federation has accepted the Special Procedures on violence against women, independence of judges and lawyers, and indigenous rights (although it continues to deny permission for the expert on torture to visit). Brazil has hosted several mandate holders, running the gamut from torture and housing to toxic waste, while the United States has received the Special Procedures on migrants, extreme poverty, counter terrorism, and the use of mercenaries, among others.²⁴

7. In some cases, states have received more than one visit from the same thematic mandate over the last ten years. For instance, Nigeria received the Special Rapporteur on food in 2001 and for a follow up in 2004; the Democratic Republic of Congo hosted the Special Rapporteur on extrajudicial, summary and arbitrary executions in 2002 and 2009; the Special Rapporteur on education visited the United Kingdom in 1999 and 2002; and the Special Representative of the Secretary General (SRSG) on internally displaced persons visited Georgia three times from 2000 to 2008. Twenty-four states have received repeat visits from the same mandate. Colombia and Guatemala top this list, having received five and three repeat visits respectively. The Democratic Republic of Congo, Cuba, Ecuador, Timor-Leste and Uganda have each received two repeat visits.²⁵ OHCHR maintains a list of country visits conducted since 1998 with tallies of forthcoming, requested, and pending visit requests. Please see the Appendix for a summary breakdown.

8. By most accounts, country visits were the most important tool in the SP toolbox. The monitoring function of a Special Procedures' country visit in and of itself has a salutary impact on the human rights situation in a given country. This is largely due to the serious attention SP visits receive from most governments, civil society and the media. The blue U.N. flag SPs carry when they land in a country allows them privileged access to key actors on the ground, granting them an elevated voice in the quest to achieve greater respect for human rights. Their physical presence in country gives victims of human rights violations and their defenders a higher platform for advocacy at the national level and a direct entry point into an otherwise complicated and bureaucratic U.N. system.

9. Country visits by SPs, which typically last 5-15 days, allow for close examination of specific human rights situations and motivate key actors in and outside governments to concentrate their energies toward establishing facts, identifying violations and recommending remedies. The visits are especially important for civil society actors who devote considerable time and attention to informing the experts about the human rights problems in the country, preparing substantive reports, helping them make contact with victims and suggesting ways to improve state compliance with international standards. In many cases, such visits prompt or strengthen mechanisms of collaboration among disparate nongovernmental

²⁴ The United States has hosted 14 country visits since 1998. In 2005, it rejected visit requests from the Special Procedures on health and on independence of judges and lawyers to visit Guantanamo Bay while accepting the same request of the Special Procedures on freedom of religion, torture, and arbitrary detention. The terms of the visit, however, were very limited, allowing only one day and prohibiting private interviews with detainees. The SPs declined the visit on grounds that restricting the privacy of confidential interviews contravenes the Terms of Reference for Fact-finding Missions by Special Procedures. To view the SPs' press release, see <<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=608&LangID=E>>.

²⁵ The 16 states that have received one repeat visit from the same mandate are: Afghanistan, Azerbaijan, Bosnia and Herzegovina, Brazil, Central African Republic, Chile, El Salvador, Georgia, Germany, Netherlands, Niger, Sri Lanka, Sudan, Turkey, Yemen, and the United States. For a list of states visited, see <<http://www2.ohchr.org/english/bodies/chr/special/countryvisits-e.htm#burundi>>. A list is also contained in the Appendix.

organizations, help professionalize their work and foster ongoing cooperation that leads to more effective advocacy. The visits also allow mandate holders the opportunity to raise issues directly with government officials at the highest levels and advise them on specific reforms.

10. Because of their high profile, visiting a country as an independent U.N. expert can be a political minefield. Therefore, an effective country visit depends on thorough and substantive preparation by the independent expert and his or her staff before, during and after a visit. Close consultation with a range of relevant actors, including OHCHR, treaty bodies and U.N. country team staff, government officials, human rights defenders and experts, political party leaders and parliamentarians to understand the political context and identify the main challenges is critical to a successful mission.
11. The media play an essential role in amplifying the main points of the visit and creating some pressure for governments to respond. Typically, SPs brief the media upon arrival in a country to explain the terms of their mandate and purpose of the visit then refrain from any further public statements until a departure press conference in which the expert provides initial observations regarding the subject under review along with some recommendations. Preceding this public report, which is generally well-covered by the media, the Special Procedure briefs government officials, giving them an opportunity to provide initial reactions to the expert directly and to the press, subsequently. This process of private consultation and public reporting is well regarded by most actors involved and should be

considered a good practice.²⁶ Public statements by SPs before arriving in country, on the other hand, can complicate a country visit unless they are scrupulously neutral.

12. It takes several months for Special Procedures to prepare and issue their final reports, which are closely read by government officials and human rights activists alike. From the point of view of human rights advocates on the ground, however, it is the substantive public statements made by the Special Procedures while in country, particularly during the concluding press conference, that matters most. Waiting a year or more for a final report in a foreign language can often deflate the momentum generated by the visit. When it does happen, presentation of the report to the Council through brief “interactive dialogues” with member states is anticlimactic, often overshadowed by other concerns on the agenda and loses its punch, particularly for the country in question.²⁷ Broad dissemination of the final report in country is uneven and rarely available in local languages or only after much delay.
13. While states are generally encouraged to engage in a dialogue and cooperate with SPs, most do not file official responses to country visits, thereby making it difficult to analyze how states themselves evaluate the final report delivered to the U.N. or what action they take in response. Based on interviews conducted by the project team, states that have accepted country visits use the opportunity to provide background and context to the issues under discussion and to engage in direct dialogue with the SPs as they prepare their reports.²⁸

²⁶ The Manual of Operations of the Special Procedures sets forth this process in paragraphs 71-72.

²⁷ Some rapporteurs reported a higher quality, more substantive interactive dialogue in New York.

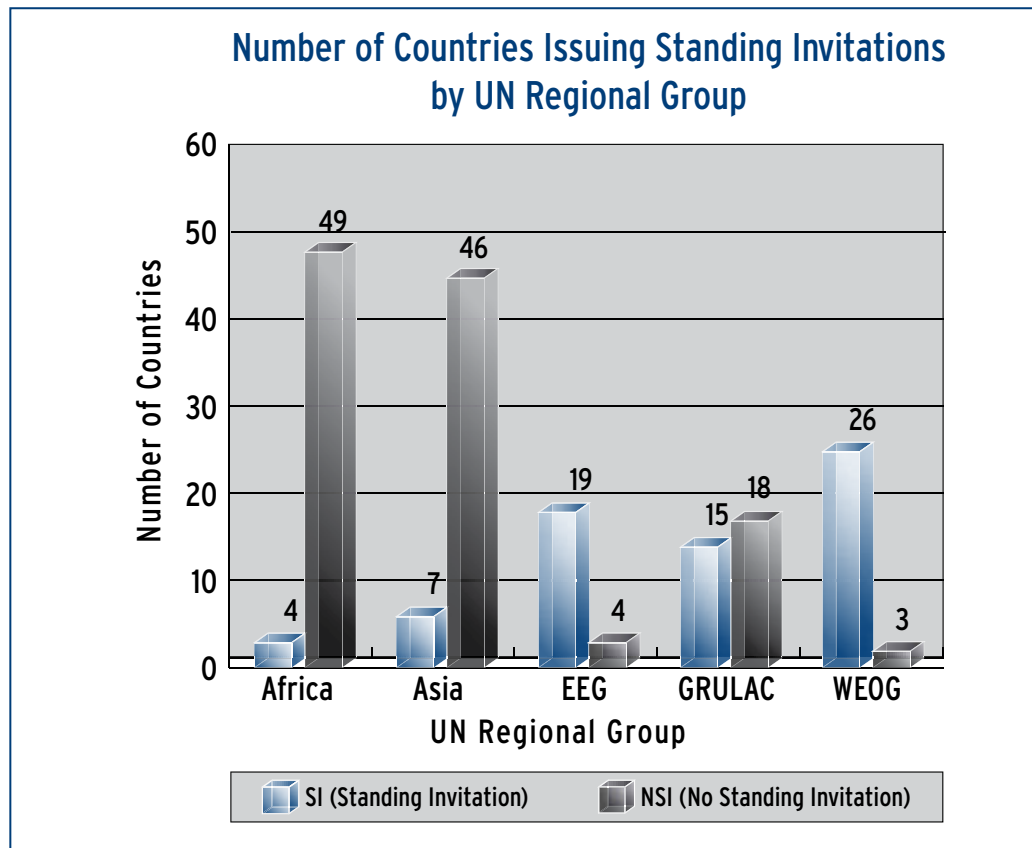
²⁸ Draft reports generally are submitted to the government four to six weeks before publication to allow it to correct any misunderstandings or factual inaccuracies, according to the Manual of Procedures, para. 74. See also Code of Conduct, Art. 13(c) (“mandate holders shall ensure that the concerned government authorities are the first recipients of their conclusions and recommendations concerning this State and given adequate time to respond...”).

Some government officials, however, express disappointment that their input is not always fully reflected in the final reports. In more dramatic cases, governments react very badly to criticism by special rapporteurs, especially when delivered in language perceived as unduly harsh or aggressive, and go so far as to block any substantive consideration of the report.

14. Starting in 2004, the Commission on Human Rights strongly encouraged states to offer standing invitations to Special Procedures as a way to facilitate their access to a country in a timely way.²⁹ Currently, only 72 member

states have issued standing invitations, although many more states allow visits in practice.³⁰ When broken down by regional group, stark differences emerge with African and Asian governments representing only a small fraction of countries on the list of standing invitations.

15. In general, a country's issuance of a standing invitation to Special Procedure visits results in easier access to that country. Of the 72 states that have issued standing invitations, all those which have received requests for visits (64) have accepted them at least once.³¹ On the other hand, of the remaining 120



²⁹ Commission on Human Rights Resolution 2004/76, Human rights and special procedures, para. 2(b), available at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G04/162/00/PDF/G0416200.pdf?OpenElement>>.

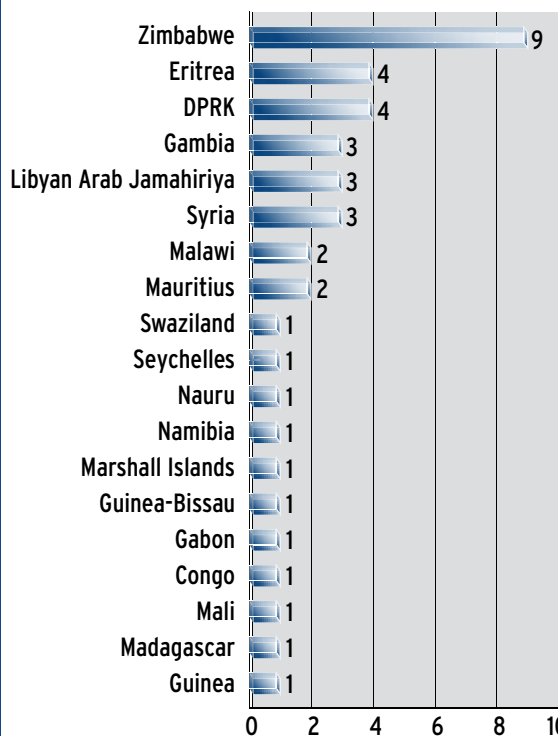
³⁰ Of the top ten most visited states—Brazil, Cambodia, Colombia, Democratic Republic of the Congo, Guatemala, Haiti, Israel/Occupied Palestinian Territories, Mexico, Sudan and the United States—four have issued standing invitations (Brazil, Colombia, Guatemala and Mexico).

³¹ Eight of these (11 percent) have not received a request for a visit. These eight states are Austria, Cyprus, Finland, Iceland, Luxembourg, Monaco, Montenegro, and San Marino.

states that have failed to issue a standing invitation, 44 (36 percent) have never received a visit, and 19 of these states carry a total of 41 unfulfilled visit requests.³² Looked at another way, since 1998, states that have issued standing invitations have received four visits and maintain one and a half pending visits from Special Procedures, while those that have not issued standing invitations have received three visits and maintain nearly three pending visits.³³ Of course, there are notable exceptions to this trend and country behavior varies in practice. Iran, for instance, has issued a standing invitation but has not allowed a country visit since 2005 and currently maintains seven pending visits. Some requests for permission to visit are known to have languished for over ten years; even once a government accepts a request to visit, it can take over five years for the visit to take place. Perversely, because SPs cannot visit a country without the government's permission, non-cooperating states with serious human rights problems like Zimbabwe, Libya, Eritrea and Syria can evade scrutiny by SPs while states that allow visits inevitably get more attention.

16. Before the visit takes place, SPs and states engage in direct negotiations on the terms of reference for the visit, which are spelled out in the SP's Manual of Procedures. These guidelines include freedom of movement, access to all prisoners and places of detention, and confidential and unsupervised contact

**States That Have Never Accepted
Special Procedures' Requests for Country Visits
(1998-June 2010)**



with witnesses, who must be protected from reprisals.³⁴ Negotiations are often complicated by a state's desire to influence the timing, scope and itinerary of an expert's visit as well as to spread out the workload of multiple reporting requirements. It is up to each rapporteur to decide whether the conditions of the visit would compromise his or her ability to independently monitor the human rights

³² As of June 2010, the 19 states that have never accepted a request for a country visit are: Congo, DPRK, Eritrea, Gambia, Gabon, Guinea, Guinea-Bissau, Libya, Madagascar, Malawi, Mali, Marshall Islands, Mauritius, Namibia, Nauru, Seychelles, Swaziland, Syria and Zimbabwe. Namibia, however, received its request in 2010 and Syria received its first special rapporteur in September 2010. Another 25 states that have not issued a standing invitation have never received a request for a visit.

³³ For the purpose of this study, "pending visits" is defined as requested visits and visits that have been agreed upon in principle but remained unscheduled.

³⁴ See Annex III to Manual of Procedures, E/CN.4/1998/45 Appendix V. Protection of witnesses and their relatives is of growing concern due to notorious attacks against them, most notably the murder of two human rights defenders in Kenya in 2009 after they met with the Special Rapporteur on summary, extrajudicial or arbitrary detention.

situation in the country. Granting exceptions to the standard terms of reference can provide a bad precedent for other rapporteurs, opening the door for states to insist on easier terms for the next visit. China, for instance, exploited the Working Group on Arbitrary Detention's (WGAD) willingness to negotiate the terms of the visit on the ground and demanded the same terms from the Special Rapporteur on Torture, who declined the visit under these circumstances.³⁵

Effects on State Behavior

17. In general, states have made modest but important progress toward implementing the recommendations a Special Procedure makes after a country visit. The reasons why states take such actions are multiple and complex. In many cases, an SP's country visit serves as an important tool for elevating human rights issues to senior levels of government and generating action to remedy the problem. Several human rights defenders explained that they did not see positive action by the government on an issue they had raised for years until the Special Procedure confirmed and called attention to the problem.
18. In some cases, it is possible to draw a direct line between a Special Procedure's recommendation and a state's implementation of such an action. For example, the Special Rapporteur on Migrants was able to use information he received regarding a secret agreement

between the governments of Indonesia and Malaysia to prompt reforms. The bilateral agreement allowed Malaysian employers to take identity documents away from Indonesian migrant workers, leading to many human rights abuses. Government officials first denied the allegation, and then threatened retaliation if he insisted on including a reference to the MOU in his report. After going ahead and publishing the discovery of the MOU, officials annulled the document, resulting in immediate improvements.³⁶

19. More recently, the Special Rapporteur for Cambodia was able to visit two journalists imprisoned on defamation charges, and quickly secured better treatment from the authorities; shortly after, one of the prisoners was released. One of the journalists' relatives publicly credited the rapporteur for his freedom.³⁷
20. Typically, however, a direct connection between an SP's recommendation and government action is hard to prove. In part this is due to the fact that the relevant national authorities are not inclined to give credit to a U.N. mechanism for their actions or are motivated by other domestic political factors.
21. During our research, we gathered numerous examples of positive steps taken by governments after the issue was raised during an SP's country visit. Here are just a few illustrations (additional examples can be found in the Appendix):

³⁵ Sir Nigel Rodley, "On Negotiating with Torturers," interviewed by Amy D. Bernstein, in *Torture: Does it Make us Safe? Is it ever OK?*, Kenneth Roth and Minky Worden (eds.), New Press and Human Rights Watch, 2005, pp. 108-09.

³⁶ Jorge Bustamante, Report of the Special Rapporteur on the human rights of migrants, Mission to Indonesia, March 2, 2007. A/HRC/4/24/Add.3. Full report can be accessed at <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G07/112/04/PDF/G0711204.pdf?OpenElement>>. According to various sources, employers may no longer hold a migrant's passport; other provisions, like improved working conditions, remain under discussion between the two governments.

³⁷ Ros Rada, Letter to the Editor, *Cambodia Daily*, January 29, 2010. According to the Special Rapporteur, a number of human rights organizations, both national and international, campaigning for their release deserve some credit for this outcome.

EXAMPLES

- a. In 2004, the Independent Expert on the situation of human rights in Afghanistan successfully persuaded government authorities to release hundreds of illegally detained prisoners. Upon visiting the Pol-e Charkhi prison, the Independent Expert discovered that 734 Pakistani and Afghani detainees had been forcibly held in deplorable conditions for more than thirty months. After presenting the information to the Minister of Justice in May 2004, President Karzai released 534 of these prisoners and later issued decrees to pardon various others.³⁸ Moreover, through documentation of substandard living and health conditions, the Independent Expert secured the visit of two doctors to the prison, resulting in the diagnosis and treatment of hundreds of cases of tuberculosis.
- b. In another case during his tenure, the Independent Expert on Afghanistan uncovered and publicized unacceptable conditions in a women's prison in Afghanistan. Not only were many of these women imprisoned for crimes committed by family members but they were forced to raise their children within the confines of the prison. In addition to publishing this information in a country mission report, the Independent Expert encouraged government authorities to improve prison conditions, resulting in increased budget allocations for food and supplies. Each prisoner received a second blanket and plastic sheets so they could create private corridors. Additionally, government officials ensured monthly inspections by authorities and weekly visits by doctors.³⁹
- c. The SR on human rights of internally displaced persons helped shape and implement IDP policy in Turkey after making a country visit in 2002 and conducting a follow up working visit in 2005. Upon his recommendations, the government decided to gather data and statistics on IDPs that had previously been lacking, to train local governors on the Guiding Principles on treatment of IDPs, and to begin to address questions of compensation for property lost as a result of displacement.⁴⁰ The question of the number of IDPs in Turkey had become a hot political issue with estimates varying from a few thousand to more than two million. The decision by the government to commission an independent study on the number of IDPs was thus an important step in developing plans to address the concerns of the displaced and human rights groups that worked with them. The SR encouraged provincial authorities to develop action plans to address internal displacement and provided technical assistance to them, particularly in the case of Van province. The development of laws and policies to provide compensation for IDPs who had lost property is another area where the SRSG was able to provide necessary technical assistance.

³⁸ *Report of the Independent Expert of the Commission on Human Rights on the situation of human rights in Afghanistan*, September 21, 2004, pp. 5 and 20. U.N. Doc: A/59/370.

³⁹ Cherif Bassiouni served as Independent Expert on human rights in Afghanistan from 2004-2006, presenting two reports to the Human Rights Commission and General Assembly: A/59/370 and E/CN.4/2005/122. Examples of impact found in the reports were augmented by an interview with the former mandate holder on March 12, 2010.

⁴⁰ Hacettepe University's Institute of Populations Studies conducts the Turkey migration and Internally Displaced Persons Survey annually and questionnaire for the survey was "prepared in guidance of the United Nations' Internally Displaced Persons Guiding Principles." For more information see <http://www.hips.hacettepe.edu.tr/eng/dokumanlar/TMIDPS_press_release.pdf>.

- d. The Special Rapporteur on extrajudicial, summary and arbitrary executions visited Colombia in 2009 and revived media and international scrutiny of the ongoing *falsos positivos* or false positives scandal. For years, NGOs had been gathering and publicizing information regarding executions of unarmed civilians by military personnel who would falsely present the victims as guerilla fighters. The scandal came to a head in 2008 with the Soacha tragedy that resulted in nearly two dozen cases of *falsos positivos*. The government consistently denied a problem until the high-profile Soacha killings, at which time it dismissed 27 military officials, including three generals. The Special Rapporteur's visit—amidst the scandal—served to confirm the allegations of victims' relatives and civil society, determine that soldiers received certain privileges and benefits from their commanders in return for guerrilla "captures," and encourage further dismissals, investigations and prosecutions of perpetrators. The Special Rapporteur was able to raise his concerns directly with President Uribe and other high-level officials. His findings lent further credence to the understanding that the murders were committed by elements of the military and were not isolated occurrences, and helped secure additional arrests and prosecutions.⁴¹
- e. The Special Rapporteur on torture conducted a particularly tumultuous country visit to Spain in 2003 that resulted in an 80-page response from the government that challenged nearly every recommendation issued by the mandate holder. Nevertheless, one of the Special Rapporteur's

recommendations was taken up and has resulted in tangible results. To prevent torture and ill treatment, the mandate holder suggested that video cameras be installed in all interrogation rooms. The government first responded by explaining why this recommendation was not feasible. In a 2007 follow up, however, the government indicated that it was in the process of determining the viability of video recording in interrogation rooms.⁴² By 2008, the government ordered the installation of video cameras in detention areas in police and Guardia Civil stations. Despite the government's original rejection of the rapporteur's report, the recommendations ultimately contributed to improved detainee treatment.⁴³

Key Factors to Explain Impact of Country Visits

22. Several factors emerge as key ingredients for facilitating positive action by governments in response to a country visit. These include:
 - a. *The credibility of the United Nations* in the country concerned as the premier global body to develop and uphold universal norms and foster international cooperation. The moral power of the U.N.'s "blue stationery," the international backing it conveys, and the public attention a U.N. expert commands often yield significant pressure to generate positive state action.
 - b. *The timing of the visit* as it relates to a country's political and human rights situation. Countries in transition, moving away from conflict or authoritarian rule and toward a more open, peaceful and democratic

⁴¹ Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Mission to Colombia. U.N. Doc: A/HRC/14/24/Add.2.

⁴² Report of the Special Rapporteur on torture, follow up to country visits. U.N. Doc: A/HRC/7/3/Add.2

⁴³ Many government and NGO representatives interviewed over the course of the project confirmed this impact of the visit.

society, tend to offer more opportunities for external influence than countries locked in civil conflict or burdened by a closed system. In intensely polarized situations, opposing sides will seek to manipulate a rapporteur's visit and report to their own advantage, hindering impact. This is not to say, however, that efforts to engage closed regimes or conflict situations should be dropped as the U.N. expert often offers the only avenue for human rights issues to be examined and publicly aired.

- c. *The quality and specificity of the SP's research, analysis and recommendations* and the level of preparation before a visit. On the one hand, it was strongly felt by key government and non-government actors that a well-grounded report with solid evidence, strong legal arguments and concrete recommendations is one of the most important elements for achieving progress.⁴⁴ On the other hand, general, aspirational recommendations have little impact and make follow-up difficult. In some cases, factual mistakes or statements by SPs perceived as unduly harsh or unbalanced were used by states and others to attack and undermine not only the SPs' work but that of other U.N. actors as well. The language, tone and style a rapporteur uses matters almost as much as the content of what he or she has to say. Positive words acknowledging progress where it exists can go a long way toward helping government officials accept the more critical findings of a rapporteur's report. As one senior government official explained, a report that failed to present the government's side of the story was "thrown into the trash."

- d. *The willingness of the relevant government to cooperate* with the SP's visit. For example, a well-placed, sympathetic official or leading parliamentarian can often make a difference in facilitating the SP's work and implementation of recommendations. The willingness and ability of the government to organize inter-ministerial coordination mechanisms to address concerns raised by the SPs is another important factor. Conversely, obstruction and interference by government agents can frustrate or neutralize the SPs' work. Some government officials have unrealistic expectations that the expert's mission is to endorse state policy rather than serve as an objective critic and shut down cooperation in the wake of a negative report.
- e. *The ability of local and international NGOs and victims' groups to communicate their grievances* in a timely and effective manner and to engage in follow-up advocacy. In many cases, the principal reason any follow-up action was taken by governments was due to a persistent NGO adopting the SP's recommendations as a platform for a long-term advocacy campaign. In Northern Ireland, for example, a coalition led by British Irish Rights Watch worked closely with the Special Rapporteur on the Independence of Judges and Lawyers (Mr. Param Cumaraswamy) to prepare his visit and to follow up his recommendations. After six years of determined advocacy, all but one of his recommendations had been implemented by the relevant government authorities. On the other hand, special rapporteurs must be vigilant to the risk of being manipulated by nongovernmental groups who seek to use their visits as part

⁴⁴ The Manual of Procedures, para. 98, states that SP recommendations should be SMART: specific, measurable, attainable, realistic and time-bound.

of a propaganda campaign to allege human rights abuses against the government without substantiation.

