

The Special Procedures: Strengthening the Mechanism and Working Methods

A joint civil society submission to the 23rd annual meeting of Special Procedures of the UN Human Rights Council

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1. Introduction

This submission to the 2016 Annual Meeting of Special Procedures by updates submissions made in prior years both individually, and as part of a coalition of NGOs.¹ While progress has been made over the years in particular areas, we believe that many of the central recommendations about both the institution and its working methods remain relevant.

We also note that this year marks the 10th anniversary of the establishment of the Human Rights Council. In that regard, over twenty leading NGOs released a major policy briefing setting out expectations for reforms to the Council that would be critical to its evolution into a more protective, effective and accessible mechanism in its next ten years.

The present submission revisits recommendations from past submissions, assesses the response of the Coordination Committee and the Special Procedures in adopting and implementing many of those recommendations, and also includes new recommendations drawn from the 'HRC@10' report that highlight the role of the Special Procedures in the evolution of the Human Rights Council.

Specifically, this submission will suggest recommendations aimed at the **institutional strengthening** of the Special Procedures, including their selection, organisation, coordination and cooperation with all stakeholders. It will also suggest means of strengthening the system's **working methods** to improve its effectiveness and contribute to its relevance to actors on the ground.

From the beginning, we have seen the annual meeting of Special Procedures as an important commitment by the mechanism to reflect on its internal workings and its capacity to improve coordination, and as a critical opportunity for interaction between mandate holders and various stakeholders on a range of procedural and substantive issues. In this regard, it is hoped that the following submission will help reinforce these aspects of the Annual Meeting, and contribute towards enhancing the work of the Special Procedures system to promote and protect all human rights for all persons.

We thank the Special Procedures for their acknowledgement of previous submissions, as well as the commitment shown at its 21st and 22nd annual meetings to consult with civil society on the effective work of mandate holders. We would note particular appreciation for the Coordination Committee in its efforts to seek out and take into consideration civil society inputs in the interim period, including for example at its annual meeting in December 2015. We sincerely hope that the recommendations contained in this submission will be considered during the 2016 annual meeting, and by the Coordination Committee and individual mandate holders as relevant over the next year, in their efforts to ensure human rights and fundamental freedoms are a global reality.

¹ See *Special Procedures: Recommendations to strengthen State cooperation and combat reprisals*, June 2015, at <http://www.ishr.ch/news/special-procedures-recommendations-strengthen-state-cooperation-and-combat-reprisals-0>; *Strengthening cooperation with the Special Procedures: Submission to the 21st annual meeting of Special Procedures of the UN Human Rights Council*, September 2014 at http://www.ishr.ch/sites/default/files/article/files/ishr_submission_to_21st_meeting_of_specialprocedures.pdf; and *Annual meeting of Special Procedures – June 2013. Joint submission by non-governmental organisations*, at <http://www.ishr.ch/sites/default/files/article/files/130620-doc-annual-meeting-sps-joint-ngo-submission.pdf>.

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2. Institutional Issues

a. Selection and appointment of mandate holders

The selection process for Special Procedures mandate holders is an issue of considerable interest for civil society. The expertise and skills of the candidates should continue to be the primary selection criteria. Despite the important efforts to develop a more diverse and representative body of mandate holders, whether with regard to gender, geographic location, professional background, or other factors, regional balance should not be allowed to justify compromises on the qualifications of candidates for this important role.

We are therefore pleased to see that the Coordination Committee has been more proactive in engaging with the Consultative Group to ensure that their voice is heard during the selection process. However, there is no evidence of institutional efforts to **establish criteria for minimum qualifications for mandates**. This is a missed opportunity.

The lack of a formal means for outgoing mandate holders to contribute their important insights about the major issues and skills necessary to continue the mandate is significant. Because of this gap, the Special Procedures fails to capture nuanced knowledge that would improve the effectiveness of the incoming mandate holder and, potentially, contribute to longer-term and more strategic approaches to implementation of Special Procedures recommendations.

In 2015, twelve appointments of 79 total positions were made, and in 2016 we expect that approximately ten additional appointments will be made. We note the Council's decision 30/9 to seek to balance the appointment process over the three annual sessions, which has resulted in an extension by two Council sessions of the mandates of Working Group members.

Nonetheless, we still consider the high turnover and the recent uptick in resignations (further increasing turnover) a challenge for the Coordination Committee and the system itself. **We therefore encourage continued efforts to integrate and induct new mandate holders, with the participation of members of civil society with relevant procedural and substantive expertise.** We note in particular the established practice of the treaty bodies in this regard.²

b. The role of the Coordination Committee

The year 2015 saw an increasingly active Coordination Committee. We welcome the leading role they played in engaging directly on crises such as the challenge of Boko Haram and the deterioration of human rights in Burundi. In both cases, the Committee Chairperson highlighted the failures of the business-as-usual approach that was taken. In the case of the latter, the Committee's call for scaling up of the monitoring and preventive function the Council could play in Burundi was important, and we welcome the assertive role that the

² For more information, see OHCHR's 2015 handbook, http://www.ohchr.org/Documents/Publications/HR_PUB_15_2_TB%20Handbook_EN.pdf.

Committee insisted be given to the Special Procedures in any response mechanism.³ **We urge the Committee to work with the Council president and bureau to continue this practice going forward, firmly establishing the Special Procedures' participation in urgent debates and special sessions and their contributions to the outcomes of such discussions.**

The Coordination Committee's emerging practice of reporting on the work of the Special Procedures as a whole, having now completed its second report to the Council⁴, is to be lauded. This kind of substantive intervention in the context of a Human Rights Council session is an important opportunity to showcase the important work the system is doing, while also highlighting the constraints it faces as a result of factors such as financial support or political will. It also provides civil society an avenue to raise concerns but also to express support for the independence of the Special Procedures system.

Coordination of public statements on key issues, whether attacks against mandate holders or cross-cutting human rights challenges such as the migration crisis in Europe, helps to consolidate the role of the Special Procedures against the broader backdrop of the UN and further underlines the indivisibility and interdependence of human rights.

Finally, **we urge the Coordination Committee to firmly establish its leadership role in developing and expanding internal processes and procedures that contribute to both the effectiveness and the efficiency of the Special Procedures, without discrimination to either.** The work of the Committee to respond to reprisals (see part d) is one example of many. We welcome the update provided by the Coordination Committee in its annual report to the 31st session of the Human Rights Council regarding the consultations between the Coordination Committee, OHCHR and the Deputy Secretary-General on submitting early warning information to the Human Rights Up Front Initiative.⁵ **We encourage further development of this practice, and welcome discussion of how to take it forward at the meeting of heads of OHCHR Field Presences announced for 9 June 2016, in coordination with the upcoming Annual Meeting.**

c. Engagement by States and Increasing the Costs of Non-Cooperation

In some ways, the cooperation with Special Procedures may seem unchanged. The overall response rate to Communications, for example, held steady at roughly 42% for both 2014 and 2015. The number of country visits in 2015 (76, to 53 States and territories) was only slightly below the numbers the year prior (80 visits to 60 States and territories).

These facts belie a continued challenge, namely the weakness of levers by which the Council and its mechanisms can encourage and incentivise responses. Despite the existence of minimum expectations set out in UNGA Resolution 60/251, even Member States of the

³ *Statement by Michael K. Addo, Chairperson of the Coordination Committee at the Twenty-fourth Special Session of the Human Rights Council.* Geneva, 17 December 2015. Available at

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16899&LangID=E>

⁴ *Report on the twenty-second annual meeting*, UN doc A/HRC/31/39.

⁵ *Report on the twenty-first annual meeting*, UN doc A/HRC/28/41, para 77.

Council regularly fail to respond to Communications.⁶ Based on ISHR's analysis of the joint Communications reports for the 29th, 30th and 31st sessions of the Council, an average of one-third of States who have failed to respond to Communications are Council members;⁷ at the time of the release of the joint Communications report in March 2016, this accounted for **just over half of Council Members**, or twenty-four (24) States.⁸

In other words, this means that those countries that, at least in theory, should be by virtue of their Council membership, most engaged in the international effort to protect and promote all human rights for all instead regularly undercut the expert tools at their disposal.