- f. *The level of freedom of the media to report on an SP's activities.* In most countries, a visit by a senior U.N. expert generates widespread attention which is greatly enhanced by a robust and well-briefed media corps. Here again, the established practice of SPs reporting their findings to the press at the end of their visit is well-received by states and SPs alike. On the other hand, the SP's ready access to the media can complicate the mission, prompting strong government criticism. The seminal case, decided in favor of the Special Procedures in 1999, involved a \$112 million claim of defamation filed by the government of Malaysia against Param Cumaraswamy, the Special Rapporteur for Independence of Judges and Lawyers. Eventually, the International Court of Justice ruled that U.N. special rapporteurs must be regarded as "experts on mission" and accorded certain privileges and immunities such as exemption from defamation charges.⁴⁵ Other more recent examples include the critical U.S. response to statements made by the SRSR for Internally Displaced Persons regarding its actions after Hurricane Katrina, Spain's denunciation of the Special Rapporteur on the promotion and protection of human rights while countering terrorism regarding comments on his visit to the Basque country, and Brazil's public attack on the Special Rapporteur on the Right to Food in response to his comments regarding genocide.

- g. *The capacity of and attention paid by the U.N. country team and other relevant U.N. agencies* like the U.N. High Commissioner for Refugees and the U.N. Development Program. The potential contribution of these U.N. actors to the success of a country visit is great but in practice has varied. The U.N. presence ranges in size and capacity from a small country office with only a few staff capable of providing assistance before, during or after an SP's visit, to a major field presence with dozens of in-country staff well-positioned to help organize the visit, provide advice to the SPs on key elements, and incorporate their findings and recommendations in the workplan after the visit. Some U.N. country teams prefer to remain at arms length from the SPs due to the sensitive topics they raise. Others admit that the rapporteurs can say tough things that need to be said and that their reports help make the case for reforms and technical assistance.

FOLLOW-UP TO COUNTRY VISITS

23. What happens after a country visit remains one of the most challenging questions for the U.N. human rights system. A number of good practices have been established largely on the initiative of a few rapporteurs with additional resources. These include ongoing requests for information from the government concerned, questionnaires to key stakeholders, annual reporting to the HRC on the status of a state's progress or lack thereof, and follow-up visits by the rapporteur or his or her successor.
24. There is, however, no institutionalized mechanism for follow-up to an SP's country visit.

⁴⁵ Difference Relating to Immunity From Legal Process of a Special Rapporteur of the Commission on Human Rights, Advisory Opinion of 29 April 1999, International Court of Justice, available at <<http://www.icj-cij.org/docket/files/100/7619.pdf>>. To review ICJ press release, see <<http://www.icj-cij.org/docket/index.php?pr=154&code=numa&p1=3&p2=1&p3=6&case=100&k=9>>.

SPs themselves generally do not have the resources—time or staff—to engage in repeated visits or communications. Only in a few cases, usually when additional resources are available, has an SP methodically reported on a state’s implementation of recommendations.⁴⁶ Similarly, a current or successor SP has carried out visits to the same country two or more years later with the express purpose of tracking progress on previous recommendations. The Special Procedures on internally displaced persons and on indigenous peoples have conducted the most follow-up visits.⁴⁷ Others that have conducted follow up visits are the Special Procedures on independence of judges and lawyers, human rights defenders, housing and migrants.

25. With the exception of most of the OHCHR field presences, the U.N. Country Team and other U.N. actors have not always been keen or reliable partners in this endeavor while

NGO campaigns tend to be ad hoc, under-resourced or overcome by more urgent matters. The new Universal Periodic Review mechanism (UPR) does allow an SP’s recommendations for a specific country to receive renewed attention at least once during that country’s four-year cycle of peer reviews, but it is premature to say what effect this has on a member state’s implementation of the recommendations. (See section below on UPR for more information.)

COMMUNICATIONS

26. According to OHCHR, since 2005 alone, Special Procedures with thematic mandates have sent more than 5,000 communications to hundreds of member states on behalf of thousands of victims of human rights violations.⁴⁸ When tallying communications, OHCHR counts a communications sent by multiple mandate holders once.

	2005	2006	2007	2008	2009
Total Communications	1,049	1,115	1,003	911	1,145
Government Recipients	137	143	128	118	119
Individuals Implicated	2,545	2,869	2,994	2,206	2,296

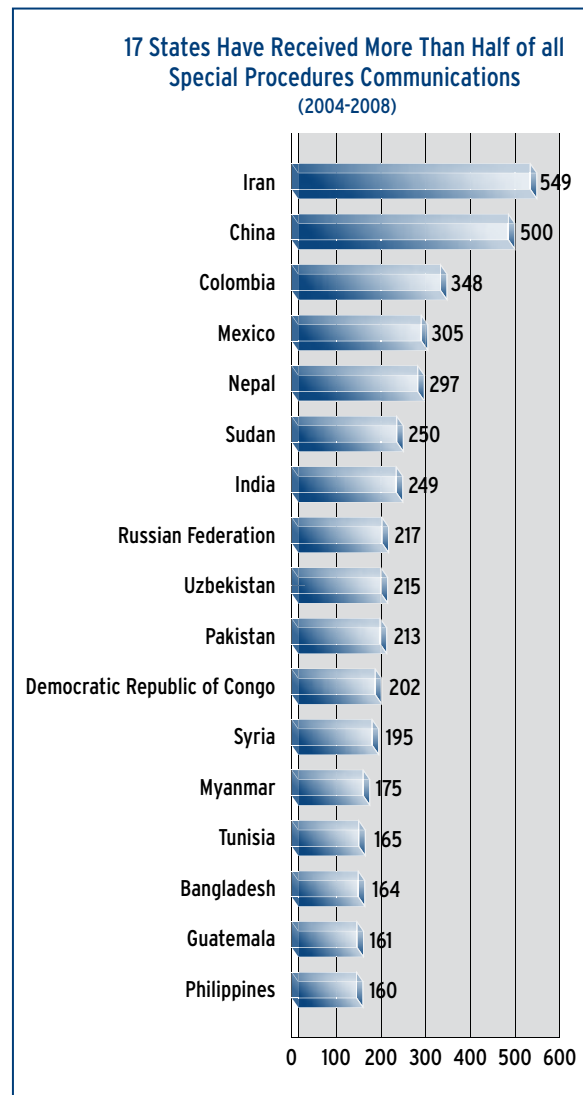
⁴⁶ The Special Procedures on torture, extrajudicial summary and arbitrary executions, and housing make a point of sending follow up questionnaires to countries they or their predecessors have visited and publishing results as follow up reports.

⁴⁷ The former visited Azerbaijan in 1998, 2007, 2010; Bosnia and Herzegovina in 2005 and 2008; the Central African Republic in 2008 and 2009; the Democratic Republic of Congo in 2008 and 2009; Georgia in 2000, 2005, and 2008; Sri Lanka in 2007 and 2009; Sudan in 2001, 2002, 2004, and 2005; and Uganda in 2000 and 2009. The latter visited Chile in 2003 and 2009; Colombia in 2004 and 2009; Guatemala in 2002 and 2010. For a full list, see the OHCHR compilation of country visits located in the Appendix or accessible at <<http://www2.ohchr.org/english/bodies/chr/special/countryvisits-e.htm#burundi>>.

⁴⁸ Facts and Figures 2005, p. 2, available at <http://www2.ohchr.org/english/bodies/chr/special/docs/facts_figures_2005.pdf>; Facts and Figures 2006, p. 3, available at <http://www2.ohchr.org/english/bodies/chr/special/docs/facts_figures_2006.pdf>; Facts and Figures 2007, p. 17, available at <<http://www2.ohchr.org/english/bodies/chr/special/docs/SP2007FactsFigures.pdf>>; Facts and Figures 2008, p. 7, available at <http://www2.ohchr.org/english/bodies/chr/special/docs/Facts_Figures2008.pdf>; Facts and Figures 2009, p. 8, available at <http://www2.ohchr.org/english/bodies/chr/special/docs/Facts_Figures2009.pdf>. Note: The 2009 OHCHR statistics do not include data from the Working Group on Enforced or Involuntary Disappearances (WGEID) in the overall number of communications sent by Special Procedures because the group uses unique working methods. According to the 2009 annual report of the WGEID covering the period 5 December 2008 to 13 November 2009, the WGEID transmitted 456 new cases of enforced disappearance to 25 governments. For purposes of this report, the number of communications sent in 2009 is an aggregate of OHCHR’s 689 figure and WGEID’s 456 new cases for a total of 1,145.

27. For the scope of this study, from 2004 to 2008, 17 thematic Special Procedures (not including the Working Group on Arbitrary Detention or the Working Group on Disappearances) sent 8,713 communications to 174 states and ten non-state actors.⁴⁹ These figures are higher than those of OHCHR because the research team counted all communications recorded by each mandate in their annual reports from 2004-2008, irrespective of whether or not the communication was recorded by more than one mandate holder.⁵⁰ Some states received far more communications than others. According to OHCHR, the highest recipients in 2009 were Iran with 42 total communications, Mexico with 37, and China with 35.⁵¹ According to our study, the top four recipients over the course of the five years studied were similarly Iran with 594 communications, China with 500, Colombia with 348 and Mexico in a close fourth with 305. These four countries alone account for nearly 20% of all communications received by states. Half of all communications issued in the same period went to 17 governments.

28. According to the HRC's Code of Conduct, communications from Special Procedures should be based on information "submitted by a person or group of persons claiming to be a victim of violations or by a person or group of persons, including non-governmental organizations, acting in good faith in accordance



with human rights...and claiming to have direct or reliable knowledge of those violations substantiated by clear information. The

⁴⁹ Non-state recipients of communications from 2004-2008 were the World Bank, Syngenta, ITM Angola, the Global Fund, Coca Cola Company, Asian Development Bank, Agence Francaise de Developement, Newmont Ghana Gold Limited, the Bill and Melinda Gates Foundation, and the U.N. Mission in Kosovo and were sent by the Special Procedures on Food, Health, Housing, Sale of Children, Toxic Waste, and Violence Against Women. This trend of examining the effects non-state actors have on respect for human rights is new and deserves further study.

⁵⁰ While special procedures do send the majority of communications with at least one other rapporteur, these are not necessarily recorded identically in the official documentation made available by OHCHR—different dates may be recorded, records may not include an identical list of all mandate holders collaborating, and the focus of the summarized allegation and government response may differ from communication to communication depending on the focus of the mandate holder at hand. Therefore, since many joint communications were not recorded as pure duplicates, we deemed it necessary to account for all communications logged by special procedures during this period. Similarly, state responses were counted as they were recorded in special procedure communications documents.

⁵¹ Facts and Figures 2009, p. 10, available at <http://www2.ohchr.org/english/bodies/chr/special/docs/Facts_Figures2009.pdf>.

communication should not be exclusively based on reports disseminated by mass media.”⁵² Unfortunately, there is no formalized, consistent procedure for cataloguing correspondence received from parties requesting intervention by the Special Procedures; each rapporteur ultimately has the discretion to decide which allegations to act upon. Therefore, it is impossible to determine how many appeals for action the Special Procedures receive on an annual basis or to determine what percentage of requests is acted upon. The treaty bodies, on the other hand, have a formal procedure for the submission of individual complaints and formal criteria for determining admissibility. In 2009, treaty bodies received 9,900 pieces of correspondence, of which only 110 were considered admissible individual complaints.⁵³

29. Communications by SPs generally take the form of letters of allegation or urgent appeals that are transmitted to the state involved via its diplomatic mission in Geneva. Urgent appeals alert state authorities to time-sensitive and life-threatening violations of an ongoing or imminent nature while letters of allegation convey information of a past incident of lesser urgency. They serve an important role in establishing a written record of victims’ complaints and putting them into appropriate government channels. Human rights defenders complain, however, that they do not receive confirmation from OHCHR that their correspondence has been registered or what, if any, action was taken by the SP in response.

30. As further detailed below, in a fair number of cases, the SP communications process does

generate positive movement by a state toward addressing the underlying violation. Several examples stand out, as illustrated in the summary of state replies found below and in the Appendix. In terms of a state’s timeliness and quality of response, however, this mechanism has a generally disappointing record of influence on the state concerned.

31. Of the total 8,713 communications issued by 17 thematic mandate holders between 2004 and 2008 (not counting the Working Groups on Enforced or Involuntary Disappearances and on Arbitrary Detentions), a majority of communications (58.56%) received no or immaterial responses by states, making impact assessment virtually impossible.

32. Over the same five-year period for the same 17 mandates, responses that demonstrated governments took steps to address the underlying allegation or initiated concrete action to determine the validity of the allegation represented 18.31% of responses. A slightly higher number, 21%, represented responses in which the government rejected the substance of the violation without indicating what steps were taken to investigate the underlying claim.

33. These trends vary in notable ways across the five official U.N. regional groups, with some exceptions. The Africa group, recipient of 20% of all communications, had the highest rate of no or immaterial responses with 73.16%, and the lowest rate of responses that indicated actions taken to address the allegation with only 7% in this category. The Eastern Europe Group (EEG)—recipients of only 6.4% of communications—maintained the lowest

⁵² HRC Code of Conduct, Article 9 (d) and (e).

⁵³ OHCHR 2009 Report, Activities and Results, p. 12, available at <http://www.ohchr.org/Documents/Publications/I_OHCHR_Rep_2009_complete_final.pdf>.

Overall Score Breakdown of Communications Recorded 2004-2008

Mandate	Total #	NR	IM	NR/IM	VR	RI	ST	RI/ST	in
	subtotal				subtotal				
ED	35	16	2	18	4	9	4	13	0
	100%	45.7%	5.7%	51.4%	11.4%	25.7%	11.4%	37.1%	0.0%
FOOD	126	64	15	79	15	24	6	30	2
	100%	50.8%	11.9%	62.7%	11.9%	19.1%	4.8%	23.8%	1.6%
FRDX	2,191	1,187	141	1,328	521	248	31	279	63
	100%	54.2%	6.4%	60.6%	23.8%	11.3%	1.4%	12.7%	2.9%
HLTH	148	80	7	87	29	18	11	29	3
	100%	54.1%	4.7%	58.8%	19.6%	12.2%	7.4%	19.6%	2.0%
HOUSE	137	75	12	87	14	23	5	28	8
	100%	54.7%	8.8%	63.5%	10.2%	16.8%	3.7%	20.4%	5.8%
HRD	1,843	924	163	1,087	395	275	36	311	50
	100%	50.1%	8.8%	59.0%	21.4%	14.9%	2.0%	16.9%	2.7%
IJL	610	316	30	346	129	74	33	107	28
	100%	51.8%	4.9%	56.7%	21.2%	12.1%	5.4%	17.5%	4.6%
IND	232	108	20	128	28	53	23	76	0
	100%	46.6%	8.6%	55.2%	12.1%	22.8%	9.9%	32.8%	0.0%
MIG	135	62	11	73	26	29	7	36	0
	100%	45.9%	8.2%	54.1%	19.3%	21.5%	5.2%	26.7%	0.0%
RACE	79	38	6	44	11	20	4	24	0
	100%	48.1%	7.6%	55.7%	13.9%	25.3%	5.1%	30.4%	0.0%
RINT	320	133	21	154	87	52	18	70	9
	100%	41.6%	6.6%	48.1%	27.2%	16.3%	5.6%	21.9%	2.8%
SALE	124	65	14	79	12	18	15	33	0
	100%	52.4%	11.3%	63.7%	9.7%	14.5%	12.1%	26.6%	0.0%
SUMX	678	343	51	394	94	149	38	187	3
	100%	50.6%	7.5%	58.1%	13.9%	22.0%	5.6%	27.6%	.4%
TOR	1,563	777	136	913	370	216	51	267	13
	100%	49.7%	8.7%	58.4%	23.7%	13.8%	3.3%	17.1%	0.8%
TOX	21	7	3	10	2	6	3	9	0
	100%	33.3%	14.3%	47.6%	9.5%	28.6%	14.3%	42.9%	0.0%
TRAF	49	24	2	26	8	11	4	15	0
	100%	49.0%	4.1%	53.1%	16.3%	22.5%	8.2%	30.6%	0.0%
VAW	424	202	48	250	83	65	17	82	9
	100%	47.6%	11.3%	59.0%	19.6%	15.3%	4.0%	19.3%	1.2%
Total	8,715	4,421	682	5,103	1,828	1,290	306	1,596	188
	100%	50.7%	7.8%	58.6%	21.0%	14.8%	3.5%	18.3%	2.2%

KEY: NR - No Response

IM - Immaterial Response

VR - Violation Rejected without Substantiation

RI - Responsive but Incomplete

ST - Steps Taken to Address Allegation

in - In translation

For further information on scoring, please see Appendix H. For clarification regarding mandates, please see list of Abbreviations on page ix.

CATALYSTS FOR RIGHTS

The Unique Contribution of the U.N.'s Independent Experts on Human Rights

Regional Score Breakdown

	Total #	NR	IM	NR/IM	VR	RI	ST	RI/ST	in
Asia	4,216	48.3%	9.2%	57.5%	28.1%	10.2%	2.4%	12.6%	3.8%
Africa	1,763	68.7%	4.4%	73.2%	19.6%	5.1%	1.8%	6.9%	0.3%
GRULAC	1,582	49.9%	7.5%	57.5%	8.6%	29.3%	4.6%	33.9%	0.1%
WEOG	563	34.6%	12.1%	56.7%	18.3%	22.9%	12.1%	35.0%	0.0%
EEG	561	32.1%	4.6%	36.7%	25.3%	29.1%	4.8%	33.9%	4.1%
non state	28	32.1%	10.7%	42.9%	0.0%	50.0%	7.1%	57.1%	0.0%
TOTAL	8,713	5 0.7%	7.8%	58.6%	21.0%	14.8%	3.5%	18.3%	2.2%

KEY: NR - No Response

IM - Immaterial Response

VR - Violation Rejected without Substantiation

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rate of no or immaterial responses with only 36.72% in this category. Together, Western Europe and Others Group (WEOG), EEG, and Latin America and Caribbean Group (GRULAC) had the highest rate of communications that indicated some government action taken with scores of 35%, 34%, and 34% respectively.⁵⁴ The breakdown of GRULAC's responses is particularly noteworthy. By far, this regional group maintains the lowest rate of unsubstantiated rejections with only 8.6% in this category. Yet, states in this group carry the second largest no or immaterial response rate with 57.4%—a tie in this category with the Asia group, the largest recipient of communications.⁵⁵

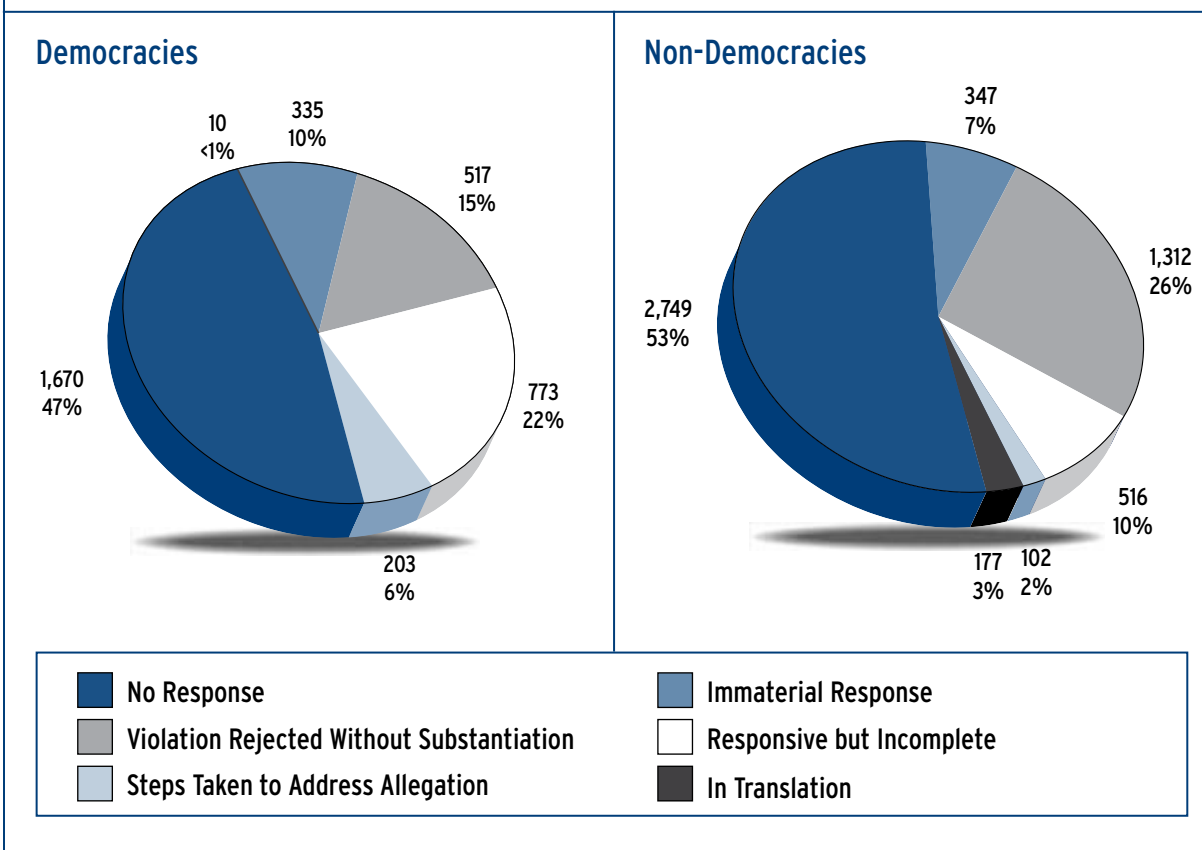
34. The data also reveals some notable differences in the way democracies and non-democracies respond to SP communications. Democratic governments for this purpose are defined as those states invited to participate in the Ministerial Conference of the Community of Democracies (CD) held in Lisbon, Portugal in 2009, with non-democracies defined as all those not making the list of invited participants.⁵⁶ Democratic governments have a significantly higher positive response rate to SP communications and a lower rate of non-replies. Specifically, CD governments achieve a combined score of 28% in the Steps Taken and Responsive but Incomplete categories, while non-democracies score 11%.

⁵⁴ The Africa and Asia Groups are each composed of 53 member states; GRULAC has 33 member states; WEOG is made up of 29 member states, including for this study's purpose Israel and the United States; and EEG maintains 23.

⁵⁵ When non state actors are considered when analyzing responsiveness, they carry the lowest rate of no or immaterial responses with 42.8% and the highest rate of responsive communications with 57.14%. In no case did a non state actor unsubstantially or categorically deny the allegation.

⁵⁶ The Community of Democracies is the only global intergovernmental forum of democratic governments aimed at fostering cooperation to strengthen and support democratic development. The Convening Group that organizes their meetings invites governments to biennial ministerial meetings based on a set of criteria drawn from the Universal Declaration of Human Rights and other international standards. For more information on the Community of Democracies, see <<http://www.community-democracies.org/index.php?limitstart=3>>. For more information on its invitations process, see the Statement and Recommendations on Government Invitations issued by the Community of Democracies International Advisory Committee for the Lisbon Ministerial, <<http://www.demcoalition.org/site09-2008/pdf/FINAL%20IAC%20Brochure%20Lisbon.pdf>>.

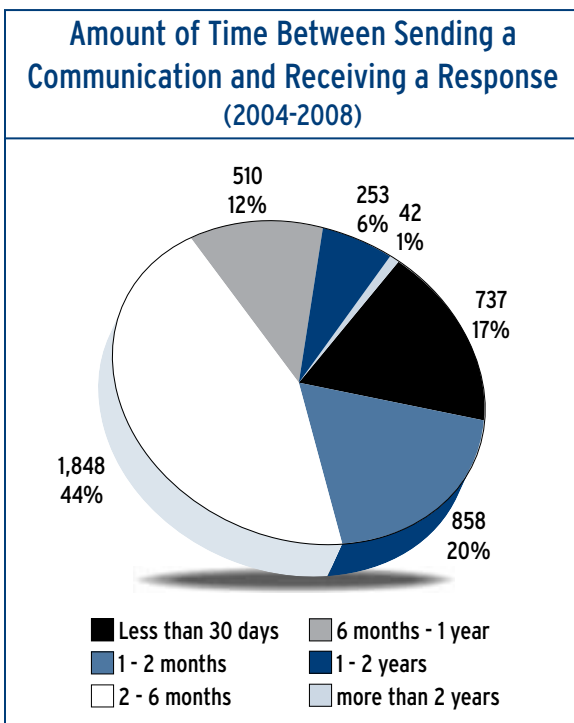
Breakdown of Government Replies to Communications Democracies/Non-Democracies (2004-2008)



Non-replies vary between 47% for democracies and 53% for non-democracies.

35. By isolating all 4,248 communications that received responses from governments, we learned that it takes an average 124 days for a mandate holder to receive a response. On the low end, there are a few dozen cases of same day replies; on the longer end, it can take years. Bangladesh, for example, took six years to respond to two communications sent by the Special Rapporteur on the Sale of Children in 2004. Of all communications that received responses, 17.35% were received within 30 days, 20.2% were

received within one to two months, and 43.5% were received in the two to six month range. Cumulatively, 81% of governments that responded did so within six months of receiving the communication. Correspondingly, within each response (quality) category, the most frequent response time was two to six months: 42% of all responses that rejected the violation without substantiation were received in this range while 47% of all responses that indicated government action fell in this range. Interestingly, those responses that presented immaterial information did not follow this trend—48% were received within two months.



36. Some examples of communications that received scores reflecting that steps were taken in response to the allegation include:⁵⁷

Freeing Human Rights Defenders from Prison in Bahrain

In November 2004, the then SRSR on human rights defenders sent an urgent appeal to the Kingdom of Bahrain on behalf of two human rights defenders who worked with an organization dedicated to helping victims of torture. In October they were arrested and detained with a dozen others for participating in a peaceful protest calling on authorities for a prisoner's release.

A month later, the government responded to the Special Representative's urgent appeal, explaining that three weeks after receiving the communication the King issued a directive ordering the release of all persons arrested in the incident.⁵⁸

Holding Violators Accountable in India

In May 2007, the Special Representative for human rights defenders sent a letter of allegation on behalf of an LGBT activist in India who had been forcefully held in a police station and subjected to verbal and sexual assault. The government of India responded to the letter in November of the same year, explaining that while no complaint had been filed by the alleged victim, the Office of the Superintendent of Police led an inquiry and discovered misbehavior by two officers. Departmental action was underway at the time of sending the communication.⁵⁹

Protecting Protestors in Brazil

In April 2008, the Special Rapporteurs on freedom of expression, housing and human rights defenders sent a letter of allegation to the government of Brazil on behalf of a human rights protestor attacked during a demonstration against the building of a dam and the subsequent displacement of local communities by the project. The government responded in October of the same year confirming the facts of the attack and explaining that the victim had received medical treatment and that the perpetrator had been arrested and indicted.⁶⁰

⁵⁷ All examples are taken directly from communications documents annexed to annual reports submitted by Special Procedures to the Human Rights Council or Special Procedures Bulletins available on the OHCHR website.

⁵⁸ Report of the Special Representative of the Secretary-General on human rights defenders, Summary of cases transmitted to Governments and replies received, March 16, 2005, pp. 16-17. U.N. Doc: E/CN.4/2005/101/Add.1.

⁵⁹ Report of the Special Representative of the Secretary-General on human rights defenders, Summary of cases transmitted to Governments and replies received, March 5, 2008, p. 209. U.N. Doc: AHRC/7/28/Add.1.

⁶⁰ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Summary of cases transmitted to Governments and replies received, May 27, 2009, pp. 60-61. U.N. Doc: A/HRC/11/4/Add.1.

⁶¹ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pp. 140-141. U.N. Doc: A/HRC/11/4/Add.1.

Protecting Journalists from Intimidation in Croatia

In December 2008, the Special Rapporteurs on human rights defenders and freedom of expression sent an urgent appeal to the government of Croatia regarding a journalist who had received several death threats because of his investigative reporting on alleged war crimes committed in

the 1991-1995 civil war in the former Yugoslavia. Within three months, the government replied to the communication confirming the facts. After conducting a criminal investigation, it was confirmed that a police officer was the perpetrator of the threats alleged. He was suspended from his work and disciplinary actions were instituted against him.⁶¹

WORKING GROUPS: SPECIALIZED WORKING METHODS, BETTER RESULTS?

There are currently four thematic Working Groups operating in the system of Special Procedures: on African descent, on arbitrary detention, on enforced or involuntary disappearances, and the Working Group on the use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination (Mercenaries). While these mandates serve the same general purpose of promoting and protecting human rights as the individual rapporteurs and experts, their working methods differ, and therefore deserve separate consideration.

Working Groups include five members, one from each of the five U.N. regional groups, one of whom serves as Chairperson-Rapporteur. In several interviews, U.N. experts, NGO representatives, and government officials

pointed to this geographic diversity as a particular asset, explaining that it is much more difficult for hostile governments to justify noncompliance by claiming that these special procedures are beholden to a regional group or individual sponsor. On the other hand, having five members from each region can complicate collaboration, communication, and consensus. They may speak different languages, must coordinate schedules and time zones to communicate, and travel long distances to meet in-person. In spite of these challenges and pursuant to their respective themes, the Working Groups have developed distinct working methods to promote and protect human rights. For the purpose of this study, the Working Groups on Arbitrary Detention and on Enforced and Involuntary Disappearances—two of the oldest mandates in the system and with a well-documented record of activity—were subject to quantitative analysis.⁶²

⁶¹ Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression pp. 140-141. U.N. Doc:A/HRC/11/4/Add.1.

⁶² The Working Group on African Descent neither publicizes nor documents a communications or complaints procedure and was hence omitted from quantitative analysis. Established in 2002 after the 2001 Durban World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, the Group is mandated to “study the problems of racial discrimination faced by people of African descent living in the Diaspora and to this end gather all relevant information from Governments, non-governmental organizations and other relevant sources, including through holding public meetings with them.” To execute its mandate, the Group submits annual reports to the Human Rights Council, conducts country visits, and convenes a five-day meeting annually. For more information on the Working Group on African Descent, see: <<http://www2.ohchr.org/english/issues/racism/groups/african/4african.htm>>. The Working Group on Mercenaries was established in 2005 and falls outside the scope of the project’s methodology for quantitative consideration. The Group is mandated “to elaborate and present concrete proposals on possible new standards, general guidelines or basic principles encouraging the further protection of human rights, in particular the right of peoples to self-determination, while facing current and emergent threats posed by mercenaries or mercenary-related activities” among other tasks. To execute its mandate it receives communications, renders opinions, issues urgent actions, and conducts country visits. It has recently tabled a draft convention regulating private security companies for intergovernmental consideration. For more information on the Working Group on the use of Mercenaries, see: <<http://www2.ohchr.org/english/issues/mercenaries/index.htm>>.

Working Group on Arbitrary Detention

Established in 1991, the Working Group on Arbitrary Detention (WGAD) is mandated to investigate individual allegations of deprivation of liberty, generate information on arbitrary detention to help states prevent or stem the practice, and report annually to the Human Rights Council.⁶³ To carry out these tasks the Group has developed four primary working methods. First, it investigates individual cases to evaluate whether or not international legal norms have been violated.⁶⁴ Second, the Group formulates “deliberations” on general matters to help develop consistent principles. Third, it sends an “urgent action” in cases where a person’s health or life is at grave risk, and fourth, the Group conducts country visits to establish direct dialogue with government officials and civil society.⁶⁵

When considering an individual case, the Group first reviews a communication received from a complainant and transmits it to the government in question, requesting comments within 90 days. The government response, if any, is sent to the complainant for comment. The Group then issues an opinion to determine whether or not the detention is arbitrary.⁶⁶ In this sense, the Group helps facilitate dialogue between the complainant

and the government.⁶⁷ The Group transmits its opinion to the government with recommendations and sends it to the source three weeks later; opinions are also published in the annex of the WGAD’s annual report to the Council.

This thorough, consultative process has produced positive results and the highest response rates of all special procedures examined in this report. However, because the process is time consuming and opinions can only be issued when all five members are together, less than fifty are issued annually. The quantitative analysis of states’ cooperation with the Working Group was based on its considerations of individual cases and opinions issued in reports published from 2004 to 2008. During this time period, the WGAD issued 189 opinions to 58 countries. Governments failed to respond to cases only 20% of the time—remarkably lower than the over 50% non-reply rates to individual mandate holders. In 8% of cases, governments provided immaterial responses. Governments were responsive to allegations in 25% of cases and in 27% of the cases the government indicated that the individual in question had been released, without a finding that the detention was arbitrary. Governments rejected the allegation outright in 20% of cases.

⁶³ Office of the High Commissioner for Human Rights, Fact Sheet No. 26, The Working Group on Arbitrary Detention, par III (B). For full document, see: <<http://www.ohchr.org/Documents/Publications/FactSheet26en.pdf>>.

⁶⁴ Generally, the Group’s involvement is prompted by the receipt of a communication but in certain circumstances it can take up cases on its own initiative.

⁶⁵ Office of the High Commissioner for Human Rights, Fact Sheet No. 26, The Working Group on Arbitrary Detention, par V.

⁶⁶ If the government does not reply, the WGAD may consider the case and issue a recommendation. If the Group does receive a response from the government, it forwards it to the source for more information. When the Group is ready to make a decision it issues one of five opinions: 1. If the person is released, the case is filed but the Group reserves the right to render an opinion as to whether or not the detention was arbitrary; 2. If the Group considers that the case is not one of arbitrary detention, it will render an opinion accordingly; 3. If the Group considers more information is required from the Government or the source, it may keep the case pending until the information is received; 4. If the Group is unable to obtain sufficient information on a case, it may file the case provisionally or definitively; 5. If the group decides that arbitration deprivation of liberty did occur it will render an opinion accordingly and make recommendations to the government. Ibid.

⁶⁷ Jared Genser and Margaret Winterkorn-Meikle, “The Intersection of Politics and International Law: The United Nations Working Group on Arbitrary Detention in Theory and Practice,” 38 *Columbia Human Rights Law Review*, 691 (2008), p. 112. This excellent account of the Working Group’s methods of work further states that the individual complaints procedure “not only initiates a dialogue among the source, the government, and the WGAD, but also facilitates international coordination and cooperation by sharing information at its disposal with any United Nations Organ wishing to have such information.”

Response rates across regions vary in notable ways. The Asia group, recipient of 52% of all cases, had the highest rate of responses that rejected the violation with 30% in this category. The Africa group, recipients of 17% of cases, had the highest no response rate with 27% of cases in this category. The Latin America and Caribbean Group (GRULAC) received 10% of cases over the five-year period and had the lowest rate of no response with 5% in this category and the highest rate of released individuals, with 50% in this group. The Eastern European Group (EEG) received the smallest number of cases, representing only 4% of the caseload but maintained the highest rate of responsive replies with 50% of responses indicating some government action to address the violation. The Western Europe and Others Group (WEOG) group received 17% of the caseload and presented the lowest percentage of responses that rejected the allegations outright, with only 3% in this category. While the Group sent cases to 58 governments over the five years, 56% of the caseload was directed to ten governments. China, the United States, Saudi Arabia, Syria and Mexico were the top five recipients of cases with 20, 18, 16, 13, and eight cases received respectively over the five-year period.⁶⁸

The Working Group on Enforced or Involuntary Disappearances

The Working Group on Enforced or Involuntary Disappearances (WGEID) was established

in 1980 to assist relatives to ascertain the fate and whereabouts of their disappeared family.⁶⁹ To carry out its mandate, the WGEID engages in four principal working methods. First, it transmits individual cases to governments for clarification, acting as a channel of communication between victims' families and governments. Second, it meets three times annually to make decisions on cases and transmit them to the government in question. Third, it conducts country visits to establish dialogue with government and NGO officials on the ground. And, fourth, the WGEID reports to the Council annually to present its findings and cases. In addition to these major activities, the group has been tasked, since 1992, with monitoring state compliance with the U.N. Declaration on the Protection of All Persons from Enforced Disappearances and reporting on progress.⁷⁰

When considering an individual case, the WGEID acts on information received. Those that pass standards of admissibility are forwarded to governments with a request for investigation and to keep the WGEID apprised of developments. Any replies from governments are sent to the source for comment and if the source challenges the government's submission, this information is re-sent to the government before the Group considers the case clarified, closed, or discontinued. A case is considered clarified when the source fails to respond to the government reply within six months or when the source challenges the government responses on grounds that are

⁶⁸ The next five recipients from 2004-2008 were Myanmar with seven cases and Algeria, Colombia, Egypt, and Iraq with six each. In a study conducted by Jared Genser & Margaret Winterkorn-Meikle, the top ten recipient countries similarly made up 48% of the WGAD's caseload from 1992-2006 but the distribution differed. In their analysis, the top ten recipients were: Peru, China, Cuba, Syria, Israel, Vietnam, Myanmar, United States, Tunisia, and Turkey. For more information on data from 1992-2006 see: Jared Genser & Margaret Winterkorn-Meikle, "The Intersection of Politics and International Law: The United Nations Working Group on Arbitrary Detention in Theory and Practice."

⁶⁹ Office of the High Commissioner for Human Rights, Fact Sheet No. 6, Rev. 3, The Working Group on Enforced or Involuntary Disappearances, p. 13. For full document, see: <<http://www.ohchr.org/Documents/Publications/FactSheet6Rev3.pdf>>.

⁷⁰ A/RES/47/133, 18 December 1992, available at <[http://www.unhcr.ch/Huridocda/Huridoca.nsf/\(Symbol\)/A.RES.47.133En?Opendocument](http://www.unhcr.ch/Huridocda/Huridoca.nsf/(Symbol)/A.RES.47.133En?Opendocument)>.

considered unreasonable to the WGEID. If the source challenges the government's response on reasonable grounds, the information is sent to the government for comment. Cases are considered closed when national authorities, with concurrence of the relatives of the disappeared, pronounces the individual deceased, and cases are considered discontinued in the rare scenario that family does not wish to pursue the case or when the source is no longer able to follow up on the case and WGEID's efforts to establish alternative channels of communication have proved unsuccessful. According to the WGEID, it has received more than 50,000 individual cases in more than 80 countries since its inception in 1980. Only 20% of these cases have been clarified by governments in question.⁷¹ It follows up regularly with governments that maintain outstanding cases, sending annual reminders of all cases that haven't been clarified and semi-annual reminders regarding urgent actions that remain unclarified.

When examining the WGEID, the project considered individual cases sent to governments from 2004-2008. In many of these cases, resubmissions of cases sent in previous years were included. Over the five-year period, the WGEID sent 269 communications to 59 governments. A given communication could contain one or hundreds of individual allegations. In 44% of cases, the government provided no response whatsoever while in 32% of cases, WGEID indicated that information from the government had been received, but without sufficient detail in the summary to determine to which allegation the response was directed. In 18% of cases, the government provided an immaterial response. Governments indicated that some action had been taken to address the allegation in

only four percent of cases and in the remaining two percent of cases governments rejected the allegation outright.

Regionally, the Asia group received 51% of all communications and maintained a lower than average no response rate with 35% in this category. The Africa group, recipients of 26% of the communications, maintained the highest rate of no responses with 63%. GRULAC, WEOG, and EEG received 17%, 3%, and 2% of communications respectively. With only nine communications received over the five-year period, WEOG maintained the highest rate of responses that rejected a violation outright with 22% in this category. The top ten recipients of communications—Colombia, Algeria, Nepal, Philippines, Russian Federation, Sudan, India, Thailand, Sri Lanka, and Indonesia—made up 55% of the caseload over the five-year period. However, since letters can contain more than one individual allegation, this list does not necessarily reflect the countries that received the most allegations of individual disappearances.

While the response rates from governments leave much to be desired, the Working Groups' annual statistical reporting and systematic and transparent follow-up should be considered a good practice. In each annual report, the WGEID presents an aggregate figure of total cases clarified and unclarified by each government. Of those cases that have been clarified, the WGEID indicates whether the source or the government provided the clarifying information. Without greater accountability of member states for failing to clarify the thousands of cases of disappearances still pending, however, improvement is unlikely.

⁷¹ Office of the High Commissioner for Human Rights, Fact Sheet No. 6, Rev. 3, p. 77.

Demanding Justice for Victims of Torture in Egypt

In April 2004, the Special Rapporteur on Torture and Extrajudicial, Summary or Arbitrary Executions sent a letter to the government of Egypt on behalf of a detainee arrested on suspicion of membership in an illegal organization, who was tortured in custody and died in transit from the police station to the hospital. The government confirmed the facts and explained that the Department of Public Prosecutions charged a police officer and sergeant with torture causing death.⁷²

37. While it is alarming that more than half of communications go unanswered by states, it is important to note that a government's failure to respond in writing does not indicate that the communication has no effect. Government officials, NGO representatives, and Special Procedures themselves have asserted that some communications have prompted action on a matter even though the government provided no official written response.

RESOURCES

38. Although the level of support provided to the Special Procedures has improved significantly over the last ten years, severely limited resources for the SPs' work continues to be a chronic weakness that clearly undermines the effectiveness of this mechanism. According to the 2009 OHCHR Annual Report, of the office's \$158.8 million in spending that year, \$11

million was spent on Special Procedures—a mere seven percent of total spending.⁷³ If these costs were divided evenly among the 39 Special Procedures that year, this would amount to only \$280,000 allocated on average for each mandate. Of the \$11 million spent on Special Procedures, \$7.3 million came from the regular U.N. budget and \$3.9 million came from extra-budgetary donations in the form of voluntary contributions. Nearly half of extra-budgetary donations are spent on OHCHR field presences, another 14% is allocated to the Humanitarian Trust Funds, and only four percent is spent on Special Procedures.⁷⁴

39. The HRC's independent experts work on a volunteer basis, with reimbursement only for travel-related expenses (travel costs, per diem and a 40 percent supplemental for two country visits a year plus travel three times a year to Geneva and one trip to New York if required to report to the General Assembly). OHCHR resources available to support thematic SPs cover on average only one staff person for each mandate, further limiting their ability to carry out their functions; country-specific rapporteurs get even less staff support. Actual allocated resources vary according to a needs assessment of such elements as a rapporteur's workplan, volume of communications and extraordinary circumstances (like the earthquake disaster in Haiti). Given the heavy demands of taking on a position with virtually no compensation, some qualified experts may

⁷² Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Summary of Information, including cases transmitted to Governments and replies received, March 30, 2005, pp 123-124. U.N. Doc: E/CN.4/2005/62/Add.1.

⁷³ OHCHR Annual Report on Activities and Results, 2009, p. 19, available at <http://www.ohchr.org/Documents/Publications/I_OHCHR_Rep_2009_complete_final.pdf>. Please note that OHCHR's 2009 report contains an apparent discrepancy on this figure. On page 19, it states that 7.5% of OHCHR's \$158.8m in expenditures was spent on Special Procedures. This figure would be \$11.9 million; however, pages 181-184 of the same report show that spending for Special Procedures, determined through line items with the term "Special Procedures," equaled only \$11 million, a figure which represents 7% of total expenditures, rather than 7.5%. This discrepancy is most likely explained by the fact that some spending occurs in other line items as special procedures are also supported by the Research and Right to Development Division and the Field Operations and Technical Cooperation Division, which is tasked with supporting country-specific mandate holders. Unfortunately, the OHCHR decided against providing us with the precise amount spent on Special Procedures, thus costs were estimated based on line items that make specific reference to the system.

⁷⁴ OHCHR Annual Report, 2009, Financial Statements, pp. 180-199.

be dissuaded from presenting their candidacies, withdraw early from service, or curtail their activities to meet the demands of their principal professional positions.

40. Some states and a small group of non-governmental donors earmark their contributions to OHCHR for certain purposes or mandates, thereby limiting OHCHR's flexibility in allocating funds according to need. According to the OHCHR Annual Report, 11 states allocate funds directly to support the Subprogram for Human Rights Thematic Fact-Finding Procedures.⁷⁵ OHCHR was unwilling to disclose exactly how and to which mandates these states earmark their funds. Earmarking funds directly to a mandate holder has obvious benefits for the recipient but raises difficult problems regarding equity across the range of different mandates. The lack of transparency about funding sources and allocations also raises questions about who is supporting which mandates and what, if any, influence they have on their work.
41. Another challenge faced by mandate holders and OHCHR is the growing number of new thematic mandates, joint field missions and ad hoc fact-finding panels established by the HRC but with no funding. These unfunded mandates increasingly compete with existing mandates for scarce financial and time resources.
42. Although mandates have different needs to be effective, some mandate holders with access

to or experience with external donors are able to raise additional resources from such donors (generally from the North and West) or leverage resources from their home institutions to meet these needs; other rapporteurs may not have the same possibilities, raising questions regarding equity and effectiveness. There is a lack of transparency regarding such extra-UN system resources, even among the relevant OHCHR staff, raising concerns of accountability.

JOINT ACTIVITIES AND COORDINATION AMONG SPECIAL PROCEDURES

43. Special Procedures mandate holders are increasing coordination among themselves as demonstrated by the steady rise of joint letters of allegation, urgent appeals and press releases, and even joint country visits.⁷⁶ Prior to 2008, barely half of all communications were sent jointly by two or more mandate holders. In 2008 and 2009, joint communications made up 66% of all communications.⁷⁷ Of communications studied for this report sent from 2004 to 2008, joint communications made up nearly 73% of the volume. The only mandate holder that sent more than 50% of communications individually was the Special Rapporteur on Freedom of Religion, who over the five-year period sent 52% of communications alone. Differently than OHCHR's count, our figures show that joint communications have remained at a steady 70% since 2004 with a spike to 83% in 2009.⁷⁸

⁷⁵ OHCHR Annual Report 2009, p. 196. The 11 states are Spain, Norway, Germany, United Kingdom, Canada, Finland, Ireland, Russian Federation, Belgium, Japan, and Austria.

⁷⁶ Since 2006, there have been four joint visits to states in three regions. Before 2006, the only joint visit recorded was to East Timor by the SR on Executions, Torture, and Violence Against Women. In 2006, the SRSG on IPDPs, the SR on Housing, and the SR on Health visited Israel and Lebanon. In 2006 the Special Procedures on Racism and Minority Issues visited the Dominican Republic. In 2008, the Special Procedures on Violence against Women and Torture visited the Republic of Moldova, and in 2009 the Special Procedures on Water and Extreme Poverty visited Bangladesh. For a full list of country visits conducted by Special Procedures, see: <http://www2.ohchr.org/english/bodies/chr/special/countryvisits-e.htm>.

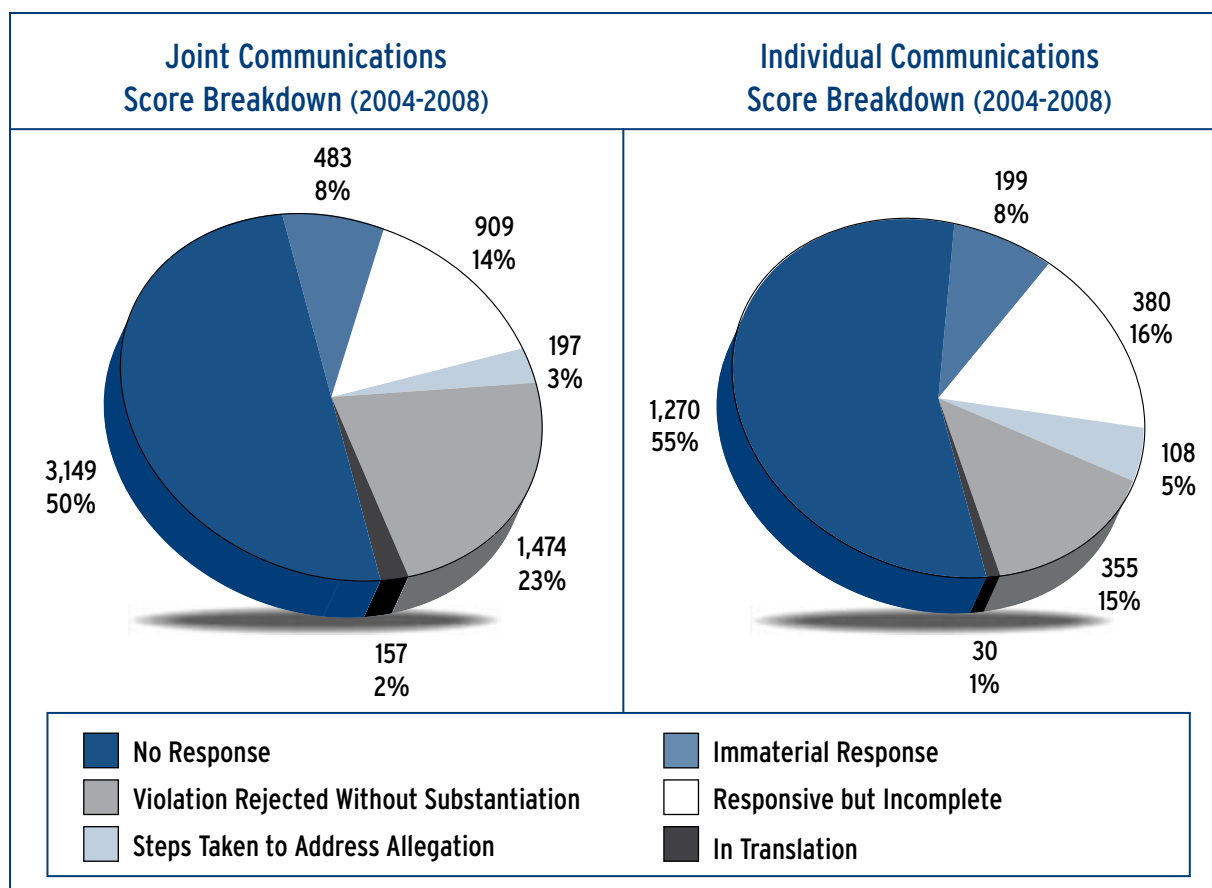
⁷⁷ Facts and Figures 2005, 2006, 2007, 2008, 2009.

⁷⁸ When analyzing joint communications sent from 2004-2008, the research team counted the total number of communications recorded by special procedures in their annual communications documents, irrespective of whether or not the joint communication appeared in more than one report.

44. In this work they are facilitated by the OHCHR's maintenance of a Quick Response Desk which centralizes incoming information to the mandate holders and processes communications sent. This enhanced coordinated action appears to have the effect of improving efficiency and facilitating joint action among rapporteurs. It also has the effect of increasing the attention paid by national governments and other actors to the problems raised in the communications. For instance, communications sent jointly have a lower rate of no or immaterial responses (58%) than communications sent by one mandate holder alone in these same categories (63%). The quality of

responses by states that do reply, however, does not seem to relate to whether the communication was sent jointly. If anything, communications sent by one Special Procedure alone have a slightly better track record of garnering a positive state response than joint communications.⁷⁹

45. Regular communications among the Special Procedures, highlighted by the annual meeting of the Special Procedures, are an effective way to exchange lessons learned, tackle common challenges and raise professional standards. The need for greater coordination among the Special Procedures was one of the



⁷⁹ Of all responses to joint communications, 17% were scored in the Responsive but Incomplete and Steps Taken categories while 21% of solo communications were in these categories. Similarly, 23% of joint communications received a Violation Rejected score versus only 15% of solo communications. Responses scored as Immaterial were the same for both types of communications.

many conclusions of the Vienna Conference on Human Rights in 1993 and led to the creation of the annual meeting the following year and, in 2005, to the establishment of a Special Procedures Coordination Committee. The Committee's main function is to facilitate coordination among the rapporteurs and to act as a bridge between them and the OHCHR, the broader U.N. human rights system, and civil society.⁸⁰ The Committee played a critical role in forging common positions during the UNGA debate on creation of the HRC and in the negotiations of the institution-building package and had a direct impact in removing the most onerous provisions of the draft Code of Conduct in 2007.