Looking forward to the next ten years of development in the Council, a joint civil society submission to the upcoming session of the Human Rights Council outlines clear ways in which cooperation can be strengthened.⁹ These include:

- *Enhancing membership standards*

New Council members would undertake pledges which would include responding to Special Procedures communications substantively and on time, and issuing standing invitations and acting promptly and positively to facilitate visit requests.

- *Inviting positive engagement*

As noted in the ISHR submission to the 22nd annual meeting, offering states an opportunity to respond can have positive outcomes. We reiterate our recommendation that **countries who were the subject of communications from a particular mandate holder be invited, upon the occasion of the relevant interactive dialogue, to provide updates or responses to allegations**. This could be done by giving them priority speaking slots as 'concerned countries' during these dialogues.

- *Increasing the costs of non-cooperation*

The Special Procedures are well-placed to analyse over time the level of non-cooperation, and should **raise cases of persistent non-cooperation during interactive dialogues and directly to the President of the Council and the Bureau**. This could be defined as, for example, failure to respond to communication in several consecutive communications reports.¹⁰

- *Responding to urgent country situations*

⁶ UNGA Resolution 60/251 on the Human Rights Council, 3 April 2006, UN Doc A/RES/60/251, sets out the obligations of the Council and, by extension, its mechanisms, in relation to prevention, protection, cooperation and remediation, among other things.

⁷ See ISHR statements delivered under the Item 5 General Debates on 25 June 2015 and 16 March 2016, and under the Item 8 General Debate on 28 September 2015.

⁸ *Communications report of Special Procedures*, UN doc A/HRC/31/79. 19 February 2016.

⁹ *Strengthening the Human Rights Council at 10*. Available online at <http://www.ishr.ch/HRCat10>

¹⁰ *Strengthening the Human Rights Council at 10*, Section B4, footnote 3.

In more serious circumstances, we urge the Coordination Committee to consider its contribution to responding to deteriorating human rights situations, particularly where Council action could have an important preventive or accountability role. The joint submission envisages, for example, a process by which **a request by a group of four or more Special Procedures mandate holders for Council action would act as a ‘trigger’** for a special session or other dedicated discussion of a situation by the Council.¹¹

d. Intimidation and reprisals

States have the primary responsibility to uphold fundamental rights and freedoms, including individuals’ and groups’ right to freedom of association and their right to safe and unhindered access to and communication with international bodies. This includes an obligation to prevent and protect against intimidation and reprisals, to fully and promptly investigate cases of alleged intimidation and reprisals, to ensure accountability for perpetrators, and to secure access to effective remedy for victims.

The UN Secretary-General, in his report to the Council on cooperation with the UN, stated that ‘all acts of intimidation and reprisal, no matter how subtle or explicit, are completely and utterly unacceptable and should be halted immediately and unconditionally.’¹²

As a mechanism of the Human Rights Council, the Special Procedures also have legal obligation to end impunity for reprisals, which are human rights violations in and of themselves.¹³ Such obligations derive from both the constituent instruments of the Human Rights Council¹⁴ and relevant resolutions adopted by the General Assembly,¹⁵ as well as the Human Rights Council itself. **Resolution 24/24, adopted in September 2013, explicitly called on Special Procedures to ‘give an account of action’ they have taken in relation to allegations of intimidation or reprisals.**¹⁶

On 23 September 2015, a joint statement delivered by Ghana on behalf of 56 states further underlined the legal duty of the Council to address reprisals.¹⁷ In this statement, the cosignatories welcome the increased attention to the question of reprisals by the treaty bodies and the Special Procedures. **We echo this point, welcoming the substantive discussions on reprisals at the 22nd annual meeting in June 2015 and in the subsequent annual report to the Council.**¹⁸

¹¹ *Strengthening the Human Rights Council at 10*, Section C1.

¹² *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*, UN Doc A/HRC/30/29. Para 2.