46. In an attempt to formalize and manage complaints by some states of SPs violating the Code of Conduct, the Committee created an Internal Advisory Procedure to Review Practices and Working Methods in June 2008. A tool for self-regulation, the procedure allows the body to examine information about a mandate holder's conduct confidentially and to determine what further guidance or corrective action should be taken. Information is then submitted to the President of the Council.⁸¹ Despite the valuable role played by the Coordination Committee in this and other aspects, and that it was recognized by the Council in a 2008 presidential statement, some states claim it lacks legal standing and, therefore, do not grant it the recognition it deserves.

CODE OF CONDUCT

47. Special Procedures are challenged by growing and at times hostile demands from member

states for improving their working methods. Persistent objections to the way in which the SPs exercise their independence led in 2007 to a Code of Conduct for Special Procedures sponsored by the Africa Group and adopted as part of the Human Rights Council's institution building package. The Code of Conduct serves as a way to supervise and regulate the rapporteurs but contains no procedure for handling specific allegations. Instead, complaints tend to get aired during interactive dialogues with SPs or in other venues.

48. While some experts consider the Code of Conduct a useful step toward greater professionalization of the Special Procedures, others say it has had a chilling effect on their ability (and of OHCHR staff) to speak out clearly against violations. This problem appears to have worsened due to recent incidents of member states' hostile attacks against certain mandate holders for allegedly stepping outside their mandates, a tactic some states use to avoid responding to the substance of the concerns raised by the Special Procedures. Avenues to address complaints by states, like the Internal Advisory Procedure to Review Practices and Working Methods managed by the SP Coordination Committee, are generally ignored in favor of using the bully pulpit of Council sessions when mandate holders only have five minutes to reply to all state commentary.

TRAINING

49. Mandate holders, upon assuming their positions, receive basic orientation and training in Geneva on the administrative, media relations and support structure provided by OHCHR. They also get acquainted with the

⁸⁰ See Manual of Procedures, paras. 109-114.

⁸¹ See Internal Advisory Procedure to Review Practices and Working Methods, Coordination Committee of Special Procedures, 25 June 2008, available at <http://www2.ohchr.org/english/bodies/chr/special/annual_meetings/docs/InternalAdvisoryProcedure.doc>.

SP Code of Conduct, which contains an oath they must sign, and the Manual of Procedures. They generally do not receive, however, skills-based political training from former and current mandate holders and other seasoned practitioners.

50. Starting in the fall of 2009, the SP Coordination Committee, with the assistance of OHCHR, began offering an induction program for new mandate holders that includes a session to hear lessons learned from current or former SPs. Yet no written materials exist on the political and diplomatic tools of the trade as learned by seasoned practitioners in the system. This means that mandate holders appointed out of cycle and unable to attend the annual training miss out on this important opportunity. Surprisingly, many outgoing rapporteurs do not sit down privately with their successors to share the lessons learned from their term in office, either for lack of time and resources or personal inclination to avoid encumbering the new rapporteur with past practice, or vice versa. Further compounding the uneven transition between mandate holders, OHCHR staff are routinely rotated in and out of assignments, undermining continuity and institutional memory.

UNIVERSAL PERIODIC REVIEW

51. When creating the new Human Rights Council, the General Assembly decided to establish the Universal Periodic Review, to review every state once every four years on its record of adherence to internationally recognized human rights “based on objective and reliable information.” Designed as a cooperative, state-driven process based on peer-to-peer interactive dialogue, the review results in a set of recommendations addressed to the state under review which may or may not accept them.
52. The UPR process, according to a range of interlocutors at the national and international level, has been a net positive for the cause of promoting human rights. In its first three years, it has achieved something no other part of the U.N. human rights system has achieved: 100 percent participation of member states. It has elevated the subject of human rights on the agenda of national governments with most delegations coming well-prepared substantively after inter-ministerial deliberations; some are led by cabinet-level delegations composed of officials from a range of ministries. Civil society representatives are invited to engage in the process through both written submissions, available publicly on the OHCHR website, and in the final session in which the report is adopted; some states have actively reached out to domestic groups for input to their official reports and in many cases domestic and international NGOs have used the sessions as an advocacy and education tool for their campaigns. Proceedings are webcast live, allowing unprecedented global access to official Geneva. On the negative side, some states have manipulated the process to ensure that only soft questions or even praise are offered. NGOs are not permitted to make their case in person during the UPR review session and many struggle to find funding for additional travel to Geneva to advocate in person with delegations and before the full Council. Of even greater concern, the quality of recommendations range widely with some falling below the standards of international law as articulated by treaty bodies.
53. While the Special Procedures have no formal role in the review process, their recommendations are consulted and reflected in the official public documents prepared by OHCHR for each country under review. UPR thus offers the only institutionalized system of

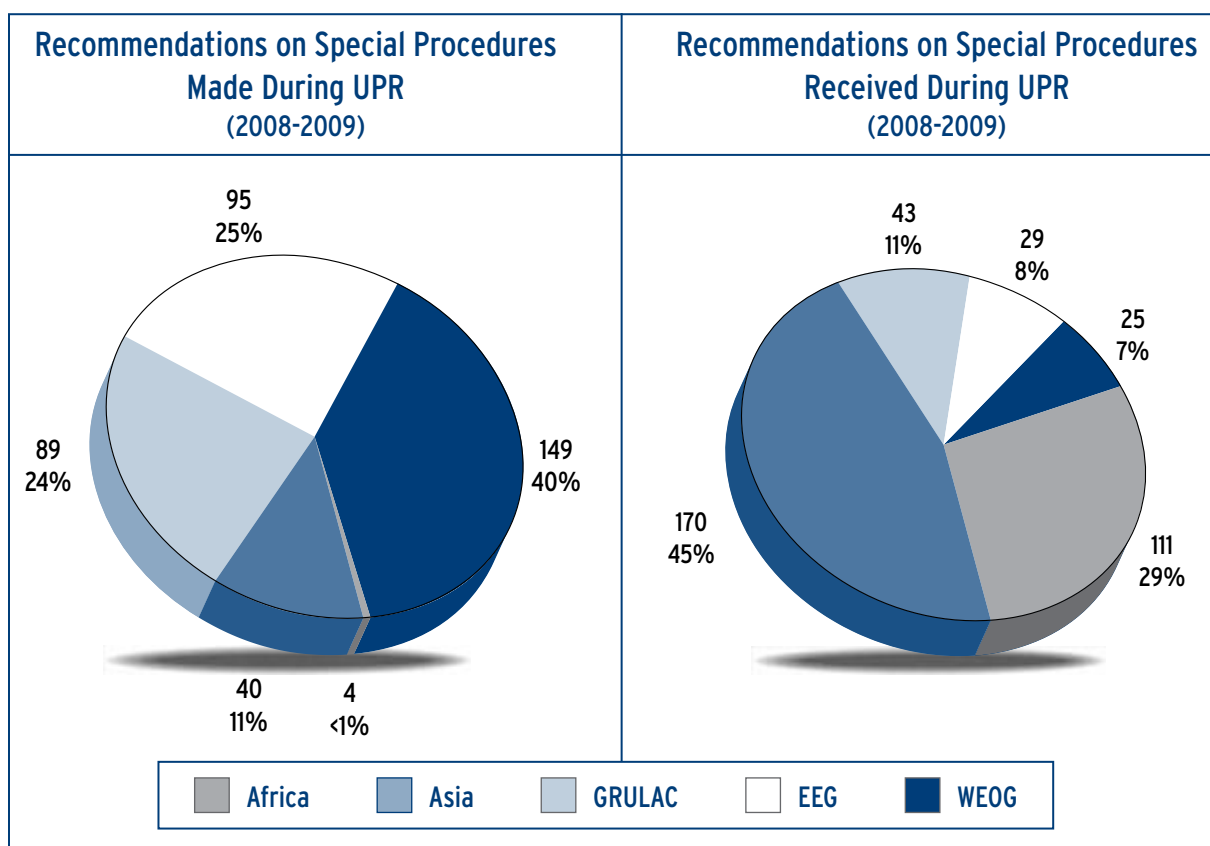
follow-up to the rapporteurs' country-specific recommendations. It allows a formal opportunity for their recommendations to be raised if a member state chooses to do so during the proceedings. Even before the review takes place, some states feel pressure to improve their records by, for example, accepting visit requests from Special Procedures or ratifying or removing reservations from human rights treaties; others accept such recommendations in the course of the review.

54. During the review itself, states have petitioned other states to improve cooperation with Special Procedures and in many cases such requests have been accepted. Based on a review of UPR recommendations proffered through December 2009, member states have made such requests 263 times. Of these, 106 recommendations were accepted, while 50

were rejected with the remaining receiving imprecise or no response. Not surprisingly, the states making SP-related recommendations tended to be those with better records of cooperation with SPs (WEOG, EEG and GRULAC groups), while those receiving such recommendations were from Asia and Africa, regions which show a much weaker record of cooperation with SPs.

RELATIONS WITH TREATY BODIES

55. While governments are strongly encouraged to cooperate with Special Procedures, member states that ratify international human rights treaties are under a specific obligation to comply with their provisions. Despite this, treaty bodies suffer similar challenges regarding low levels of state cooperation. For instance, in 2009, the Human Rights



Committee reported that 50 states, of the 164 that have ratified the ICCPR, were five or more years overdue in reporting to the Committee.⁸² Moreover, of the more than 500 cases being monitored by the Committee, only 67 have received *satisfactory* responses from member states. *Satisfactory* is defined as “the willingness of the State party to implement the Committee’s recommendations or to offer the complainant appropriate remedy.”⁸³

56. Because the two mechanisms serve complementary functions aimed toward the same goal—improving a state’s respect for internationally recognized human rights—they are increasingly finding ways to work together.⁸⁴ The Human Rights Committee, for example, which reviews state compliance with the International Covenant on Civil and Political Rights, regularly consults relevant SP reports and recommendations when considering a state report. The respective chairs of the treaty bodies now meet at least annually with the SP Coordination Committee to compare notes

and find ways to strengthen collaboration. In the infrequent instance that treaty bodies conduct country visits, there is evidence that coordination and collaboration with relevant rapporteurs occur.⁸⁵ For example, in 2003, the Committee on Elimination of Discrimination against Women visited Mexico to conduct an inquiry under its optional protocol. According to the report of the committee, work of the Special Procedures on extrajudicial, summary or arbitrary executions and on the independence of judges and lawyers was considered during the examination period that led to the committee’s decision to make a visit.⁸⁶ Furthermore, the Special Rapporteur on violence against women conducted a visit to Mexico two years later, citing the committee’s work several times in her mission report.⁸⁷ This complementary behavior typifies Sir Nigel Rodley’s observation that “since neither mechanism has the resources that would make follow-up visits practicable, the Special Rapporteur’s visit was able to serve as a *de facto* follow-up to the Committee’s visit.”⁸⁸

⁸² Report of the Human Rights Committee, U.N. Doc. A/64/40 (Vol.I), Oct 288-Jul 2009, p. 16.

⁸³ See David Baluarte and Christian M. De Vos, *From Judgment to Justice: Implementing International and Regional Human Rights Courts Decisions*, Open Society Justice Initiative (2010).

⁸⁴ For an excellent first-hand account comparing treaty bodies and Special Procedures, see Nigel Rodley, “The United Nations Human Rights Council, Its Special Procedures and Its Relationship with the Treaty Bodies: Complementarity or Competition?” in *New Institutions for Human Rights Protection*, Kevin Boyle (ed.), (Oxford, OUP, 2009), pp 49-73; see also Jose Luis Gomez del Prado, “Extra-conventional Protection of Human Rights,” in *International Human Rights Law in a Global Context*, Felipe Gomez Isa and Koen de Feyter (eds.), University of Deusto, Bilbao 2009.

⁸⁵ The Committee Against Torture (CAT) and the Committee on Elimination of Discrimination Against Women (CEDAW) are the two treaty bodies that are mandated to conduct country visits to states that have ratified the optional protocols.

⁸⁶ Report on Mexico produced by the Committee on the Elimination of Discrimination against Women under article 8 of the Optional Protocol to the Convention, and reply from the Government of Mexico, p. 4. U.N. Doc: CEDAW/C/2005/OP.8/Mexico.

⁸⁷ Yakin Erturk, “Integration of the Human Rights of Women and a Gender Perspective: Violence Against Women, Report of the Special Rapporteur on Violence Against Women,” Mission to Mexico, January 13, 2006. U.N. Doc: E/CN.4/2006/61/Add.4.

⁸⁸ Rodley made this observation about his 1998 trip to Turkey as Special Rapporteur on Torture that served as follow-up to the 1993 visit of the Committee against Torture. Nigel Rodley, “The United Nations Human Rights Council, Its Special Procedures and Its Relationship with the Treaty Bodies: Complementarity or Competition?” p. 62.

RECOMMENDATIONS

The following recommendations for strengthening the Special Procedures were endorsed by the Experts Working Group listed on page vii.

APPOINTMENTS

1. The selection process for Special Procedures, while improved, still suffers from a lack of transparency, politicization and apparent back-room deals in which experts do not always appear well-matched to their mandates. The June 2010 episode in which states like Algeria and India demanded their candidates receive certain mandates and the President of the HRC modified his final list of nominees per demands from the Africa Group and OIC further degraded a process that should emphasize expertise, independence and objectivity as the main criteria for selection.
 - a. The Council and the OHCHR should improve the selection process by reaching out early and often to a wide network of relevant stakeholders, advertising vacancies publicly, setting clear deadlines for applications and providing more information about each candidate to help states and civil society assess qualifications, experience and suitability for particular mandates.
 - b. Civil society has a special role to play in identifying qualified candidates with a proven track record of expertise in promoting and defending human rights and should

more proactively recruit, nominate and support top candidates.

- c. Qualified candidates with a diverse life experience, including practical knowledge of politics, communications and diplomacy, should be actively recruited.

COUNTRY VISITS AND COMMUNICATIONS

2. While there are several positive examples of progress in the implementation of international human rights norms as a result of the work of the Special Procedures, the mechanism is severely challenged by member states' failure to fulfill their obligations to cooperate with the Council and its mechanisms. An enduring resistance to or rejection of perceived intervention in internal affairs, expressed mainly by states seeking to avoid scrutiny, remains a major obstacle. In other cases, a lack of diplomatic resources allocated to reporting and follow-up is a problem.
 - a. All states should cooperate with the Council by issuing standing invitations for country visits by all Special Procedures, responding promptly (within three months) to requests for such visits, agreeing to the dates of a visit within one year of a request, accepting the

standard terms of reference for such visits, and cooperating fully during the visits.

- b. OHCHR should maintain a public list of countries that fail to implement standing invitations they have issued in accordance with the criteria above and remove those states that reject or do not effectively honor their standing invitation commitments from the list.⁸⁹
- c. Likewise, member states should fulfill their responsibilities to respond to all SP communications in a timely and complete manner setting forth steps taken to address violations or providing explanations for failing to do so. In the case of urgent appeals, states should respond substantively to the allegation within 30 days. For other allegations, states should respond substantively within two months.
- d. The HRC Secretariat should regularly publish data on each state's record of responding to SP communications and reports, the quality of the state's response (as a few rapporteurs do now), and more details on the status of requests to visit. Civil society and states should use such data to evaluate candidates for election to the Human Rights Council, keeping in mind the General Assembly's directive that all members "shall fully cooperate with the Council."
- e. States should use a government's record of cooperation with the Council's mechanisms, including its responsiveness to SP communications and requests for country visits, as criteria for election and re-election of any

candidate for membership on the Human Rights Council. Any candidate running for a seat on the Council should demonstrate their qualifications by implementing the above guidelines as a matter of policy and practice.

- 3. States with positive records of cooperation with the Council's mechanisms should be priority candidates for technical assistance and other resources from the U.N. system and donors to help them address specific human rights concerns. Similarly, states with a record of persistent lack of cooperation should be brought to the attention of the full Human Rights Council for further discussion. Such lack of cooperation should be critically considered when states elect members to a seat on the HRC as well as during their UPR review.
- 4. When selecting which states to visit, Special Procedures, with the assistance of OHCHR, should consider how to maximize the effectiveness of their visit by reviewing the seven factors set forth in paragraph 22 above, particularly the questions of timing, civil society participation, independent media and U.N. country team contributions. It is critical that they make proper preparations for their visit by contacting a wide range of stakeholders in the country concerned in advance of their visit. A questionnaire sent in advance of the visit to key actors would help illuminate the most pressing issues, identify the most relevant parties for direct interviews and educate the mandate holder on the political context. They should endeavor to complete their report in a timely fashion and keep relevant stakeholders informed and engaged through wide dissemination of the report in the country of concern.

⁸⁹ Human Rights Watch has suggested distinguishing between the usage of the term "effective" and "ineffective" standing invitations rather than grouping together all states that have issued standing invitations. For a standing invitation to be considered effective, the government making the invitation should respond to requests for visits by special procedures within six months and should actually schedule the visit within two years. For full explanation and text see: Human Rights Watch, *Curing the Selectivity Syndrome: The 2011 Review of the Human Rights Council*, June 2010, p. 18.

5. States should agree to improve the quality of the interactive dialogue with Special Procedures, including by allotting more time to each individual mandate-holder for presentation of his or her report, holding a separate dialogue on each country mission report, and inviting the NHRI of the relevant country to speak after the country concerned.
 6. The HRC Secretariat should maintain a public database, continuously updated and searchable by country and mandate, where all information about communications and state responses can be found. This is particularly important to victims who are rarely informed of the status of the complaints they submit to the SPs. In addition, the SP's annual report to the Council should include the status of that year's new communications and outstanding ones, as the Working Group on Enforced and Involuntary Disappearances does. Similarly, any individual alleging a human rights violation should receive a reply from the relevant rapporteur(s) or their staff acknowledging receipt and indicating what the process for consideration entails.
 7. OHCHR should task Special Procedures, country teams, and itself with tallying how many requests for communications it receives on an ongoing basis in order to determine what percentage of complaints is acted upon or considered lacking in sufficient detail or credibility.
 8. Publications of SP communications, reports and government responses should be available in the main languages of the country concerned.
- FOLLOW-UP PROCEDURES**
9. Given the significant investment of resources devoted to country visits, and the important contribution they can make toward advancing human rights at the national level, the absence of any systematic mechanism to follow-up on such visits is glaring. The UPR process offers at least one avenue to recall the recommendations made by the SP but the schedule of reviews only once every four years is entirely insufficient for proper follow-up. Similarly, treaty bodies can do more to consult and build upon SP recommendations.
 10. States, OHCHR, other elements of the U.N. system, SPs, national human rights institutions and civil society can take a number of actions to address this deficit:
 - a. One year after a country visit, SPs should write to the state concerned to raise relevant issues regarding progress to date on the recommendations and request a progress report within three months to be submitted to the Council as part of the SP's regular reporting.
 - b. Outgoing SPs and their staff should be required to brief incoming SPs on the status of pending and recent visits and communications as well as concrete ideas for follow-up.
 - c. SPs and their staff should prioritize follow-up visits to selected states within a 2-3 year period of the previous visit.
 - d. The U.N. Country Team, OHCHR staff in the field, UNHCR personnel and other relevant actors should facilitate follow-up activities, incorporate the SP's recommendations into their workplans and regularly report back directly to the High Commissioner for Human Rights and the relevant Special Procedure on progress toward fulfilling recommendations.

- e. Human rights and humanitarian NGOs should work together to follow up on an SP's visit by monitoring state compliance with recommendations, carrying out advocacy campaigns to press for reforms and keeping SPs regularly informed of problems and progress.

RESOURCES

11. To address the chronic under-funding of the Special Procedures, expand flexibility and reduce inequities, member states in partnership with OHCHR should:
 - a. Increase funding so that each mandate holder is able to visit at least three countries each year and has at least two full-time professional OHCHR staff dedicated to their mandate.
 - b. Continue to reduce earmarking of contributions to specific mandates and increase voluntary contributions to the general account for Special Procedures as a way to rebalance the distribution of resources across all mandates.
 - c. Adjust allocation of resources in such a way that guarantees a minimum floor of funding for each mandate while providing additional resources for mandates that are particularly time- and labor-intensive due to such factors as volume of communications received, follow-up visits and the emergency nature of violations.
 - d. Create a dedicated fund where Special Procedures can apply for added resources for special projects like elaborating standards, conducting trainings, organizing workshops, etc.
 - e. Open a new trust fund account for Special Procedures as an additional option

for public and private donors that seek to contribute to the pool of funds available to all mandates. Individual mandate holders would still be free to fundraise independently.

12. Mandate holders should receive an annual research honoraria or stipend to compensate them for mandate-related research expenses incurred in the course of preparing country visits, thematic and country reports and follow-up communications with stakeholders. Such funds could be spent at the discretion of the expert to support research staff in their home institutions, organize and attend thematic seminars or undertake follow-up activities at the national or regional level.
13. Other U.N. agencies who work on similar issues to particular mandates should expend resources to support the work of the Special Rapporteurs through direct financial support to their mandates, assignment of specialized staff, in-country assistance and funding for follow-up activities.
14. Mandate holders able to raise additional resources from sources outside the U.N. budget for the effective fulfillment of their mandate should find ways to share this information more widely.

TRAINING

15. To support further professionalization and greater effectiveness of the Special Procedures, it is essential that they receive additional training and guidance before carrying out their duties. This should include special instruction from experienced mandate holders who have invaluable experience handling politically sensitive missions. A panel of former mandate holders could be charged by the Coordination Committee to prepare written

materials on the history and lessons learned of their work with a focus on the diplomatic, political, fundraising and communication skills needed to maximize effectiveness on the ground.

CODE OF CONDUCT

16. Both member states and Special Procedures share a set of obligations toward each other and the U.N. system for it to work effectively on behalf of victims. These include a faithful adherence by member states to the Code of Conduct, including every state's duty to fully cooperate with the Special Procedures, respect their independence and provide all information requested in a timely manner. States should refrain from using the Code of Conduct to block scrutiny of their human rights records or to harass and intimidate the mandate holders and should criticize such attacks when they occur.
17. If a state wishes to allege a violation of the Code of Conduct, it should follow the Internal Advisory Procedure to Review Practices and Working Methods adopted in June 2008 by the Special Procedures Coordination Committee. The Coordination Committee should, in turn, be more transparent with the President of the Council and with states on steps taken to address concerns regarding individual expert's behavior on mission. In this way, all parties involved will have more confidence in the Special Procedures' own rules for self-regulating their activities.
18. The President of the Council should also be more pro-active in explicitly recognizing the legal and professional standing of the Coordination Committee and support regular consultations between the Committee and member states. The President should also take the initiative to re-direct Council

discussion of an SP's conduct to the Coordination Committee as early as possible. The High Commissioner's Office or a small group of former mandate holders appointed by the Coordination Committee could also be involved as observers to the Committee's deliberations. Proposals to create a formal "ethics committee" or panel of jurists to handle complaints of SP's behavior should be rejected as a diversion that would unreasonably occupy the SPs' limited time in a series of potentially harassing, frivolous and politicized complaint procedures and would undermine rather than strengthen the SPs as a body of professional, independent U.N. experts.

RELATIONS WITH UPR, TREATY BODIES AND OTHER U.N. HUMAN RIGHTS AND HUMANITARIAN ACTORS

19. The Special Procedures operate within a larger international system for promoting and protecting human rights. Much more could be done to integrate them further into this framework to maximize effectiveness of their mandates.
20. Regarding UPR, country-specific mandate holders should be called upon at all stages of the relevant country review as subject matter experts. Thematic mandate holders could also be asked to participate in reviews of countries they have recently visited. SP recommendations should continue to be refined to ensure actionable steps are identified for the UPR review, as set forth in the Manual of Procedures. SP visits to states could be timed to take place within a year of a country's upcoming review to maximize attention to resulting recommendations.
21. Treaty bodies should adopt the practice followed by the Human Rights Committee of regularly consulting all relevant SP reports

for states under review and raising their recommendations in the course of the review.

22. The Secretary General should require U.N. Country Teams to incorporate SP recommendations into their annual workplans and to appoint a focal point in each country team responsible for followup monitoring and reporting on state actions to address such recommendations. A similar effort should be addressed toward mainstreaming SP recommendations into activities of U.N. peacekeeping missions.
23. OHCHR should spearhead coordination with specialized U.N. voluntary funds to connect SP recommendations to funding priorities. This is beginning to happen in an ad hoc way. For example, the Voluntary Trust Fund on Contemporary Forms of Slavery has cooper-

ated with the Special Rapporteur on the same subject on four project grants to grassroots Haitian NGOs to combat child labor and provide assistance to child domestic workers and their families.⁹⁰ Similarly, the U.N. Voluntary Funds for Victims of Torture, for Indigenous Populations, and for Violence against Women could be tapped for resources to help states implement SP recommendations in those areas.