¹³ *Ending reprisals against those who cooperate with the United Nations in the field of human rights*, May 2015, page 15.

¹⁴ Specifically A/RES/60/251.

¹⁵ This includes the Declaration on Human Rights Defenders, which explicitly enshrines the right of all persons to unhindered access to and communication with UN human rights mechanisms: see especially articles 5(c) and 9(4).

¹⁶ See Human Rights Council resolution 24/24, UN Doc A/HRC/Res/24/24, OP 11.

¹⁷ See PDF version of the joint statement cached at

http://www.ishr.ch/sites/default/files/article/files/reprisals_joint_statement_sept_2015.pdf

¹⁸ *Report on the twenty-second annual meeting*, UN doc A/HRC/31/39, para 34-35.

We especially welcome the adoption by the Special Procedures of a standard operating procedure outlining steps to be taken to enhance the response when faced with cases of intimidation and reprisals.¹⁹

In that regard, we encourage the Special Procedures to:

- Ensure full and prompt investigations

We note that the standard operating procedure refers to mandate holders and the Coordination Committee contacting relevant authorities and sending communications. We emphasise that, when intimidation or reprisals are reported in conjunction with the work of the Special Procedures, there should be in place a procedure to ensure a **full and prompt investigation** of the claim that takes into account the victim's protection needs and the respective roles of different parts of the UN. This should include private and/or public discussion with the State concerned to ensure they uphold their obligations to protect against violations.

- *Outline steps to prevent recurrence and provide effective remedy*

In addition to the range of actions outlined in the standard operating procedure to address allegations of reprisals, mandate holders should also undertake specific efforts to work with all involved stakeholders, including the State concerned, to **ensure non-recurrence and remedy** for reprisals. In some cases this might require extensive engagement and follow-up in order for meaningful action to occur.

- *Make public statements to condemn cases of intimidation and reprisals*

We note that the standard operating procedure outlines a range of actions including raising cases in public statements, press releases, reports to the Human Rights Council and the General Assembly, or during their interactive dialogues with these two bodies. We welcome in particular the use of **public communications tools** to publicly express concern at acts of intimidation and reprisal. We see this engagement as critical to raising the costs of reprisal for States who would otherwise not be exposed for such practices.

- *Seek a unified, coordinated and system-wide response*

We welcome the commitment by the Special Procedures to **continue to call for the designation by the Secretary General of a United Nations senior focal point on reprisals** and, once established, to cooperate closely with him or her to ensure a unified United Nations wide response to acts of intimidation and reprisal.

- *Document cases*

We welcome the commitment in the standard operating procedure to create and maintain a **comprehensive record of all cases of intimidation and reprisals** against individuals and groups cooperating with special procedures. We urge the Special

¹⁹ <http://www.ohchr.org/EN/HRBodies/SP/Pages/Actsofintimidationandreprisal.aspx>

Procedures to update the record regularly and to ensure that relevant cases are publically accessible.

- *Ensure follow-up*

We welcome the inclusion in the standard operating procedure of the possibility of referring cases to the United Nations High Commissioner for Human Rights and/or the President of the Human Rights Council. In particular, we urge Special Procedures to **communicate cases to the President of the Council under Item 5**, so that unresolved or outstanding cases can be discussed in the context of the interactive dialogue.

Finally, as the Special Procedures have themselves acknowledged, non-state actors including private companies and organisations can also be involved in reprisals.²⁰ **We invite the Coordination Committee and relevant mandate holders to address the roles of private companies and other organisations in effectively responding to and seeking accountability for these violations.**

e. Resources

This is a cross-cutting issue and a recurring concern. We see it as critically important that the OHCHR expand the human and financial resources available to the Special Procedures, while keeping in mind the need to respect mandate holders' independence. This is especially critical to ensure due attention to implementation of recommendations, both of the Council as a whole and the thematic reports and country visits of Special Procedures.

3. Working Methods

a. Individual cases and Communications

The Communications procedures is a unique, flexible and accessible tool of the Special Procedures that provides direct access and recognition of legitimate human rights complains to the mandateholder, reporting to the UN Human Rights Council. It also provides incredible potential value to civil society, representing the voices of the marginalised and disadvantaged as agents for human rights change.