24. With the creation of a new Assistant Secretary General for Human Rights in New York, the time is ripe to connect the Special Procedures more directly to key U.N. bodies at U.N. headquarters, particularly the Security Council and the Third Committee. The Assistant Secretary General should have as a top priority the mission of mainstreaming the work of the Special Procedures into the activities of relevant U.N. actors in New York.

⁹⁰ OHCHR 2009 Report, p. 177.

HRC RESOLUTION 5/1, THE INSTITUTION BUILDING PACKAGE



The Human Rights Council,

Acting in compliance with the mandate entrusted to it by the United Nations General Assembly in resolution 60/251 of 15 March 2006,

Having considered the draft text on institution-building submitted by the President of the Council,

1. *Adopts* the draft text entitled “United Nations Human Rights Council: Institution-Building”, as contained in the annex to the present resolution, including its appendix(ces);
2. *Decides* to submit the following draft resolution to the General Assembly for its adoption as a matter of priority in order to facilitate the timely implementation of the text contained thereafter:

“The General Assembly,

“Taking note of Human Rights Council resolution 5/1 of 18 June 2007,

- “1. *Welcomes* the text entitled ‘United Nations Human Rights Council: Institution-Building’, as contained in the annex to the present resolution, including its appendix(ces).”

*9th meeting
18 June 2007*

[Resolution adopted without a vote.]⁹¹

Annex

UNITED NATIONS HUMAN RIGHTS COUNCIL: INSTITUTION-BUILDING

II. SPECIAL PROCEDURES

A. Selection and appointment of mandate-holders

39. The following general criteria will be of paramount importance while nominating, selecting and appointing mandate-holders: (a) expertise; (b) experience in the field of the mandate; (c) independence; (d) impartiality; (e) personal integrity; and (f) objectivity.
40. Due consideration should be given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems.

⁹¹ See A/HRC/5/21, chap. III, paras. 60-62.

41. Technical and objective requirements for eligible candidates for mandate-holders will be approved by the Council at its sixth session (first session of the second cycle), in order to ensure that eligible candidates are highly qualified individuals who possess established competence, relevant expertise and extensive professional experience in the field of human rights.
42. The following entities may nominate candidates as special procedures mandate-holders: (a) Governments; (b) Regional Groups operating within the United Nations human rights system; (c) international organizations or their offices (e.g. the Office of the High Commissioner for Human Rights); (d) non-governmental organizations; (e) other human rights bodies; (f) individual nominations.
43. The Office of the High Commissioner for Human Rights shall immediately prepare, maintain and periodically update a public list of eligible candidates in a standardized format, which shall include personal data, areas of expertise and professional experience. Upcoming vacancies of mandates shall be publicized.
44. The principle of non-accumulation of human rights functions at a time shall be respected.
45. A mandate-holder's tenure in a given function, whether a thematic or country mandate, will be no longer than six years (two terms of three years for thematic mandate-holders).
46. Individuals holding decision-making positions in Government or in any other organization or entity which may give rise to a conflict of interest with the responsibilities inherent to the mandate shall be excluded. Mandate-holders will act in their personal capacity.
47. A consultative group would be established to propose to the President, at least one month before the beginning of the session in which the Council would consider the selection of mandate-holders, a list of candidates who possess the highest qualifications for the mandates in question and meet the general criteria and particular requirements.
48. The consultative group shall also give due consideration to the exclusion of nominated candidates from the public list of eligible candidates brought to its attention.
49. At the beginning of the annual cycle of the Council, Regional Groups would be invited to appoint a member of the consultative group, who would serve in his/her personal capacity. The Group will be assisted by the Office of the High Commissioner for Human Rights.
50. The consultative group will consider candidates included in the public list; however, under exceptional circumstances and if a particular post justifies it, the Group may consider additional nominations with equal or more suitable qualifications for the post. Recommendations to the President shall be public and substantiated.
51. The consultative group should take into account, as appropriate, the views of stakeholders, including the current or outgoing mandate-holders, in determining the necessary expertise, experience, skills, and other relevant requirements for each mandate.
52. On the basis of the recommendations of the consultative group and following broad consultations, in particular through the regional coordinators, the President of the Council will identify an appropriate candidate for each vacancy. The President will present to

member States and observers a list of candidates to be proposed at least two weeks prior to the beginning of the session in which the Council will consider the appointments.

53. If necessary, the President will conduct further consultations to ensure the endorsement of the proposed candidates. The appointment of the special procedures mandate-holders will be completed upon the subsequent approval of the Council. Mandate-holders shall be appointed before the end of the session.

B. Review, rationalization and improvement of mandates

54. The review, rationalization and improvement of mandates, as well as the creation of new ones, must be guided by the principles of universality, impartiality, objectivity and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development.
55. The review, rationalization and improvement of each mandate would take place in the context of the negotiations of the relevant resolutions. An assessment of the mandate may take place in a separate segment of the interactive dialogue between the Council and special procedures mandate-holders.
56. The review, rationalization and improvement of mandates would focus on the relevance, scope and contents of the mandates, having as a framework the internationally recognized human rights standards, the system of special procedures and General Assembly resolution 60/251.

57. Any decision to streamline, merge or possibly discontinue mandates should always be guided by the need for improvement of the enjoyment and protection of human rights.

58. The Council should always strive for improvements:

- (a) Mandates should always offer a clear prospect of an increased level of human rights protection and promotion as well as being coherent within the system of human rights;
- (b) Equal attention should be paid to all human rights. The balance of thematic mandates should broadly reflect the accepted equal importance of civil, political, economic, social and cultural rights, including the right to development;
- (c) Every effort should be made to avoid unnecessary duplication;
- (d) Areas which constitute thematic gaps will be identified and addressed, including by means other than the creation of special procedures mandates, such as by expanding an existing mandate, bringing a cross-cutting issue to the attention of mandate-holders or by requesting a joint action to the relevant mandate-holders;
- (e) Any consideration of merging mandates should have regard to the content and predominant functions of each mandate, as well as to the workload of individual mandate-holders;
- (f) In creating or reviewing mandates, efforts should be made to identify whether the structure of the mechanism (expert, rapporteur or working group) is the most effective in terms of increasing human rights protection;
- (g) New mandates should be as clear and specific as possible, so as to avoid ambiguity.

59. It should be considered desirable to have a uniform nomenclature of mandate-holders, titles of mandates as well as a selection and appointment process, to make the whole system more understandable.
60. Thematic mandate periods will be of three years. Country mandate periods will be of one year.
61. Mandates included in Appendix I, where applicable, will be renewed until the date on which they are considered by the Council according to the programme of work.⁹²
62. Current mandate-holders may continue serving, provided they have not exceeded the six-year term limit (Appendix II). On an exceptional basis, the term of those mandate-holders who have served more than six years may be extended until the relevant mandate is considered by the Council and the selection and appointment process has concluded.
63. Decisions to create, review or discontinue country mandates should also take into account the principles of cooperation and genuine dialogue aimed at strengthening the capacity of Member States to comply with their human rights obligations.
64. In case of situations of violations of human rights or a lack of cooperation that require the Council's attention, the principles of objectivity, non-selectivity, and the elimination of double standards and politicization should apply.

⁹² Country mandates meet the following criteria:
There is a pending mandate of the Council to be accomplished; or
There is a pending mandate of the General Assembly to be accomplished; or
The nature of the mandate is for advisory services and technical assistance.

HRC 5/2, CODE OF CONDUCT

Procedures Mandate-holders of the Human Rights Council

The Human Rights Council,

Guided by the aims and principles of the Charter of the United Nations and the Universal Declaration of Human Rights and recognizing the ensuing obligations inter alia of States to cooperate in promoting universal respect for human rights as enshrined therein,

Recalling the Vienna Declaration and Programme of Action adopted on 25 June 1993 by the World Conference on Human Rights,

Recalling also that in resolution 60/251 of 15 March 2006, entitled “Human Rights Council”, the General Assembly:

- (a) Reaffirmed that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing and that all human rights must be treated in a fair and equal manner on the same footing and with the same emphasis;
- (b) Acknowledged that peace and security, development and human rights are the pillars of the United Nations system and that they are inter-linked and mutually reinforcing;
- (c) Decided that members elected to the Council shall uphold the highest standards in

the promotion and protection of human rights and shall fully cooperate with the Council;

- (d) Stressed the importance of “ensuring universality, objectivity and non-selectivity in the consideration of human rights issues, and the elimination of double standards and politicization”;
- (e) Further recognized that the promotion and protection of human rights “should be based on the principles of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings”;
- (f) Decided that “the work of the Council shall be guided by the principles of universality, impartiality, objectivity, and non-selectivity, constructive international dialogue and cooperation, with a view to enhancing the promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development”;
- (g) Also decided that “the methods of work of the Council shall be transparent, fair and impartial and shall enable genuine dialogue, be results-oriented, allow for subsequent follow-up discussions to recommendations and their implementation and also allow for substantive interaction with special procedures and mechanisms”;

Underlining the centrality of the notions of impartiality and objectivity, as well as the expertise of mandate-holders, within the context of special procedures, along with the need to give the required degree of attention to all human rights violations, wherever they may be taking place,

Bearing in mind that the efficiency of the system of special procedures should be reinforced through the consolidation of the status of mandate-holders and the adoption of principles and regulations taking the specificities of their mandate into consideration,

Considering that it is necessary to assist all stakeholders, including States, national human rights institutions, non-governmental organizations and individuals, to better understand and support the activities of mandate-holders,

Recalling articles 100, 104, 105 of the Charter of the United Nations, section 22 of article VI of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 and paragraph 6 of General Assembly resolution 60/251,

Noting decision 1/102 of 30 June 2006, in which the Council decided to extend exceptionally for one year the mandates and mandate-holders of the special procedures of the Commission on Human Rights, of the Sub-Commission for the Promotion and Protection of Human Rights as well as the procedure established pursuant to Economic and Social Council resolution 1503 (XLVIII) of 27 May 1970,

Noting also decision 1/104 of 30 June 2006, in which the Council established the Open-ended Intergovernmental Working Group entrusted with the task of formulating recommendations on the issue of the review and possibly the enhancement and rationalization of all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights, in order to maintain a regime of

special procedures in accordance with paragraph 6 of General Assembly resolution 60/251,

Noting further resolution 2/1 of 27 November 2006, in which the Council requested the Open-ended Intergovernmental Working Group to “draft a code of conduct regulating the work of the special procedures”,

Considering that this code of conduct is an integral part of the review, improvement and rationalization called for in General Assembly resolution 60/251 that, inter alia, seeks to enhance the cooperation between Governments and mandate-holders which is essential for the effective functioning of the system,

Considering also that such a code of conduct will strengthen the capacity of mandate-holders to exercise their functions whilst enhancing their moral authority and credibility and will require supportive action by other stakeholders, and in particular by States,

Considering further that one should distinguish between, on the one hand, the independence of mandate-holders, which is absolute in nature, and, on the other hand, their prerogatives, as circumscribed by their mandate, the mandate of the Human Rights Council, and the provisions of the Charter of the United Nations,

Mindful of the fact that it is desirable to spell out, complete and increase the visibility of the rules and principles governing the behaviour of mandate-holders,

Noting the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission that was adopted by the General Assembly in resolution 56/280 of 27 March 2002,

Noting also the draft Manual of the United Nations Human Rights Special Procedures adopted

in 1999 by the sixth annual meeting of mandate-holders, as revised,

Taking note of the deliberations and proposals of the Open-ended Intergovernmental Working Group on Review of Mandates,

1. Urges all States to cooperate with, and assist, the special procedures in the performance of their tasks and to provide all information in a timely manner, as well as respond to communications transmitted to them by the special procedures without undue delay;
2. Adopts the Code of Conduct for Special Procedures Mandate-Holders of the Human Rights Council, the text of which is annexed to the present resolution and whose provisions should be disseminated by the Office of the United Nations High Commissioner for Human Rights, to the mandate-holders, to the Member States of the United Nations and to other concerned parties.

Annex

DRAFT CODE OF CONDUCT FOR SPECIAL PROCEDURES MANDATE-HOLDERS OF THE HUMAN RIGHTS COUNCIL

Article 1 - Purpose of the Code of Conduct

The purpose of the present Code of Conduct is to enhance the effectiveness of the system of special procedures by defining the standards of ethical behaviour and professional conduct that special procedures mandate-holders of the Human Rights Council (hereinafter referred to as “mandate-holders”) shall observe whilst discharging their mandates.

Article 2 - Status of the Code of Conduct

1. The provisions of the present Code complement those of the Regulations Governing the

Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission (ST/SGB/2002/9) (hereinafter referred to as “the Regulations”);

2. The provisions of the draft manual of United Nations Human Rights Special Procedures should be in consonance with those of the present Code;
3. Mandate-holders shall be provided by the United Nations High Commissioner for Human Rights, along with the documentation pertaining to their mission, with a copy of the present Code of which they must acknowledge receipt.

Article 3 - General principles of conduct

Mandate-holders are independent United Nations experts. While discharging their mandate, they shall:

- (a) Act in an independent capacity, and exercise their functions in accordance with their mandate, through a professional, impartial assessment of facts based on internationally recognized human rights standards, and free from any kind of extraneous influence, incitement, pressure, threat or interference, either direct or indirect, on the part of any party, whether stakeholder or not, for any reason whatsoever, the notion of independence being linked to the status of mandate-holders, and to their freedom to assess the human rights questions that they are called upon to examine under their mandate;
- (b) Keep in mind the mandate of the Council which is responsible for promoting universal respect for the protection of all human rights and fundamental freedoms for all, through dialogue and cooperation as specified in General Assembly resolution 60/251 of 15 March 2006;

- (c) Exercise their functions in accordance with their mandate and in compliance with the Regulations, as well as with the present Code;
- (d) Focus exclusively on the implementation of their mandate, constantly keeping in mind the fundamental obligations of truthfulness, loyalty and independence pertaining to their mandate;
- (e) Uphold the highest standards of efficiency, competence and integrity, meaning, in particular, though not exclusively, probity, impartiality, equity, honesty and good faith;
- (f) Neither seek nor accept instructions from any Government, individual, governmental or non-governmental organization or pressure group whatsoever;
- (g) Adopt a conduct that is consistent with their status at all times;
- (h) Be aware of the importance of their duties and responsibilities, taking the particular nature of their mandate into consideration and behaving in such a way as to maintain and reinforce the trust they enjoy of all stakeholders;
- (i) Refrain from using their office or knowledge gained from their functions for private gain, financial or otherwise, or for the gain and/or detriment of any family member, close associate, or third party;
- (j) Not accept any honour, decoration, favour, gift or remuneration from any governmental or non-governmental source for activities carried out in pursuit of his/her mandate.

Article 4 - Status of mandate-holders

1. Mandate-holders exercise their functions on a personal basis, their responsibilities not being national but exclusively international.

2. When exercising their functions, the mandate-holders are entitled to privileges and immunities as provided for under relevant international instruments, including section 22 of article VI of the Convention on the Privileges and Immunities of the United Nations.
3. Without prejudice to these privileges and immunities, the mandate-holders shall carry out their mandate while fully respecting the national legislation and regulations of the country wherein they are exercising their mission. Where an issue arises in this regard, mandate-holders shall adhere strictly to the provisions of Regulation 1 (e) of the Regulations.

Article 5 - Solemn declaration

Prior to assuming their functions, mandate-holders shall make the following solemn declaration in writing:

“I solemnly declare that I shall perform my duties and exercise my functions from a completely impartial, loyal and conscientious standpoint, and truthfully, and that I shall discharge these functions and regulate my conduct in a manner totally in keeping with the terms of my mandate, the Charter of the United Nations, the interests of the United Nations, and with the objective of promoting and protecting human rights, without seeking or accepting any instruction from any other party whatsoever.”

Article 6 - Prerogatives

Without prejudice to prerogatives for which provision is made as part of their mandate, the mandate-holders shall:

- (a) Always seek to establish the facts, based on objective, reliable information emanating from relevant credible sources, that they have duly cross-checked to the best extent possible;

- (b) Take into account in a comprehensive and timely manner, in particular information provided by the State concerned on situations relevant to their mandate;
- (c) Evaluate all information in the light of internationally recognized human rights standards relevant to their mandate, and of international conventions to which the State concerned is a party;
- (d) Be entitled to bring to the attention of the Council any suggestion likely to enhance the capacity of special procedures to fulfil their mandate.

Article 7 - Observance of the terms of the mandate

It is incumbent on the mandate-holders to exercise their functions in strict observance of their mandate and in particular to ensure that their recommendations do not exceed their mandate or the mandate of the Council itself.

Article 8 - Sources of information

In their information-gathering activities the mandate-holders shall:

- (a) Be guided by the principles of discretion, transparency, impartiality, and even-handedness;
- (b) Preserve the confidentiality of sources of testimonies if their divulgation could cause harm to individuals involved;
- (c) Rely on objective and dependable facts based on evidentiary standards that are appropriate to the non-judicial character of the reports and conclusions they are called upon to draw up;
- (d) Give representatives of the concerned State the opportunity of commenting on mandate-

holders' assessment and of responding to the allegations made against this State, and annex the State's written summary responses to their reports.

Article 9 - Letters of allegation

With a view to achieving effectiveness and harmonization in the handling of letters of allegation by special procedures, mandate-holders shall assess their conformity with reference to the following criteria:

- (a) The communication should not be manifestly unfounded or politically motivated;
- (b) The communication should contain a factual description of the alleged violations of human rights;
- (c) The language in the communication should not be abusive;
- (d) The communication should be submitted by a person or a group of persons claiming to be victim of violations or by any person or group of persons, including non-governmental organizations, acting in good faith in accordance with principles of human rights, and free from politically motivated stands or contrary to, the provisions of the Charter of the United Nations, and claiming to have direct or reliable knowledge of those violations substantiated by clear information;
- (e) The communication should not be exclusively based on reports disseminated by mass media.

Article 10 - Urgent appeals

Mandate-holders may resort to urgent appeals in cases where the alleged violations are time-sensitive in terms of involving loss of life, life-threatening situations or either imminent or

ongoing damage of a very grave nature to victims that cannot be addressed in a timely manner by the procedure under article 9 of the present Code.

Article 11 - Field visits

Mandate-holders shall:

- (a) Ensure that their visit is conducted in compliance with the terms of reference of their mandate;
- (b) Ensure that their visit is conducted with the consent, or at the invitation, of the State concerned;
- (c) Prepare their visit in close collaboration with the Permanent Mission of the concerned State accredited to the United Nations Office at Geneva except if another authority is designated for this purpose by the concerned State;
- (d) Finalize the official programme of their visits directly with the host country officials with administrative and logistical back-up from the local United Nations Agency and/or Representative of the High Commissioner for Human Rights who may also assist in arranging private meetings;
- (e) Seek to establish a dialogue with the relevant government authorities and with all other stakeholders, the promotion of dialogue and cooperation to ensure the full effectiveness of special procedures being a shared obligation of the mandate-holders, the concerned State and the said stakeholders;
- (f) Have access upon their own request, in consultation with the Office of the High Commissioner for Human Rights and after a common understanding between the host Government and the mandate-holder, to official security protection during their visit, without prejudice

to the privacy and confidentiality that mandate-holders require to fulfil their mandate.

Article 12 - Private opinions and the public nature of the mandate

Mandate-holders shall:

- (a) Bear in mind the need to ensure that their personal political opinions are without prejudice to the execution of their mission, and base their conclusions and recommendations on objective assessments of human rights situations;
- (b) In implementing their mandate, therefore, show restraint, moderation and discretion so as not to undermine the recognition of the independent nature of their mandate or the environment necessary to properly discharge the said mandate.

Article 13 - Recommendations and conclusions

Mandate-holders shall:

- (a) While expressing their considered views, particularly in their public statements concerning allegations of human rights violations, also indicate fairly what responses were given by the concerned State;
- (b) While reporting on a concerned State, ensure that their declarations on the human rights situation in the country are at all times compatible with their mandate and the integrity, independence and impartiality which their status requires, and which is likely to promote a constructive dialogue among stakeholders, as well as cooperation for the promotion and protection of human rights;
- (c) Ensure that the concerned government authorities are the first recipients of their

conclusions and recommendations concerning this State and are given adequate time to respond, and that likewise the Council is the first recipient of conclusions and recommendations addressed to this body.

Article 14 - Communication with Governments

Mandate-holders shall address all their communications to concerned Governments through diplomatic channels unless agreed otherwise between individual Governments and the Office of the High Commissioner for Human Rights.

Article 15 - Accountability to the Council

In the fulfilment of their mandate, mandate-holders are accountable to the Council.

9th meeting

18 June 2007

[Adopted without a vote. See chap. III.]

SPECIAL PROCEDURES OF THE HRC - MANDATE HOLDERS (as of 1 August 2010)

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living
Current Mandate Holder Ms. Raquel Rolnik (Brazil) (since May 2008)
Previous Mandate Holder Mr. Miloon Kothari (India)
Working Group on people of African descent
Current Mandate Holders Ms. Monorama Biswas (Bangladesh) (since November 2008) Ms. Mirjana Najcevska (The former Yugoslav Republic of Macedonia) (since November 2008) Ms. Verene Shepherd (Jamaica) (since April 2010) Mr. Linos-Alexandros Sicilianos (Greece) (since August 2009) Ms. Maya Sahli (Algeria) (since August 2008)
Previous Mandate Holders Mr. Ralston Milton Nettleford (Jamaica) Mr. Joe Frans (Sweden) Mr. George N. Jabbour (Syrian Arab Republic) Ms. Irina Zlatescu (Romania) Mr. Peter L. Kasanda (Zambia)
Working Group on Arbitrary Detention
Current Mandate Holders Mr. Mads Andenas (Norway) (since August 2009) Mr. Roberto Garretón (Chile) (since May 2008) Ms. Shaheen Sardar Ali (Pakistan) (since August 2008) Mr. El Hadji Malick Sow (Senegal) (since May 2008) Mr. Vladimir Tochilovsky (Ukraine) (since May 2010)
Previous Mandate Holders Mr. Aslan Abashidze (Russian Federation) Mr. Seyyed Mohammad Hashemi (Islamic Republic of Iran) Ms. Soledad Villagra de Biedermann (Paraguay) Ms. Leïla Zerrougui (Algeria) Mr. Tamás Bán (Hungary) Mr. Louis Joinet (France) Mr. Laity Kama (Senegal) Mr. Kapil Sibal (India) Mr. Petr Uhl (Czech Republic) Ms. Manuela Carmena Castrillo (Spain)

Independent Expert on situation of human rights in Burundi
Current Mandate Holder Mr. Fatsah Ougergouz (Algeria) (since August 2010)
Previous Mandate Holders Mr. Akich Okola (Kenya) Mr. Paulo Sergio Pinheiro (Brazil) Ms. Marie-Therese Aissata Keita-Bocoum (Côte d'Ivoire)
Special Rapporteur on the situation of human rights in Cambodia
Current Mandate Holder Mr. Surya Prasad Subedi (Nepal) (since May 2009)
Previous Mandate Holders Mr. Yash Ghai (Kenya) Mr. Peter Leuprecht (Austria) Mr. Thomas Hammarberg (Sweden) Mr. Michael Kirby (Australia)
Special Rapporteur on the sale of children, child prostitution and child pornography
Current Mandate Holder Ms. Najat Maalla M'jid (Morocco) (since May 2008)
Previous Mandate Holders Mr. Juan Miguel Petit (Uruguay) Mr. Vitit Muntarbhorn (Thailand) Ms. Ofelia Calcetas-Santos (Philippines)
Independent Expert in the field of cultural rights
Current Mandate Holder Ms. Farida Shaheed (Pakistan) (since November 2009)
Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea
Current Mandate Holder Mr. Marzuki Darusman (Indonesia) (since August 2010)
Previous Mandate Holder Mr. Vitit Muntarbhorn (Thailand)

Special Rapporteur on the right to education
Current Mandate Holder Mr. Kishore Singh (India)
Previous Mandate Holders Mr. Vernor Muñoz Villalobos (Costa Rica) Ms. Katarina Tomasevski (Croatia)
Working Group on enforced or involuntary disappearances
Current Mandate Holders Mr. Olivier de Frouville (France) (since November 2008) Mr. Ariel Dulitzky (Argentina/USA) (since August 2010) Ms. Jasminka Dzumhur (Bosnia and Herzegovina) (since May 2010) Mr. Osman El-Hajje (Lebanon) (since August 2009) Mr. Jeremy Sarkin (South Africa) (since May 2008)
Previous Mandate Holders Mr. Santiago Corcuera Caberut (Mexico) Mr. Darko Götlicher (Croatia) Mr. Saied Rajaie Khorasani (Islamic Republic of Iran) Mr. J 'Bayo Adekanye (Nigeria) Mr. Anuar Zainal Abidin (Malaysia) Mr. Mohamed Redha Al-Jabiri (Iraq) Mr. Viscount Colville of Culross (United Kingdom) Mr. Jonas K.D. Foli (Ghana) Mr. Diego García-Sayán (Peru) Mr. Agha Hilaly (Pakistan) Mr. Manfred Nowak (Austria) Mr. Kwadwo Faka Nyamekye (Ghana) Mr. Luis A. Varela Quiros (Costa Rica) Mr. Ivan Tosevski (The former Yugoslav Republic of Macedonia) Mr. Toine Van Dongen (Netherlands) Mr. Stephen J. Toope (Canada)
Special Rapporteur on extrajudicial, summary or arbitrary executions
Current Mandate Holder Mr. Christof Heyns (South Africa) (since August 2010)
Previous Mandate Holders Mr. Philip Alston (Australia) Ms. Asma Jahangir (Pakistan) Mr. Bacre Waly Ndiaye (Senegal) Mr. S. Amos Wako (Kenya)
Independent expert on the question of human rights and extreme poverty
Current Mandate Holder Ms. Maria Magdalena Sepúlveda (Chile) (since May 2008)

Previous Mandate Holders Mr. Arjun Sengupta (India) Ms. A. M. Lizin (Belgium)
Special Rapporteur on the right to food
Current Mandate Holder Mr. Olivier De Schutter (Belgium) (since May 2008)
Previous Mandate Holder Mr. Jean Ziegler (Switzerland)
Independent expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights
Current Mandate Holder Mr. Cephas Lumina (Zambia) (since May 2008)
Previous Mandate Holders Mr. Bernard Andrew Nyamwaya Mudho (Kenya) Mr. Fantu Cheru (USA/Ethiopia)
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression
Current Mandate Holder Mr. Frank William La Rue Lewy (Guatemala) (since August 2008)
Previous Mandate Holders Mr. Ambeyi Ligabo (Kenya) Mr. Abid Hussain (India)
Special Rapporteur on freedom of religion or belief
Current Mandate Holder Mr. Heiner Bielefeldt (Germany) (since August 2010)
Previous Mandate Holders Ms. Asma Jahangir (Pakistan) Mr. Abdelfattah Amor (Tunisia) Mr. Angelo d'Almeida Ribeiro (Portugal)
Independent Expert on the situation of human rights in Haiti
Current Mandate Holder Mr. Michel Forst (France) (since August 2008)
Previous Mandate Holders Mr. Louis Joinet (France) Mr. Adama Dieng (Senegal)

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
Current Mandate Holder Mr. Anand Grover (India) (since August 2008)
Previous Mandate Holder Mr. Paul Hunt (New Zealand)
Special Rapporteur on the situation on human rights defenders
Current Mandate Holder Ms. Margaret Sekaggya (Uganda) (since May 2008)
Previous Mandate Holder Ms. Hina Jilani (Pakistan)
Special Rapporteur on the independence of judges and lawyers
Current Mandate Holder Ms. Gabriela Knaul (Brazil) (since June 2009)
Previous Mandate Holders Mr. Leandro Despouy (Argentina) Mr. Param Kumaraswamy (Malaysia)
Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people
Current Mandate Holder Mr. James Anaya (United States of America) (since May 2008)
Previous Mandate Holder Mr. Rodolfo Stavenhagen (Mexico)
Representative of the Secretary-General on the human rights of internally displaced persons
Current Mandate Holder Mr. Walter Kälin (Switzerland) (since September 2004)
Previous Mandate Holder Mr. Francis M. Deng (Sudan)
Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of people to self-determination
Current Mandate Holders Ms. Najat Al-Hajjaji (Libyan Arab Jamahiriya) (since July 2005) Ms. Amada Benavides de Pérez (Colombia) (since July 2005) Mr. José Luis Gomez del Prado (Spain) (since October 2005) Mr. Alexander Nikitin (Russian Federation) (since July 2005) Ms. Faiza Patel (Pakistan) (since August 2010)

Previous Mandate Holder Ms. Shaista Shameem (Fiji)
Mandate Holders under the prior mandate of the Special Rapporteur Ms. Shaista Shameem (Fiji) Mr. Enrique Bernales-Ballesteros (Peru)
Special Rapporteur on the human rights of migrants
Current Mandate Holder Mr. Jorge A. Bustamante (Mexico) (since July 2005)
Previous Mandate Holder Ms. Gabriela Rodríguez Pizarro (Costa Rica)
Independent Expert on minority issues
Current Mandate Holder Ms. Gay J. McDougall (United States of America) (since July 2005)
Special Rapporteur on the situation of human rights in Myanmar
Current Mandate Holder Mr. Tomas Ojea Quintana (Argentina) (since May 2008)
Previous Mandate Holders Mr. Paulo Sérgio Pinheiro (Brazil) Mr. Rajsoomer Lallah (Mauritius) Mr. Yozo Yokota (Japan)
Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967
Current Mandate Holder Mr. Richard Falk (United States of America) (since May 2008)
Previous Mandate Holders Mr. John Dugard (South Africa) Mr. René Felber (Switzerland) Mr. Hannu Halinen (Finland) Mr. Giorgio Giacomelli (Italy)
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
Current Mandate Holder Mr. Githu Muigai (Kenya) (since August 2008)
Previous Mandate Holders Mr. Doudou Diène (Senegal) Mr. Maurice Glèlè-Ahanhanzo (Benin)

Special Rapporteur on contemporary forms of slavery, including its causes and consequences
Current Mandate Holder Ms. Gulnara Shahinian (Armenia) (since May 2008)
Independent expert on human rights and international solidarity
Current Mandate Holder Mr. Rudi Muhammad Rizki (Indonesia) (since July 2005)
Independent Expert on the situation of human rights in Somalia
Current Mandate Holder Mr. Shamsul Bari (Bangladesh) (since May 2008)
Previous Mandate Holders Mr. Ghanim Alnajjar (Kuwait) Ms. Mona Rishmawi (Palestine) Mr. Mohamed Charfi (Tunisia) Mr. Fanuel Jariretundu Kozonguizi (Namibia)
Independent Expert on the situation of human rights in the Sudan
Current Mandate Holder Mr. Mohamed Chande Othman (Tanzania) (since October 2009)
Mandate Holders under the prior mandate of the Special Rapporteur Ms. Sima Samar (Afghanistan) Mr. Emmanuel Akwei Addo (Ghana) Mr. Gerhard Baum (Germany) Mr. Leonardo Franco (Argentina) Mr. Gáspár Biro (Hungary)
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism
Current Mandate Holder Mr. Martin Scheinin (Finland)
Previous Mandate Holder Robert Goldman (The United States)
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment
Current Mandate Holder Mr. Manfred Nowak (Austria) (since November 2004)

Previous Mandate Holders Mr. Theo van Boven (The Netherlands) Mr. Nigel S. Rodley (United Kingdom) Mr. Peter Kooijmans (The Netherlands)
Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights
Current Mandate Holder Mr. Calin Georgescu (Romania) (since August 2010)
Previous Mandate Holders Mr. Okechukwu Ibeanu (Nigeria) Ms. Fatma-Zohra Ouhachi-Vesely (Algeria)
Special Rapporteur on trafficking in persons, especially women and children
Current Mandate Holder Ms. Joy Ngozi Ezeilo (Nigeria) (since August 2008)
Previous Mandate Holder Ms. Sigma Huda (Bangladesh)
Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises
Current Mandate Holder Mr. John Ruggie (USA) (since July 2005)
Special Rapporteur on violence against women, its causes and consequences
Current Mandate Holder Ms. Rashida Manjoo (South Africa) (since August 2009)
Previous Mandate Holders Ms. Yakin Ertürk (Turkey) Ms. Radhika Coomaraswamy (Sri Lanka)
Independent Expert on the issue of human rights obligations related to access to safe drinking water and sanitation
Current Mandate Holder Ms. Catarina de Albuquerque (Portugal) (since November 2008)

HUMAN RIGHTS COUNCIL MEMBERSHIP

AFRICA		
	Algeria	2006-2007
*	Angola	2010-2013
*	Burkina Faso	2008-2011
*	Cameroon	2006-2009, 2009-2012
*	Djibouti	2006-2009, 2009-2012
	Egypt	2007-2010
*	Gabon	2006-2008, 2008-2011
*	Ghana	2006-2008, 2008-2011
*	Libya	2010-2013
	Madagascar	2007-2010
	Mali	2006-2008
*	Mauritania	2010-2013
*	Mauritius	2006-2009, 2009-2012
	Morocco	2006-2007
*	Nigeria	2006-2009, 2009-2012
*	Senegal	2006-2009, 2009-2012
	South Africa	2006-2007, 2007-2010
	Tunisia	2006-2007
*	Uganda	2010-2013
*	Zambia	2006-2008, 2008-2011

LATIN AMERICA AND CARIBBEAN		
*	Argentina	2006-2007, 2008-2011
	Bolivia	2007-2010
*	Brazil	2006-2008, 2008-2011
*	Chile	2008-2011
*	Cuba	2006-2009, 2009-2012
*	Ecuador	2006-2007, 2010-2013
*	Guatemala	2006-2008, 2010-2013
*	Mexico	2009-2009, 2009-2012
	Nicaragua	2007-2010
	Peru	2006-2008
*	Uruguay	2006-2009, 2009-2012

EASTERN EUROPE		
	Azerbaijan	2006-2009
	Bosnia and Herzegovina	2007-2010
	Czech Republic	2006-2007
*	Hungary	2009-2012
*	Republic of Moldova	2010-2013
*	Poland	2006-2007, 2010-2013
	Romania	2006-2008
*	Russian Federation	2009-2009, 2009-2012
*	Slovakia	2008-2011
	Slovenia	2007-2010
*	Ukraine	2006-2008, 2008-2011

* Current members as of July 2010
(States may only serve two consecutive terms.)

ASIA		
*	Bahrain	2006-2007, 2008-2011
*	Bangladesh	2006-2009, 2009-2012
*	China	2006-2009, 2009-2012
	India	2006-2007, 2007-2010
	Indonesia	2006-2007, 2007-2010
*	Japan	2006-2008, 2008-2011
*	Jordan	2006-2009, 2009-2012
*	Kyrgyzstan	2009-2012
*	Malaysia	2007-2010, 2010-2013
*	Maldives	2010-2013
*	Pakistan	2006-2008, 2008-2011
	Philippines	2006-2007, 2007-2010
*	Qatar	2007-2010, 2010-2013
*	Republic of Korea	2006-2008, 2008-2011
*	Saudi Arabia	2006-2009, 2009-2012
	Sri Lanka	2006-2008
*	Thailand	2010-2013

WESTERN EUROPE AND OTHERS		
*	Belgium	2009-2012
	Canada	2006-2009
	Finland	2006-2007
*	France	2006-2008, 2008-2011
	Germany	2006-2009
	Italy	2007-2010
	Netherlands	2006-2007, 2007-2010
*	Norway	2009-2012
*	Spain	2009-2013
*	Switzerland	2006-2009, 2010-2013
*	United Kingdom	2006-2008, 2008-2011
*	United States	2009-2012

* Current members as of July 2010
(States may only serve two consecutive terms.)

EXAMPLES OF HOW SPECIAL PROCEDURES VISITS AND COMMUNICATIONS AFFECT NATIONAL ACTION

The following summaries illustrate the variety of ways in which Special Procedures have played an important role as catalysts for actions by governments and others that promote and protect human rights. Types of impact include direct intervention on behalf of victims leading to improvement in their situations, policy changes, legislative reforms, favorable judicial decisions, agenda-setting of new issues demanding national and international attention, and capacity building.

COUNTRY VISITS

Stopping Ill Treatment of Prisoners in Cambodia

After visiting two imprisoned journalists in 2009, the Special Rapporteur on Cambodia complained about and publicized poor prison conditions. He confronted senior government officials and prison administrators about the poor conditions and treatment subsequently improved. One of the prisoners' sisters confirmed the success of the mandate holder's visit to a local newspaper, declaring that since the Special Rapporteur's visit "the prison administration treated my brother much better by allowing him to sleep in a wider space and letting him get out of his cell five hours a day."⁹³ Eventually, one of the prisoners was

released by a presidential pardon and had the opportunity to thank the Special Rapporteur in person.

In a related case of normative impact, the Special Rapporteur, building on the work of his predecessor, encouraged the government to eliminate criminal charges for defamation. The mandate holder directly raised this issue with the Prime Minister and his advisors and while it has not been fully resolved, the penal code was revised, in line with recommendations, so that media defamation would no longer result in criminal liability or imprisonment as a penalty.⁹⁴

Protecting Internally Displaced Persons in Georgia

The Special Representative of the Secretary General on the human rights of internally displaced persons has played a fundamental role in recent years in encouraging effective government policy approaches to Georgia's complicated and ever changing displacement problems. After the SRSG's first visit in 2000, he recommended the government design national programs and policies in accordance with the U.N. Guiding Principles on Internal Displacement. In 2005 his successor visited again, issuing a report recommending

⁹³ Ros Rada, *Letter to the Editor* Cambodia Daily, January 29, 2010. In conversation with the Special Rapporteur, he made clear that he does not claim full credit for the release of these people as there were a number of human rights organizations, both national and international, campaigning for their release.

⁹⁴ Human Rights Watch, Cambodia Events of 2009, <<http://www.hrw.org/en/node/87393>>.

that the government design a policy to support IDPs while maintaining their right to return. Pursuant to these recommendations, the Georgian government enacted three displacement-related normative laws in 2006 and 2007 that complied with the SRSG recommendations.

The 2006 Law of Georgia on Internal Displacement guarantees specific rights for IDPs in accordance with the Guiding Principles while the 2007 Law on Property Restitution and Compensation for the Victims of Conflict in the Former South Ossetian Autonomous District in the Territory of Georgia established the legal procedures by which refugees and IDPs can seek property restitution and compensation.⁹⁵ In addition, the Georgian government adopted Decree #47 of 2007 on Approving the State Strategy for Internally Displaced Persons which recognized the Guiding Principles as the conceptual framework for Georgia's IDP policy and laid out the strategy for the return of the internally displaced, decent living conditions for the displaced population, and their participation in society.⁹⁶ Following the August 2008 conflict in South Ossetia and subsequent hostilities in Abkhazia that led to thousands of additional displacements, the SRSG conducted an official mission in October 2008 and another follow up visit in November 2009 to study the impact of the conflict. The SRSG continued to encourage the implementation of the national action plan that has since been updated and revised to reflect new challenges per his advice.⁹⁷

Promoting Right to Health in Peru

The Special Rapporteur on health visited Peru in 2004, formulating recommendations in health policy, sexual and reproductive rights, and mental health among other issues. Nearly a year after the visit, the country reported on its progress and explained actions taken to address the mandate holder's recommendations. The government launched a national campaign four months after the Special Rapporteur's field mission to comply with his primary recommendation that "government, in cooperation with stakeholders, formulate a comprehensive health policy and strategy, underpinned by the right to health (in short, a 'pro-poor equity-based health policy')." ⁹⁸ The government campaign, known as *Carta de Salud*, allowed members of the public to contribute to and comment on government health policy. More than 60,000 responses were collected—with special attention given to illiterate and/or Qechua-speaking citizens.⁹⁹

Responding to the mandate holder's recommendation on sexual and reproductive rights, the government launched national health strategies aimed at enhanced treatment and education in these areas. Per the Special Rapporteur's recommendation on providing comprehensive sexual and reproductive health information and services to young people,¹⁰⁰ the government systematically incorporated the subject into the curriculum of more than 3,000 primary and secondary schools in 34 regions.¹⁰¹

⁹⁵ Brookings-Bern Project on Internal Displacement, National and Regional Laws and Policies on Internal Displacement: Georgia. For more information, see: <<http://www.brookings.edu/projects/idp/Laws-and-Policies/georgia.aspx>>.

⁹⁶ Decree # 47 of the Government of Georgia: On Approving of the State Strategy for Internally Displaced Persons, February 2, 2007. To access full decree, please see: <[http://www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/CC4E01DED8D97366C12575A60031A7B5/\\$file/State+Strategy+for+IDP+-+ENG.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/CC4E01DED8D97366C12575A60031A7B5/$file/State+Strategy+for+IDP+-+ENG.pdf)>.

⁹⁷ Amnesty International, *In the Waiting Room: Internally Displaced People in Georgia*, 2010, pp. 16-17. For full report, please see: <[http://www.internal-displacement.org/8025708F004CE90B/\(httpDocuments\)/8E85B30DE5D49530C12577700401E42/\\$file/Amnesty+2010.pdf](http://www.internal-displacement.org/8025708F004CE90B/(httpDocuments)/8E85B30DE5D49530C12577700401E42/$file/Amnesty+2010.pdf)>.

⁹⁸ Paul Hunt, Special Rapporteur on Health, Mission to Peru, p. 10, para 28. U.N. Doc: E/CN.4/2005/51/Add.3.

⁹⁹ Note Verbale from the Permanent Mission of Peru to the United Nations Office at Geneva addressed to OHCHR, p. 2. U.N. Doc: E/CN.4/2005/G/32.

¹⁰⁰ Mission to Peru, p. 21, para 77, E/CN.4/2005/51/Add.3.

¹⁰¹ Note Verbale, E/CN.4/2005/G/32, p. 4, #4.

Regarding the mandate holder's recommendation that the government ought to ensure "*access to a wide range of safe, effective, affordable and acceptable contraceptive methods*,"¹⁰² the government initially responded that it would aim to "assist individuals in attaining their reproductive goals (improving access to the full range of contraceptive methods)."¹⁰³ This recommendation, after a tumultuous domestic debate, was realized in 2010 when Peru's Constitutional Court ruled that the Ministry of Health require public clinics to stock and make available emergency contraceptives.

Monitoring Violence against Indigenous Women in Canada

After visiting Canada in 2004, the Special Rapporteur on violence against women revealed high rates of violence experienced by indigenous women. Approximately 500 Aboriginal women had been murdered or reported missing over a 15-year period, and Aboriginal women were five times more likely to experience a violent death than other Canadian women.¹⁰⁴ The mandate holder recommended that "particular attention be paid by specialized institutions to the abuse and violence of Aboriginal women and girls, particularly in the urban environment."¹⁰⁵ In March 2005, the government signed a five-year contribution agreement with an indigenous rights organization to run the "Sisters in Spirit" program, aimed at addressing violence, particularly racialized and/or sexualized violence, against Aboriginal women through awareness-raising and

practical-oriented research, aimed at gaining a better understanding of this phenomenon.¹⁰⁶

Treating Maternal Mortality as a Human Rights Issue

Implementation at the state level is not the only way to measure the effectiveness of Special Procedures. During his tenure as a mandate holder, the Special Rapporteur on health focused consistently on maternal mortality as a human rights issue. It was the focus of his 2006 report to the General Assembly; the theme of his 2007 country visit to India and a supplementary note attached to the report; the topic of his March 2007 statement to the Council; the topic of a side panel to an HRC session in 2008; and the topic of a paper authored by him in 2007 for UNFPA. At the June 2009 session of the HRC, member states endorsed a resolution that recognized preventable maternal mortality as a human rights issue and tasked the OHCHR with investigating the topic.

Promoting Gender Equity in the Judiciary in the Maldives

After visiting the Maldives in 2007, the Special Rapporteur for the independence of judges and lawyers voiced concern that there was not one single female judge in the country—an issue that had been formally recognized by the Attorney General's office dating back to 2004.¹⁰⁷ Less than two months after presenting his recommendations, the Maldives announced the first appointment of female judges in the country's history.¹⁰⁸

¹⁰² E/CN.4/2005/51/Add.3, p. 21, para 76.

¹⁰³ E/CN.4/2005/G/32, p. 4, #2.

¹⁰⁴ Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mission to Canada, December 2, 2004, para 56. U.N. Doc: E/CN.4/2005/88/Add.3.

¹⁰⁵ Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mission to Canada, para 113.

¹⁰⁶ Rodolfo Stavenhagen, Study Regarding Best Practices Carried Out to Implement the Recommendations Contained in the Annual Reports of the Special Rapporteur, February 26, 2007, para 43. U.N. Doc: A/HRC/4/32/Add.4.

¹⁰⁷ Leandro Despouy, Special Rapporteur on the independence of judges and lawyers, Mission to the Maldives, May 2, 2007, p. 18, para 66. U.N. Doc: A/HRC/4/25/Add.2.

¹⁰⁸ U.N. News Centre, "UN rights expert welcomes appointment of first female judges in the Maldives," July 13, 2007. <<http://www.unhchr.ch/huricane/hurricane.nsf/view01/262A79B6B7855C55C12573170045A009?opendocument>>.

Reducing Police Intimidation in Northern Ireland

After visiting in 1997, the Special Rapporteur on the independence of judges and lawyers recommended that the “Government should install video and audio recording equipment in all holding centers in Northern Ireland” to reduce police intimidation of suspects. Furthermore the mandate holder recommended that solicitors be present during police interrogations. According to government officials in the United Kingdom, police intimidation of defense lawyers nearly ceased after both measures were implemented in 1998.

Tackling Violence against Women in Indonesia

In some cases, it takes years for a mandate holder’s recommendation to come to fruition. In 1998, the Special Rapporteur on violence against women visited Indonesia in the aftermath of violent sexual attacks against Chinese women in major cities. According to one NGO representative, civil society used the Special Rapporteur’s report as a lobbying tool to press government and parliament to enact new measures on domestic violence and to help shape their agenda, including a presidential decree creating the National Commission on Violence Against Women (Komnas Perempuan). After many years of campaigning, Indonesian legislators in 2006 passed a victim and witness protection law, a step recommended by the mandate holder following her visit.

Improving Prison Conditions in Uruguay

In Uruguay, the Special Rapporteur on torture’s visit in March 2009 made a difference even

before the report was made public. The government took immediate action to address the Special Rapporteur’s discovery that in some prisons “detainees are held in deplorable conditions as well, with overcrowded cells lacking appropriate sanitation and places to sleep.”¹⁰⁹ Only three weeks after his visit the government enacted a plan, at the request of the president and minister of interior, to alleviate overcrowding. More than 1,200 detainees were transferred to new facilities with special arrangements for those with psychiatric illnesses, drug addictions, and women with children.¹¹⁰

Addressing Neglected Diseases in Uganda

The Special Rapporteur on health visited Uganda in collaboration with the World Health Organization in 2005 to focus on neglected tropical diseases—ailments that affect nearly one billion impoverished persons annually. Following the visit, the Special Rapporteur recommended that the Uganda Human Rights Commission (UHCR) “establish a right-to-health unit that is responsible for monitoring those policies, programs and projects relating to neglected diseases. For example, relying on existing data, the unit should track the incidence of neglected diseases and the initiatives taken to address them.”¹¹¹

In response to the recommendation, the Commission created a new unit in 2006 tasked exclusively with focusing on neglected tropical diseases. Key functions of the unit include monitoring government policies, programs and activities and sensitizing health workers and policy-makers to a rights-based approach to health care.¹¹²

¹⁰⁹ U.N. Special Rapporteur on torture concludes mission to Uruguay, March 27, 2009. <<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9403&LangID=E>>.

¹¹⁰ Manfred Nowak, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, December 21, 2009, p. 19, para 84. U.N. Doc: A/HRC/13/39/Add.2.

¹¹¹ Paul Hunt, Special Rapporteur on the right to Health, Mission to Uganda, January 19, 2006, p. 22, para 91. U.N. Doc: E/CN.4/2006/48/Add.2

¹¹² World Health Organization, *A Human Rights-Based Approach to Neglected Tropical Diseases* <<http://www.who.int/hhr/activities/NTD%20information%20sheet%20-%20English.pdf>>.

According to UHCR annual reports, it has continued to monitor neglected diseases and government policies associated with them.

Combating Torture in Jordan

After visiting Jordan in 2006, the Special Rapporteur on torture issued conclusions and recommendations that were challenged by the government.¹¹³ Despite the opposition to some of the findings, the government took several steps to address recommendations.

The mandate holder concluded that there existed an implicit social tolerance for torture and recommended that the highest authorities, particularly those responsible for law enforcement, declare that torture would not be tolerated and would be punishable by a prison sentence. According to non-governmental sources, the Public Security Directorate (PSD) officials reported that King Abdullah and the Director of PSD issued clear instructions that there was to be no torture. These declarations were not made public. NGO sources further confirmed to the Special Rapporteur that the General Intelligence Directorate (GID) issued written and oral instructions to all personnel to refrain from abusing any detainee physically, verbally or emotionally, and providing an increase in penalties for violations.¹¹⁴ The Special Rapporteur also recommended that the government establish an effective and independent complaints system for victims of torture and abuse. NGO sources confirmed several steps taken by the government to ensure a complaints mechanism: the PSD established a radio station through which complaints

are aired; the PSD installed sealed complaints boxes in their Human Rights Offices; PSD's Legal Affairs prosecutors were made available at all times in seven prisons to receive complaints; the PSD and the National Center for Human Rights (NCHR) set up hotlines to receive complaints; and the Office of the Ombudsman was founded in February 2009.¹¹⁵

Developing Anti-Torture Policies in Georgia

After the Special Rapporteur on torture visited Georgia in 2005, the government began to implement recommendations even before the publication of the official report. The government amended the criminal code to bring the definition of torture in line with international standards, acceded to the Optional Protocol of the Convention Against Torture, (OPCAT) and recognized CAT's competence to consider individual complaints—all in compliance with the Special Rapporteur's preliminary findings.¹¹⁶ The government also quickly implemented many of the Special Rapporteur's other recommendations: it developed and adopted a new anti-torture action plan; began refurbishing prisons to remedy overcrowding and made the necessary budgetary allocations for future repairs; transferred thousands of prisoners from overcrowded facilities; and began to separate pre-trial detainees from convicted prisoners with more consistency.¹¹⁷

Protecting Freedom of Expression in the Maldives

After visiting in March 2009, the Special Rapporteur on freedom of expression recommended that

¹¹³ Note verbale dated from the Permanent Mission of Jordan to the United Nations Office at Geneva addressed to the Office of the High Commissioner for Human Rights, 22 March 2006, p. 2.