We welcome developments in the overall presentation of **aggregate data** on Communications in the annual reports, as well as the recent launch in May 2016 of an **online questionnaire** for both individuals and civil society to electronically make, and substantiate, their human rights Communications to mandateholders. However, the requests of civil society stakeholders for useable data²¹ and secure, accessible means of submitting communications are not yet fully realised.

The online questionnaire

²⁰ Report on the twenty-second annual meeting, UN doc A/HRC/31/39, para 34.

²¹ By useable data we understand the publication of the cases in a technical format that allows for easy analysis and tracking of cases, which is not currently the case in the static, PDF form the data is presented in.

We appreciate that the OHCHR has now taken the first steps towards successfully implementing its new online Communications questionnaire,²² including consolidating the submission forms and process of selecting the relevant mandate holder(s). We recognise the opportunity to develop this vital new tool and realise its full potential.

In our view, clearly articulated principles are necessary to guide the OHCHR's improvement and development trajectory for this project. **These overarching principles to optimise the online questionnaire must focus on victims, access, and safety.**²³

These three concepts can hopefully guide OHCHR's future development of the online questionnaire. In the interim, we also propose a number of **short-term improvements** that could be made to enhance the tool quickly and effectively.

- *Diversity and reach.* The introductory component of the website fails to take into account diverse linguistic, cultural or educational backgrounds. The presentation of lengthy procedural information, including eligibility criteria, may alienate a wide audience of victims, defenders and civil society with its emphasis on procedural compliance and restating internal language and terminology. Similarly, the website needs to better accommodate those with disabilities by offering vision impaired or an enlarged text option as well.
- *Tone, sensitivity, and plain language.* In its current form, the questionnaire contains technical language, phrases and terms that speak more closely to UN-trained, experienced and sophisticated audience. There is a wide potential to simplify the language used, without compromising its context, meaning and effect. For example, titles and identifying terms could be replaced with first-person language of "You" and "We" when an individual makes a Communication, as is accustomed in modern drafting language today. Or, within the consent and confidentiality section, care should be taken to avoid desensitised language, such as: "if it is clear from the submission that concerns relating to the security of the alleged victim(s) exist." It could be replaced with language such as "If you are worried about your safety" or even "If we believe you might not be safe after we publish your Communication, then we will ... "
- *Instructions, process and user confidence.* The identification number for a submission should be displayed throughout the application process, in addition to a pop-up reminder to store/copy it as well at the end of the questionnaire. More importantly, users should have confidence about exactly how the information they provide will be handled by the OHCHR, for example via a disclosure and anonymity policy clearly indicated prior to submission. Victim consent should be asked for at the outset, rather than raised and confirmed at the conclusion of the online questionnaire.

²² In line with the call made by the UN High Commissioner for Human Rights in the *Report on the twenty-second annual meeting*, UN doc A/HRC/31/39, para 11.

²³ These final two guiding principles would realise the vision of the UN High Commissioner for Human Rights for the creation of a "new and user-friendly system" in encouraging stakeholders to submit their information via this new platform, see *Report on the twenty-second annual meeting*, UN doc A/HRC/31/39, para 11.

- *Enhanced device functionality.* Wide-ranging device functionality for the site is a critical next step. Mobile internet access may be preferred to laptop or desktop access for a number of reasons, including safety and practicality.
- *Safety and security.* The OHCHR should be cognisant of security risks, including hacking that would compromise user's data and place them at risk of reprisal. We recommend that enhanced security measures be adopted, at minimum at the request of submitters.
- *Submitting supporting information.* Currently, civil society representatives wishing to attach lists of victims should attach documents in an excel format, this is a limitation as not all users will either have access to excel or have the confidence or competence to put together a dossier for the OHCHR. In addition to this, there should also be an option for user's to generate a portable document file (pdf) of their completed submission to save locally and print in a properly formatted manner.
- *Progress, updates and transparency.* The online questionnaire should evolve into a systematic means of informing victims, human rights defenders and civil society of the real-time status of Communications they submit at all key points in the Communications process, such as: receipt, action, State response and follow-up, including where there are cases of (non)response. We would also encourage outreach for follow-up questions. We understand these practices are in place in an ad hoc manner, but they should be regularised and mainstreamed across the system, including through leadership by the Coordination Committee.