¹¹⁴ Manfred Nowak, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Follow-up to recommendations, February 18, 2008, paras 238-295. U.N. Doc: A/HRC/7/3/Add.2.

¹¹⁵ Manfred Nowak, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment: Follow-up to recommendations, February 26, 2010, paras: 38-43. U.N. Doc: A/HRC/13/39/Add.6.

¹¹⁶ Manfred Nowak, Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, September 23, 2005, p. 2. U.N. Doc: E/CN.4/2006/6/Add.3.

¹¹⁷ A/HRC/13/39/Add.6 paras 26-31.

the law be amended to treat defamation as a civil rather than a criminal offense.¹¹⁸ In December of 2009, the Parliament of the Maldives adopted a bill decriminalizing defamation.¹¹⁹

Promoting Language Rights of Indigenous Peoples in Guatemala

After concluding a visit to Guatemala in 2002, the Special Rapporteur on indigenous peoples recommended that the government strengthen the educational system as a “national priority,” including the extension of bilingual education to all areas of the country.¹²⁰ In 2003, the government founded the Vice-Ministry of Bilingual Inter-Cultural Education and extended multicultural bilingual education. In addition, Congress passed the Law on National Languages, which officially recognized the Mayan, Garifuna and Xinka languages and promotes their preservation and use.¹²¹

Fostering the Rule of Law in Indigenous Communities in Mexico

After visiting Mexico in 2003, the Special Rapporteur on indigenous peoples recommended that the government should incorporate indigenous law into the judicial system.¹²² Subsequently, the government established “indigenous courts” or “peace and reconciliation courts” in Campeche, Chiapas, Hidalgo, Puebla, Quintana Roo and San Luis Potosí, comprised of members of local indigenous communities, with power to hear civil

and family cases, as well as minor criminal cases, on the basis of indigenous law and custom. The National Commission for the Development of Indigenous Peoples (CDI) also conducted studies on indigenous law and its compatibility with human rights norms and national legislation.¹²³

GOVERNMENT RESPONSES TO COMMUNICATIONS

Pakistan: The case of Ayub Masih, a Pakistani Christian sentenced to death under Pakistan’s harsh blasphemy law, was taken up by the Working Group on Arbitrary Detention which issued an opinion in November 2001 finding that his detention was arbitrary and in violation of Articles 9 and 10 of the UDHR. The Working Group called on the government either to retry Masih or pardon him. Freedom Now, an NGO that supported Masih’s complaint, used the WGAD opinion to persuade members of the U.S. Senate to issue a letter to President Pervez Musharraf to pardon him. In response, the government accelerated the case review in the Supreme Court of Pakistan which found violations of due process, acquitted Masih of all charges and ordered his immediate release.¹²⁴

Vietnam: Dr. Nguyen Dan Que, a democracy activist in Vietnam for many decades, was arrested in March 2003 after criticizing the government’s slow pace of political reform. Freedom Now, on his behalf, filed two petitions to the Working Group on Arbitrary Detention alleging Dr. Que’s

¹¹⁸ Frank La Rue, Report of the Special Rapporteur on the right to freedom of opinion and expression, Mission to the Maldives, May 25, 2009, p. 16, para 59. U.N. Doc: A/HRC/11/4/Add.3.

¹¹⁹ “Freedom of expression: U.N. expert welcomes decriminalization of defamation in the Maldives,” December 1, 2009. <<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9653&LangID=E>>.

¹²⁰ Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Mission to Guatemala, February 23, 2003, para 77. U.N. Doc: E/CN.4/2003/90/Add.2.

¹²¹ Rodolfo Stavenhagen, U.N. Doc: A/HRC/4/32/Add.4, para 63.

¹²² Rodolfo Stavenhagen, Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples, Mission to Mexico, December 23, 2003, para 93. U.N. Doc: E/CN.4/2004/80/Add.2.

¹²³ Rodolfo Stavenhagen, U.N.

¹²⁴ Jared M. Genser and Margaret K. Winterkorn-Meikle, “The Intersection of Politics and International Law: The United Nations Working Group on Arbitrary Detention in Theory and Practice,” 39 *Columbia Human Rights Law Review* 2008, pp. 135-37. Doc: A/HRC/4/32/Add.4, para 67.

detention violated Article 19 of the ICCPR and UDHR. In September 2004, WGAD issued an opinion concluding that Vietnam, a signatory to the ICCPR, was arbitrarily depriving Dr. Que of his liberty. Freedom Now relied on this opinion to intensify a political and media campaign demanding his release. The combination of these elements led Vietnam to release him in February 2005.¹²⁵

Bahrain: A series of three joint communication issued on January 10, January 18, and February 20, 2008 by the Special Rapporteurs on the situation of human rights defenders; on torture and other cruel, degrading or inhuman treatment or punishment; on the promotion and protection of the right to freedom of opinion and expression; on the freedom of religion or belief; on extrajudicial, summary or arbitrary executions; and the Working Group on arbitrary detention called on the government of Bahrain to release Mr. Maytham Bader Jassim Al-Sheikh from prison. Mr. Al-Sheikh was detained during a wave of arrests between 21 and 28 December 2007, which targeted more than 60 activists, including several human rights defenders, and had been sentenced to five years in prison. His appeal of this conviction was denied on 28 December 2008. On 3 April 2009, Jassim Al-Sheikh was released from Jaw Prison by royal decree, due to the deterioration of his health condition.¹²⁶

Saudi Arabia: On May 27, 2008, the Working Group on Arbitrary Detention, and the Special Rapporteurs on freedom of opinion and expression; on the situation of human rights defenders; on the independence of judges and lawyers; and on torture sent an urgent appeal to the Kingdom of Saudi Arabia in relation to the case of a prominent human rights defender. On 11 January 2009,

the individual was released after spending 235 days in solitary confinement in prison.¹²⁷

United Kingdom: In the report on her country visit to the United Kingdom (A/HRC/7/10/Add.3), the Special Rapporteur on freedom of religion or belief expressed concerns at the continued existence of the common law offence of blasphemy. She concluded that the offence is discriminatory because it favors Christianity alone and lacks a mechanism to take account of the proper balance with freedom of expression. She recommended that the government decriminalize blasphemy as an insult to a religion and to fully implement the protection of individuals against incitement to racial or religious hatred. Subsequently, debates in the Houses of Parliament and a report of the Joint Committee on Human Rights explicitly referred to the Special Rapporteur's recommendations. Amendments were introduced in the Criminal Justice and Immigration Bill with a view to abolish the offences of blasphemy and blasphemous libel under the common law of England and Wales. The Act received royal assent on 8 May 2008 and the relevant section abolishing the common law blasphemy offences came into force in July 2008.¹²⁸

Afghanistan: On January 28, 2008, a joint urgent appeal issued by the Special Rapporteurs on freedom of opinion and expression, on freedom of religion or belief, on the independence of judges and lawyers, and the Working Group on enforced or involuntary disappearances called for the release of Sayed Perwiz Kambakhsh, a young journalist who was sentenced to death and then to 20 years in prison for downloading an article about the rights of women in Islam. After being held for nearly two years, the journalist was pardoned and

¹²⁵ Id., pp. 138-43.

¹²⁶ Special Procedures Bulletin No. 13, April-June 2009.

¹²⁷ Special Procedures Bulletin No. 12, January-March 2009.

¹²⁸ Special Procedures Bulletin No. 9, April-June 2008.

released. In the meantime he has left the country for fear of reprisals.¹²⁹

Australia: On 26 November 2009, the Australian House of Representatives Standing Committee on Family, Community, Housing and Youth issued a major report recommending the enactment of new homelessness legislation that enshrines ‘the right of all Australians to adequate housing. The document, entitled “Housing the Homeless,” contains 15 recommendations aimed at preventing and addressing homelessness in the country. The report cited the recommendations raised by the Special Rapporteur on the right to adequate housing following his visit to Australia in 2006.¹³⁰

The Maldives: In July 2005, the Special Rapporteurs on freedom of expression, freedom of

religion or belief, and human rights defenders sent an urgent appeal to the government of the Maldives concerning the country’s Supreme Council for Islamic Affairs banning people from possessing the Universal Declaration for Human Rights (UDHR). The government responded within a week affirming its support for the UDHR and explaining that the Council’s statement was not legally binding. Moreover, the Deputy Minister of Foreign Affairs responded a month later to confirm the initial response and to inform the mandate holders that the government informed the Council to desist from such pronouncements without prior consultation.¹³¹

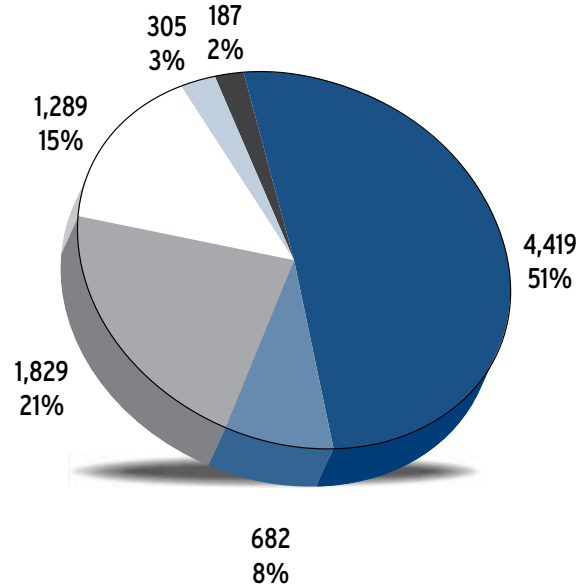
¹²⁹ Special Procedure Bulletin No. 14, July-September 2009.

¹³⁰ Ibid.

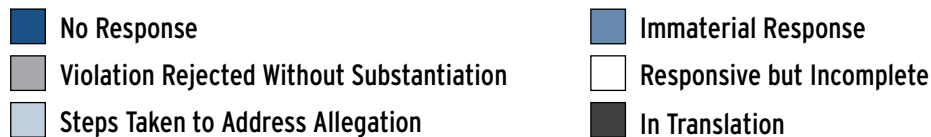
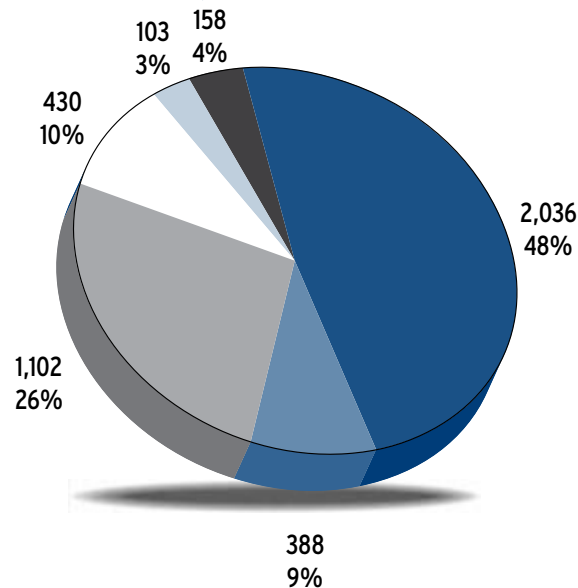
¹³¹ Report of the Special on the right to freedom of opinion and expression, Summary of cases transmitted to Governments and replies received, March 27, 2006, pp. 176-177. U.N. Doc: E/CN.4/2006/55/Add.1.

STATE RESPONSES TO COMMUNICATIONS (2004-2008)

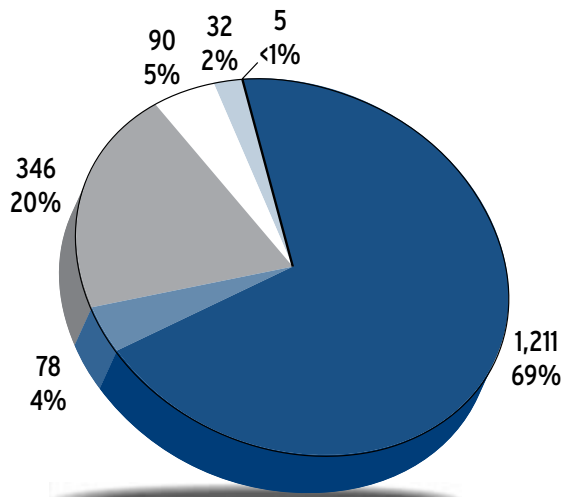
Total Score Breakdown



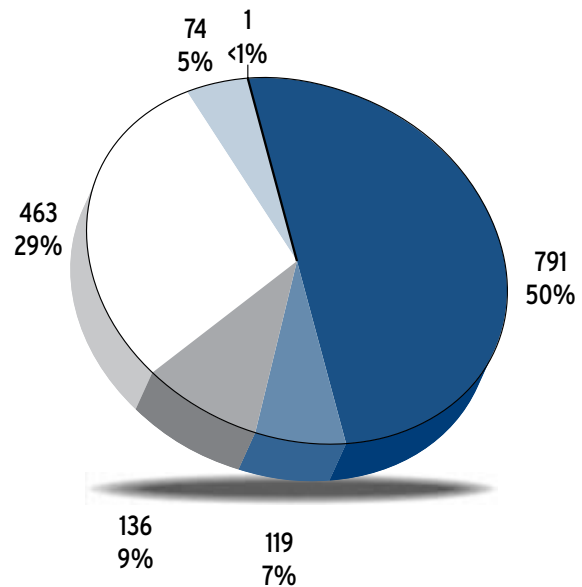
Asia Group - Score Breakdown



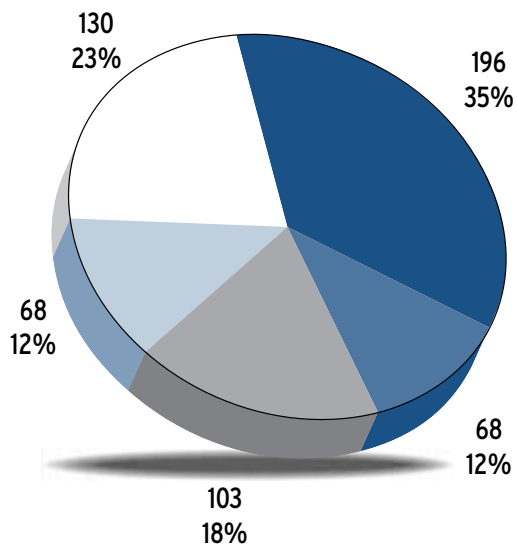
Africa Group - Score Breakdown



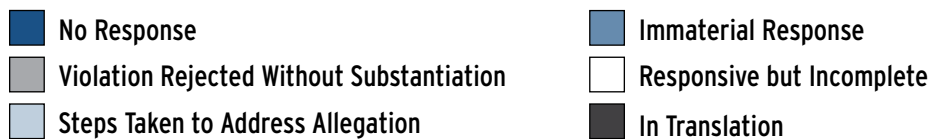
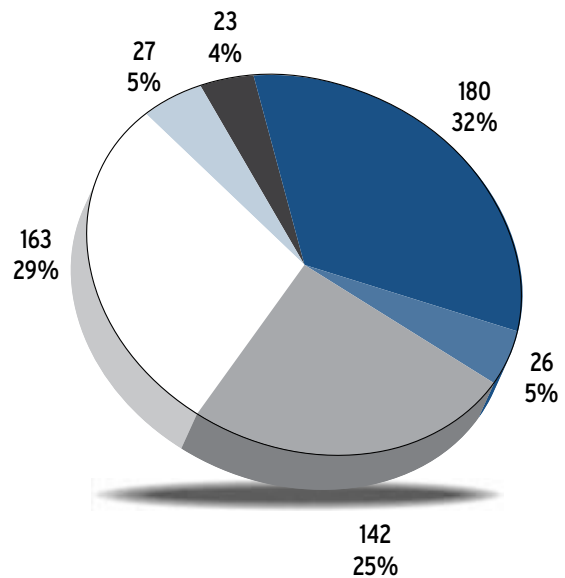
Latin America and Caribbean Group - Score Breakdown



Western Europe and Other Group - Score Breakdown



Eastern Europe Group - Score Breakdown



STATUS OF COUNTRY VISITS (as of June 2010)

Country	UN Region	SI/NSI	CV	Pending CV
Afghanistan	Asia	NSI	15	3
Albania	EEG	SI	2	2
Algeria	Africa	NSI	2	4
Andorra	WEOG	NSI	0	0
Angola	Africa	NSI	4	4
Antigua and Barbuda	GRULAC	NSI	0	0
Argentina	GRULAC	SI	5	7
Armenia	EEG	SI	2	2
Australia	WEOG	SI	6	1
Austria	WEOG	SI	0	0
Azerbaijan	EEG	NSI	6	3
Bahamas	GRULAC	NSI	0	0
Bahrain	Asia	NSI	2	1
Bangladesh	Asia	NSI	4	10
Barbados	GRULAC	NSI	0	0
Belarus	EEG	NSI	6	4
Belgium	WEOG	SI	3	0
Belize	GRULAC	NSI	0	0
Benin	Africa	NSI	2	0
Bhutan	Asia	NSI	1	2
Bolivia	GRULAC	SI	4	4
Bosnia and Herzegovina	EEG	NSI	16	1
Botswana	Africa	NSI	2	1

Country	UN Region	SI/NSI	CV	Pending CV
Brazil	GRULAC	SI	15	2
Brunei Darussalam	Asia	NSI	0	0
Bulgaria	EEG	SI	1	4
Burkina Faso	Africa	NSI	2	1
Burundi	Africa	NSI	15	4
Cambodia	Asia	NSI	28	5
Cameroon	Africa	NSI	1	1
Canada	WEOG	SI	7	4
Cape Verde	Africa	NSI	0	0
Central African Republic	Africa	NSI	4	2
Chad	Africa	NSI	2	4
Chile	GRULAC	SI	4	4
China	Asia	NSI	4	11
Colombia	GRULAC	SI	18	5
Comoros	Africa	NSI	0	0
Congo	Africa	NSI	0	1
Costa Rica	GRULAC	SI	2	0
Cote d'Ivoire	Africa	NSI	4	2
Croatia	EEG	SI	4	1
Cuba	GRULAC	NSI	5	3
Cyprus	Asia	SI	0	0
Czech Republic	EEG	SI	1	0
Denmark	WEOG	SI	1	1

KEY: SI - Standing Invitation NSI - No Standing Invitation CV - Country Visits Received
 Pending CV - unanswered requested visits and visits that have been agreed upon in principle but remained unscheduled

Country	UN Region	SI/NSI	CV	Pending CV
Djibouti	Africa	NSI	0	0
Dominica	GRULAC	NSI	0	0
Dominican Republic	GRULAC	NSI	2	1
DPRK	Asia	NSI	0	4
DRC	Africa	NSI	18	1
Ecuador	GRULAC	SI	12	2
Egypt	Africa	NSI	4	8
El Salvador	GRULAC	SI	5	2
Equatorial Guinea	Africa	NSI	3	3
Eritrea	Africa	NSI	0	4
Estonia	EEG	SI	4	0
Ethiopia	Africa	NSI	3	8
Fiji	Asia	NSI	2	2
Finland	WEOG	SI	0	0
France	WEOG	SI	4	1
FYROM	EEG	SI	2	1
Gabon	Africa	NSI	0	1
Gambia	Africa	NSI	0	3
Georgia	EEG	SI	6	3
Germany	WEOG	SI	5	0
Ghana	Africa	SI	1	3
Greece	WEOG	SI	2	1
Grenada	GRULAC	NSI	0	0
Guatemala	GRULAC	SI	18	2
Guinea-Bissau	Africa	NSI	0	0
Guineau	Africa	NSI	0	1
Guyana	GRULAC	NSI	2	2

Country	UN Region	SI/NSI	CV	Pending CV
Haiti	GRULAC	NSI	20	1
Holy See (0)	none	NSI	1	1
Honduras	GRULAC	SI	6	1
Hungary	EEG	SI	3	0
Iceland	WEOG	SI	0	0
India	Asia	NSI	6	10
Indonesia	Asia	NSI	11	10
Iran	Asia	SI	6	7
Iraq	Asia	NSI	2	4
Ireland	WEOG	SI	1	1
Israel	WEOG	NSI	4	7
Italy	WEOG	SI	5	2
Jamaica	GRULAC	NSI	2	1
Japan	Asia	NSI	7	2
Jordan	Asia	SI	1	1
Kazakhstan	Asia	SI	3	1
Kenya	Africa	NSI	7	5
Kiribati	none	NSI	0	0
Kuwait	Asia	NSI	1	1
Kyrgyzstan	Asia	NSI	5	3
Lao PDR	Asia	NSI	2	2
Latvia	EEG	SI	5	0
Lebanon	Asia	NSI	3	1
Lesotho	Africa	NSI	0	0
Liberia	Africa	NSI	7	6
Libyan Arab Jamahiriya	Africa	NSI	0	3
Liechtenstein	WEOG	SI	1	0
Lithuania	EEG	SI	2	0

KEY: SI - Standing Invitation NSI - No Standing Invitation CV - Country Visits Received
Pending CV - unanswered requested visits and visits that have been agreed upon in principle but remained unscheduled

Country	UN Region	SI/NSI	CV	Pending CV
Luxembourg	WEOG	SI	0	0
Madagascar	Africa	NSI	0	1
Malawi	Africa	NSI	0	2
Malaysia	Asia	NSI	5	8
Maldives	Asia	SI	4	2
Mali	Africa	NSI	0	1
Malta	WEOG	SI	1	0
Marshall Islands	Asia	NSI	0	1
Mauritania	Africa	NSI	3	3
Mauritius	Africa	NSI	0	2
Mexico	GRULAC	SI	15	6
Micronesia	Asia	NSI	0	0
Moldova	EEG	SI	1	0
Monaco	WEOG	SI	0	0
Mongolia	Asia	SI	6	0
Montenegro	EEG	SI	0	0
Morocco	Africa	NSI	4	2
Mozambique	Africa	NSI	2	3
Myanmar	Asia	NSI	9	5
Namibia	Africa	NSI	0	1
Nauru	Asia	NSI	0	1
Nepal	Asia	NSI	6	9
Netherlands	WEOG	SI	4	0
New Zealand	WEOG	SI	2	0
Nicaragua	GRULAC	SI	3	6
Niger	Africa	NSI	3	0
Nigeria	Africa	NSI	3	8
Norway	WEOG	SI	2	0
Oman	Asia	NSI	1	1

Country	UN Region	SI/NSI	CV	Pending CV
Pakistan	Asia	NSI	1	7
Palau	Asia	NSI	0	0
Palestine & OPT	Asia	NSI	19	3
Panama	GRULAC	NSI	1	1
Papua New Guinea	Africa	NSI	1	3
Paraguay	GRULAC	SI	4	3
Peru	GRULAC	SI	5	6
Philippines	Asia	NSI	5	11
Poland	EEG	SI	5	0
Portugal	WEOG	SI	1	0
Qatar	Asia	NSI	1	0
Republic of Korea	Asia	SI	7	0
Romania	EEG	SI	8	3
Russian Federation	EEG	NSI	9	10
Rwanda	Africa	NSI	1	1
Samoa	Asia	NSI	0	0
San Marino	WEOG	SI	0	0
Sao Tome Principe	Africa	NSI	0	0
Saudi Arabia	Asia	NSI	2	6
Senegal	Africa	NSI	3	4
Serbia	EEG	SI	3	1
Serbia and Montenegro	EEG	SI	8	1
Seychelles	Africa	NSI	0	1
Sierra Leone	Africa	SI	1	5
Singapore	Asia	NSI	2	2

KEY: SI - Standing Invitation NSI - No Standing Invitation CV - Country Visits Received
Pending CV - unanswered requested visits and visits that have been agreed upon in principle but remained unscheduled

Country	UN Region	SI/NSI	CV	Pending CV
Slovakia	EEG	SI	1	0
Slovenia	EEG	SI	1	0
Solomon Islands	Asia	NSI	0	0
Somalia	Africa	NSI	10	1
South Africa	Africa	SI	9	5
Spain	WEOG	SI	4	3
Sri Lanka	Asia	NSI	7	7
St. Kitts and Nevis	GRULAC	NSI	0	0
St. Lucia	GRULAC	NSI	0	0
St. Vincent and the Grenadines	GRULAC	NSI	0	0
Sudan	Africa	NSI	21	7
Suriname	GRULAC	NSI	0	0
Swaziland	Africa	NSI	0	1
Sweden	WEOG	SI	3	0
Switzerland	WEOG	SI	1	0
Syrian Arab Republic	Asia	NSI	0	3
Tajikistan	Asia	NSI	3	1
Tanzania	Africa	NSI	1	3
Thailand	Asia	NSI	4	11
Timor-Leste	Asia	NSI	3	4
Togo	Africa	NSI	2	1

Country	UN Region	SI/NSI	CV	Pending CV
Tonga	Asia	NSI	0	0
Trinidad and Tobago	GRULAC	NSI	1	1
Tunisia	Africa	NSI	2	4
Turkey	WEOG	SI	12	5
Turkmenistan	Asia	NSI	1	9
Tuvalu	Asia	NSI	0	0
UAE	Asia	NSI	2	2
Uganda	Africa	NSI	6	2
Ukraine	EEG	SI	4	0
United Kingdom of Great Britain and Northern Ireland	WEOG	SI	11	0
Uruguay	GRULAC	SI	1	2
USA	WEOG	NSI	14	7
Uzbekistan	Asia	NSI	1	8
Vanuatu	Asia	NSI	0	0
Venezuela	GRULAC	NSI	1	3
Vietnam	Asia	NSI	3	6
Yemen	Asia	NSI	3	4
Zambia	Africa	SI	1	2
Zimbabwe	Africa	NSI	0	9

KEY: SI - Standing Invitation NSI - No Standing Invitation CV - Country Visits Received
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METHODOLOGY FOR ANALYZING GOVERNMENT REPLIES TO U.N. SPECIAL PROCEDURES COMMUNICATIONS

In evaluating the work of the UN Human Rights Special Procedures and their effects on state behavior, we looked closely at the communications they issue to governments, which comprise a key part of their mandates. These communications typically convey allegations of an ongoing or imminent human rights violation that falls within the mandate of one or more Special Procedures, who raise these allegations by letter or urgent appeal to the relevant government. Governments are expected to reply to the mandate holder in a timely manner with all information regarding the allegations, including, where appropriate, the steps the government has taken to address the human rights violation alleged in the Special Procedure's communications.¹³² We analyzed these government responses to 19 current mandate holders' communications (17 Special Rapporteurs and 2 Working Groups) over a five-year period (2004-2008), with the goal of deriving conclusions and making recommendations for strengthening the effectiveness of Special Procedures as a mechanism for influencing state behavior and advancing human rights at the country level.

Replies by governments to communications sent by UN Special Procedures vary in their timeliness, content and responsiveness. When analyzing a government's reply to a Special Procedure

communication, we focused on the content of the reply as it relates to the specific human rights violation alleged by the original Special Procedure communication.

Government responses to Special Procedure communications were assigned one of the following five categories: No Response (NR), Immaterial Response (IM), Violation Rejected Without Substantiation (VR), Responsive but Incomplete (RI), or Steps Taken to Address Allegations (ST). Responses that were not available due to translation issues were marked with In Translation (in). A brief description of each category follows. Examples are meant to expound each classification but do not serve to limit the category's application to the details contained therein. The Working Groups on Arbitrary Detention (WGAD) and Enforced or Involuntary Disappearances (WGEID) were assessed with the same categories but have additional classifications to accommodate their unique working methods.¹³³

NR – No Response: *Government has not replied at all to the Special Procedure communication.*

IM – Immaterial Response: *Government replies in writing to the Special Procedure communication, but the response does not contain a material*

¹³² See UN HRC Res. 5/2, "Code of Conduct for Special Procedures Mandate Holders of the Human Rights Council," para. 1.

¹³³ For more information on the Working Groups, see p. XX

response to the human rights violation alleged in the communication.

- Includes responses in which a government merely acknowledges receipt of a Special Procedure communication or otherwise provides a pro forma reply with little to no substantive information.
- Includes responses in which a government provides irrelevant information that does not address the underlying human rights violation alleged by the Special Procedure:
 - **Example:** A government responds with additional facts about the matter or with information about human right protection broadly in the state but does not address the underlying violation.

VR – Violation Rejected Without Substantiation: *Government replies to reject the allegation that a human rights violation occurred, but does not provide sufficient information to substantiate its denial of the allegation.*

- Includes replies in which a government categorically denies the violation
 - **Example:** Government reply simply indicates that no such violation occurred.
 - **Example:** Government reply states that it never engages in the acts that comprise the alleged violation.
 - **Example:** A government responds to indicate why the victim of the human rights violation merited certain treatment without addressing alleged human rights violation.
- Includes replies in which a government denies the violation but fails to provide sufficient information to support its denial, or fails to provide information that indicates that an adequate investigation occurred.

- **Example:** Government reply notes merely that the allegation was looked into and found to be false, without describing investigation in any detail.
- **Example:** Government reply provides some information regarding its investigation, but not enough to determine whether the steps taken were adequate to address the alleged human rights violation.

RI – Responsive but Incomplete: *Government reply responds to and addresses the violation alleged by the Special Procedure communication, but the reply either does not fully respond to the allegations or, for a communication referencing multiple individuals or violations, the government reply responds only with regard to some. Also included are responses that indicate that an investigation has been ordered or commenced but is not yet concluded.*

- Includes responses where a Special Procedure communication makes reference in a single communication to multiple individuals whose human rights were violated, but a government reply includes responsive information for some but not all of these individuals.
 - **Example:** Special Procedure communication indicates that six persons were victims of human rights violations, but the government reply only provides adequate information about four of these individuals and provides no or incomplete information regarding the other two individuals.
- Includes responses where the government reply does not completely address the violation(s) alleged in the Special Procedure communication.
 - **Example:** Special Procedure communication states that an individual was

victim of two violations and the government response indicates that one violation was subject to adequate investigation and concluded that it did or did not occur, but the response provides no information regarding the second allegation.

- Includes responses where a government investigation has been ordered or commenced but is not yet complete, and where such investigation appears to be adequate in its design.

ST – Steps Taken to Address Allegations: *Government reply indicates that an adequate investigation is completed, and/or that concrete steps have been taken to address and/or remedy the human rights violation.*

- Includes situations where the government explains what measures were taken to address the violation:
 - **Example:** Government undertook adequate investigation and concluded that violation did occur, and took steps to punish offenders and/or provide remedy for victim
 - **Example:** Government undertook adequate investigation and concluded that violation did not occur, and investigation was appropriate in its scope and importance.

- **Example:** Government undertook adequate investigation and concluded that violation did occur, and prosecution of wrongdoer is ongoing.

- Include situations where government concludes that allegations are not well-founded, if the government investigation that reaches this conclusion appears adequate to give the reviewer confidence that the investigation was appropriate.
- Includes situations where the underlying human rights violation is denied by the government, but only in situations where such a denial is founded upon an adequate or complete investigation of the allegations.

When determining the legitimacy of an investigation, researchers considered features, including but not limited to, the independence of the authority in charge, the date of commencement of the investigation, indication of official character, and the quality and number of documents and witnesses referenced.

In select cases, government replies concurrently satisfied several category areas—particularly when responding to communications involving more than one individual. Many of these cases fit in the RI category which provides space for an assorted government response while others were determined a best fit elsewhere.

LIST OF INTERVIEWS

CURRENT AND FORMER MANDATE HOLDERS	
Philip Alston	Former Special Rapporteur Extrajudicial, Summary or Arbitrary Executions
Shamsul Bari	Independent Expert on Somalia
Cherif Bassiouni	Former Independent Expert on the situation of human rights in Afghanistan
Jorge Bustamante	Special Rapporteur on Human Rights of Migrant Workers
Santiago Corcuera	Member, Working Group on Enforced and Involuntary Disappearances
Oliver de Frouville	Member, Working Group on Enforced or Involuntary Disappearances
Yakin Erturk	Former Special Rapporteur on Violence Against Women
Gustavo Gallon	Former Special Representative on the human rights situation in Equatorial Guinea
Robert Goldman	Former Independent Expert on Counterterrorism and Human Rights
Jose Gomez del Prado	Member, Working Group on the use of Mercenaries
Paul Hunt	Former Special Rapporteur on the Right to Health
Asma Jahangir	Former Special Rapporteur on Freedom of Religion
Walter Kalin	Special Representative of the Secretary-General on Internally Displaced Persons
Miloon Kothari	Former Special Rapporteur on Adequate Housing
Frank La Rue	Special Rapporteur on Freedom of Expression
Gay McDougall	Independent Expert on Minorities
Najat M'jid	Special Rapporteur on Sale of Children, Child Prostitution and Child Pornography
Githu Muigai	Special Rapporteur on Contemporary forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance
Vernor Munoz Villalobos	Special Rapporteur on Right to Education
Vitit Muntarbhoun	Former Special Rapporteur on Human Rights in the Democratic People's Republic of Korea
Bacre Ndiaye	Former Special Rapporteur on extrajudicial, summary or arbitrary executions
Manfred Nowak	Special Rapporteur on Torture
Akich Okola	Special Rapporteur on Human Rights in Burundi
Diana Orentlicher	Former Independent Expert on combating impunity
Paulo Pinheiro	Former UN Special Rapporteur on the Situation of Human Rights in Burundi and in Myanmar
Nigel Rodley	Former Special Rapporteur on Torture
Raquel Rolnik	Special Rapporteur on Adequate Housing
Sima Samar	Special Rapporteur on Human Rights Situation in Sudan
Magdalena Sepulveda	Independent Expert on Poverty
Surya Subedi	Special Rapporteur for Human Rights in Cambodia
Theo Van Boven	Former Special Rapporteur on Torture

GOVERNMENT OFFICIALS	
Paula Agudelo	Human Rights Group, Attorney General of Medellin, Colombia
Irune Aguirrezabo	Director of European Affairs, Basque Government, Spain
Luis Alfonso de Alba	Permanent Representative of Mexico to the UN
Bente Angell-Hansen	Permanent Representative of Norway to Geneva
Sr. Arana	Ezker Batua, Basque Political Party , Spain
Fernando Arias	Former Director of Office of Human Rights, Ministry of Foreign Affairs, Spain
Abdelhadi Attobi	Ombudsman of Morocco
Omar Azziman	Moroccan Ambassador to Spain, former Minister of Justice
Carolina Barco	Ambassador of Colombia to the US
Sr. Basabe	ARALAR, Basque Political Party, Spain
Henrik Bergquist	Head of Section for Human Rights, Department for International Law, Human, Rights and Treaty Law, Ministry for Foreign Affairs, Sweden
Nacer Bourita	Ministry of Foreign Affairs, Morocco
Carmen Bujan	Director General for Strategic Affairs and Terrorism, Ministry of Foreign Affairs, Spain
Rafael Bustamante	Director of Human Rights, Ministry of Justice and Interior, Colombia
Andres Cardona	Secretary of Government, Antioquia, Colombia
Mark Cassayre	First Secretary, US Mission to Geneva
Ivan Cepeda	Member of Parliament and Human Rights Activist, Colombia
Yuniyanti Chuzaifah	National Human Rights Commission on Violence Against Women (Komnas Perempuan), Indonesia
Gabriel Cremades	Foreign Policy Advisor, Office of the President, Spain
Hans Dahlgren	Permanent Representative of Sweden to Geneva
Piet De Klerk	Deputy Permanent Representative of the Netherlands to the United Nations
Jorge Domecq	Director General for UN, Global Affairs and Human Rights at Ministry of Foreign Affairs, Spain
Juan Duarte	Director of the Office of Human Rights, Ministry of Foreign Affairs, Spain
Jorge Eastman	Vice Minister for Policy and International Affairs, Ministry of Defense, Colombia
Mahjoub El Haiba	Conseil Consultatif des Droits de l'Homme, Morocco
Sylvia Escobar	Ambassador at Large for Human Rights, Spain
Clemencia Forero	Vice Minister for Foreign Affairs, Colombia
Ahmed Gamaleldin Ihab	Deputy Permanent Representative, Minister Plenipotentiary, Egypt
Gloria Gaviria	Director of Human Rights, Ministry of Social Protection, Colombia
Gladys Gil	Human Rights Adviser, Government of Antioquia, Colombia
Mirko Giulietti	Deputy Office Director, Swiss Mission to Geneva
Juan Carlos Gomez	former Director of Human Rights, Ministry of Defense, Colombia
Juan Jose Gomez Camacho	Permanent Representative of Mexico to the United Nations and Other International Organizations in Geneva
Manuel Gomez Vaz	Secretary General, Ministry of Housing, Spain
Liesbeth Goossens	Attache, Permanent Mission of Belgium
Thomas Greminger	Head of Political Affairs Division, Department of Foreign Affairs, Switzerland

Arjen Hamburger	Ambassador-at-Large for Human Rights, the Netherlands
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Yves Heller	First Secretary, Embassy of Switzerland to Colombia
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Sergio Jaramillo	former Vice Minister of Defense, Colombia
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Carlos Portales	Permanent Representative of Chile and Vice President of the Human Rights Council
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Jairo Varfas	Personero de Medellin, Colombia
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Hasan Wirayuda	Former Minister of Foreign Affairs, Indonesia
CIVIL SOCIETY	
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Fatima Ayub	Open Society Foundation
Tania Baldwin	Amnesty International
Gabriel Bustamante	Viva la Ciudadania
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Mildrey Corrales	Coordinación Colombia Europa Estados Unidos
Phillipe Dam	Human Rights Watch - Geneva
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Julie DeRivero	Human Rights Watch
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Anthony Dworkin	European Council on Foreign Relations
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Piluca Hernandez	Association Pro Derechos Humanos
Andrew Hudson	Human Rights First
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Mercedes Jimenez	Association Al Khaima
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Mikel Mancisidor	UNESCO ETXEA
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Maria McFarland	Human Rights Watch
Cesar Meudoza	Fundacion Suma Paz
Asmara Nababan	Founder, Indonesia's National Human Rights Commission
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Reinaldo Villalba	Colectivo de Abogados José Alvear Restrepo
Jane Winter	British Irish Rights Watch
Alberto Yepes	Coordinación Colombia Europa Estados Unidos
U.N. OFFICIALS	
Heike Alefsen	Coordinator of Special Procedures Division
Louise Arbour	Former UN High Commissioner for Human Rights
Jane Connors	Chief of Special Procedures Branch, OHCHR
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Anders Kompas	Director of Field Offices Branch, OHCHR
Rizal Malik	UNDP, Indonesia
Antonio Menendez	Staffer, OHCHR in Colombia
Craig Mokhiber	Former Deputy Director, OHCHR New York
Jessica Neuwirth	Director, OHCHR New York
Jesus Pena	Staffer, OHCHR in Colombia
Mireya Pena	Human Rights Officer at the UN
Navanethem Pillay	High Commissioner for Human Rights
Thierry del Prado	Assistant to Special Rapporteur on the Right to Education
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Charles Radcliffe	Chief, Donor & External Relations Section, OHCHR
Christian Salazar	Director, OHCHR in Colombia
Felipe Sanchez	Director, OHCHR Sub-Office in Medellin
Mohamed Serifi	UNDP/UNICEF Director, Morocco
Shahrazad Tadjbakhsh	Chief of Staff to High Commissioner for Human Rights and former assistant to Independent Expert on Afghanistan
Eric Tistounet	Secretary, Human Rights Council
Johannes Van der Klaauw	UNHCR Director, Morocco

FEBRUARY 2010 STATEMENT OF EXPERTS AND ADVOCATES

THE
CARTER CENTER



B Foreign Policy
at BROOKINGS

U.S. ENGAGEMENT WITH THE U.N. HUMAN RIGHTS SYSTEM

February 17, 2010

Summary

The Carter Center and the Brookings Institution's Managing Global Insecurity Initiative convened human rights advocates from Brazil, Colombia, Egypt, Indonesia, Israel, Malaysia, Nigeria, Pakistan, Russia, Europe and the United States to evaluate the impact of the United Nations' human rights system on their work. Those gathered applauded the decision by the Obama Administration to re-engage with the U.N. and offered a number of steps the United States can take to help strengthen these agencies that are so vital to the advancement of human rights globally.

President Obama was widely praised by human rights activists for his stated commitment to "lead by example" in the advancement of global cooperation, human rights, and international law. Concern remains, however, that erosions of human rights that took place under the previous administration continue to undermine global rights standards.

When it joined the U.N. Human Rights Council in 2009, the United States sent a clear signal that it would help make the organization a stronger force for human rights in the coming years. The human rights leaders gathered expressed the hope that the Administration would press forward with this approach by:

- fully implementing the president's commitment to bring U.S. human rights policies and practices into compliance with universal human rights norms and accept scrutiny of its own record by U.N. bodies;

- submitting a rigorous national report to the Universal Periodic Review (UPR) process;
- insisting on increased attention and action on serious human rights situations, wherever they occur;
- protecting and strengthening the independence and involvement of the Special Procedures;
- pressing for robust participation of NGOs within the U.N. human rights system; and
- protecting existing international human rights standards from being weakened.

A Good Beginning

President Obama's early commitment to reverse the previous administration's policies related to human rights, such as torture, secret prisons, and indefinite detention, was welcomed by human rights advocates as an expression of America's traditional defense of human rights values. For the past year, robust U.S. participation in various U.N. human rights bodies has shown the difference effective advocacy can make on key human rights issues like the appointment of an independent expert on Sudan and freedom of expression. And the appointment of a new U.S. Special Ambassador to the Human Rights Council is a concrete commitment to improved engagement. Many are hoping that these developments will create a more positive environment at the United Nations for building coalitions around initiatives that protect victims and redress violations.

Why the U.N. Matters to Human Rights Advocates

Participants asserted that the United Nations, as the only global forum for international cooperation, enjoys a certain legitimacy that no one government, no matter how powerful, can possess. When the United Nations is mocked in the United States as ineffective, the other side of the story is often ignored. Many Americans do not realize how important the U.N.'s human rights institutions are to millions of people throughout the world. It is these bodies that have the crucial job of scrutinizing the manner in which governments either respect or violate basic human rights, like freedom of religion, the right to a fair trial, or to be protected from torture. U.N. Special Procedures, the independent eyes and ears of the Human Rights Council, have a unique role to play as the most accessible mechanism for human rights defenders. If done well, such interaction between governments and the U.N. system, along with testimony from human rights defenders, can help correct abusive behavior, chart a course for gradual improvement, and even prevent violent conflict from escalating. The U.N. often offers the only outlet victims in repressive societies have to be heard.

Participants shared their experiences with the U.N. human rights bodies, which demonstrate both their potential for holding governments accountable for human rights violations, but also the urgent need to shore up their independence and to pay urgent attention to emerging and chronic human rights crises. They pointed out the following:

Participants shared their experiences with the U.N. human rights bodies, which demonstrate both their potential for holding governments accountable for human rights violations, but also the urgent need to shore up their independence and to pay urgent attention to emerging and chronic human rights crises. They pointed out the following:

- Many governments and human rights activists have approached the UPR process with a seriousness of purpose that is resulting in productive engagement toward the correction of abusive policies.
- Human rights defenders in Africa and the Arab region are utilizing the U.N. bodies to an unprecedented degree to challenge abusive government practices.
- In Colombia, the U.N. Special Rapporteur on arbitrary and extra judicial executions registered a huge increase of killings of civilians by the armed forces, validating the work carried out by Colombian human rights defenders.
- In addition to documenting human rights violations, U.N. rights bodies issue recommendations for remedying them. What is needed is increased pressure on governments to implement these findings.
- The General Assembly's review of the Human Rights Council in 2011 provides an opportunity to protect and strengthen the independence of these bodies, but the review also poses a danger that those governments that continually seek to weaken the U.N.'s human rights bodies will attempt to limit and control their reporting work.

Participants offered the following recommendations to the U.S. Government:

1. Support and strengthen the Universal Periodic Review process by engaging fully at the national and international levels in critical scrutiny of human rights records of countries; advocate meaningful follow-up to recommendations; and support active civil society participation.
2. Improve U.S. compliance with international human rights standards and adopt a principled human rights approach to all serious human rights situations; ratify the Convention on the Rights of the Child, the Convention on the Elimination of Discrimination Against Women, the Convention on Economic, Social and Cultural Rights and other global human rights treaties; build support for greater attention to economic, social and cultural rights; help build cross-regional coalitions to address serious human rights situations; engage civil society, especially in its UPR process for the November 2010 session.

3. Make sustained progress to reverse the erosion of human rights under U.S. counter-terrorism policies and practices that have contributed to the overall erosion of human rights protection globally. In particular, the United States should address with utmost urgency the issue of impunity for torture of U.S.-held detainees, which undermines the global movement against torture, as well as the practice of indefinite detention, especially so-called “preventive detention,” a practice which is easily abused on the grounds of national security across the globe.
4. Reassess its rejection of the Council’s Goldstone Commission report on the war in and around the Gaza Strip, which offers the Israelis and Palestinians an opportunity to conduct independent impartial investigations into gross human rights violations and possible war crimes. Ensuring accountability can help advance peace and justice.
5. Support and strengthen the independence of Special Procedures by providing necessary resources to help Special Procedures do their job in a professional manner.
6. Fully cooperate with all Special Procedures by extending standing invitations for country visits, including visits to Guantánamo Bay and other detention facilities by related Special Procedures based on their standard terms of reference for such visits.
7. Nominate and support qualified candidates for election to the Human Rights Council; push back against attacks on Special Rapporteurs and NGOs through abuse of the Code of Conduct and HRC procedures; work toward electing member states on the ECOSOC NGO Committee that have proven their commitment to supporting the freedom of independent civil society organizations.
8. Work to minimize the ability of governments to appoint high-ranking state officials onto Treaty Bodies, which undermines the independence of these bodies.
9. Ensure competitive elections for seats on the Human Rights Council, promote candidates with good human rights records and that fully cooperate with the Council and its Special Procedures, work in concert with others to defeat states with poor human rights records, and make serious pledges and share them publicly.
10. Expand financial resources to and protect the independence of the Office of the High Commissioner for Human Rights.
11. Help lead the proposal to establish a trust fund to support effective civil society participation in the U.N. human rights system. This would include training for NGO members based on models of effective advocacy as well as resources to enable participation in meetings in Geneva and New York.

STRENGTHENING THE UN HUMAN RIGHTS SYSTEM: A DISCUSSION WITH HUMAN RIGHTS DEFENDERS

February 16-17, 2010
Washington, D.C.

PARTICIPANTS

Kamala Chandrakirana was a founder of Indonesia's National Commission on Violence against Women and served as its Chairperson from 2003-2009.

Roberta Cohen is a nonresident Senior Fellow at the Brookings Institution and Senior Advisor to the Special Representative of the Secretary General on the human rights of internally displaced persons.

Yuri Dzhibladze is the president of the Center for the Development of Democracy and Human Rights, a Moscow-based public policy and advocacy NGO.

Olawale Fapohunda is a leading human rights lawyer in Nigeria and Managing Partner of the Legal Resources Consortium.

Gustavo Gallon is the Director of the Colombian Commission of Jurists and from 1999 to 2002 served as the UN Special Representative for Equatorial Guinea.

Amiram Gill is Director of Advocacy at Physicians for Human Rights - Israel (PHR-IL).

Morton Halperin is Senior Advisor at the Open Society Institute and Open Society Policy Center.

Peggy Hicks is the Global Advocacy Director for Human Rights Watch.

Hina Jilani is an Advocate of the Supreme Court of Pakistan and former Special Representative of the Secretary General for human rights defenders.

Hamidah Marican has been the executive director of the Malaysian organisation Sisters in Islam (SIS) since July 2009.

Juan E. Mendez is a Visiting Professor of Law at the American University and former UN Special Advisor to the Secretary General on the prevention of genocide.

Julia Neiva is one of the founders of Conectas Human Rights, a leading NGO in Brazil, and currently is the coordinator for its Justice Program.

Michael O'Flaherty is a Professor of Applied Human Rights and Co-director of the Human Rights Law Centre at the University of Nottingham and a Member of the UN Human Rights Committee.

Ted Piccone is a Senior Fellow and Deputy Director for Foreign Policy at the Brookings Institution.

Paulo Sergio Pinheiro is Commissioner and Rapporteur on Children for the Inter-American Commission on Human Rights and former Special Rapporteur on the situation of human rights in Myanmar and former Special Rapporteur on the situation of human rights in Burundi

Bertrand Ramcharan is Professor of International Human Rights Law at the Geneva Graduate Institute of International Studies and former acting UN High Commissioner for Human Rights.

Andrea Rossi is Director of the Measurement & Human Rights Program at the Carr Center for Human Rights Policy, Harvard University.

Nancy Rubin is a former U.S. Representative to the UN Commission for Human Rights.

CATALYSTS FOR RIGHTS

The Unique Contribution of the U.N.'s Independent Experts on Human Rights

Karin Ryan is Director of the Human Rights Program at the Carter Center.

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ABOUT THE AUTHOR

TED PICCONE is a Senior Fellow and Deputy Director for Foreign Policy at the Brookings Institution. He also serves as an Advisor to the Club of Madrid, an association of over 70 former heads of state and government engaged in efforts to strengthen democracy around the world, and previously served as its Washington Office Director. From 2001-2008, Mr. Piccone was the Executive Director of the Democracy Coalition Project (DCP), a research and advocacy organization working to promote international cooperation for democracy and human rights.

Mr. Piccone served eight years as a senior foreign policy advisor in the Clinton Administration. He was the Associate Director of the Secretary of State's Policy Planning Staff (1998-2001), Director for Inter-American Affairs at the National Security Council (1996-98), and Policy Advisor in the Office of the Secretary of Defense (1993-1996). Mr. Piccone also served as Counsel for the United Nations Truth Commission in El Salvador (1992-93) and as Press Secretary to U.S. Rep. Bob Edgar (1985-87).

Mr. Piccone has written and published articles on U.S.-Latin American relations, international organizations, and human rights and democracy promotion policy. His most recent publications include *The Obama Administration and the Americas: Agenda for Change* (eds. Abraham Lowenthal, Theodore J. Piccone and Laurence Whitehead, Brookings Institution Press 2009); "Dangerous Times for Democracy," *Current History*, February 2010; "Democracies: In a League of their Own?" (Brookings Foreign Policy Paper Series #8, Oct. 2008); and *Strategies for Democratic Change: Assessing the Global Response* (eds. Ted Piccone and Richard Youngs, DCP/FRIDE 2006).

Mr. Piccone received a law degree from Columbia University, where he was Editor-in-Chief of the *Columbia Human Rights Law Review* and *The Jailhouse Lawyer's Manual*. He received a B.A. in History *magna cum laude* from the University of Pennsylvania (1984) where won the prize for best thesis in American history. He and his wife, Susan Gibbs, reside in Washington with their three children.



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