Related to these improvements listed, we note more generally that joint actions are important in that they recognise the cross-cutting nature of many violations, and offer a range of recommendations to governments that address different aspects of the issues. Nonetheless the imperative of some urgent situations means that time is of the essence, and we encourage the Coordination Committee to **appoint a focal point** to ensure that in crisis situations, the perfect does not become the enemy of the good; in other words, that responsiveness not be sacrificed for consensus.

Data collection and analysis

The Communications system continues to also fall short in terms of accountability, in large part due to the lack of a **publicly accessible and disaggregated database**. Information should be available organised by countries concerned and by mandate holders, instead of by date, and outstanding cases that have not received a response since the previous joint Communications report(s) should be clearly identified.

We also urge the Coordination Committee to initiate a conversation with mandate holders about **how to better analyse the data from Communications**, and the responses, in a more meaningful way, including the non-responses from states. For example, only 18% of individuals covered in accepted Communications in 2015 were women. The Special Procedures should consider how to conduct outreach that recognises and seeks to overcome barriers to individuals and organisations submitting cases which address violations against

women, children, LGBTI individuals, and other groups and how to make their own communication with them accessible and understandable. They furthermore should be attentive to specific gendered elements of the Communications, and to ensuring that their responses take into account a range of factors informing the questions posed to the State concerned.

Providing civil society stakeholders and the public with clearer, easier access to information on Communications could have a significant positive impact on, at minimum, the quality of State responses to communications, if not also the quantity.

b. Country visits

Country visits are a second, key tool of the Special Procedures that can allow for cooperation and dialogue between the Council and States, and in turn can open up space for dialogue between civil society and governments in countries concerned. We are therefore concerned by the trend of non-response and the continued refusal of governments to issue standing invitations. According to the latest information, at the end of 2015 only 60% of UN Member States had extended standing invitations, including many current (2016) Human Rights Council members.

The newly accessible information on country visits, hosted on the OHCHR website, is a start; it compiles relevant data such in one location, although it has proven somewhat unwieldy to use. There are, however, additional reasonable steps the Special Procedures could take, guided by their manual on working methods, to improve reporting on the status of country visits.

With regard to the **country visit database**, we urge more comprehensive and systematic inclusion of supporting documents (e.g., from the initial invitation, exchange with the country concerned, and the final trip report as well as any follow up). We also urge **improving the announcement of visits to civil society, globally but in particular in the country concerned**, to enable them to know as soon as possible as a visit is scheduled to ensure full participation in the planning and preparation. In practice, the dates can be announced publicly so close to the trip itself that it is a challenge for organisations and networks to engage effectively.

The information contained in this database should be accessible and presented in a meaningful way as to inform both the ongoing work of the Special Procedures and the dialogues with the Human Rights Council. Central to this is **standardizing and improving the quality of reporting on country visits in the annual reports of mandate holders**.

These annual reports, while often treating significant thematic issues, further have the potential to generate the substantive discussion in the Council's interactive dialogues, by both States and civil society, of the effectiveness of the Council's reporting mechanisms. However, current annual reporting practises by mandate holder should be reviewed in terms of their timeliness and the minimum information they provide.

The current practice of the presentation of mission reports to the Human Rights Council should be reviewed, to ensure that no excessive delays between the mission and the

presentation of reports exist. For instance, the report of the December 2014 mission of the Special Rapporteur on human rights defenders to Burundi was presented in March 2016, more than one year after the fact, and after a serious deterioration in the situation. Ensuring timely reporting, and providing the possibility for mandate holders to report on missions at the Council session following the finalisation of the report (rather than what is current practice during the presentation of the annual report by the mandate concerned) would be initial steps in that regard.

Finally, it is important to note that information concerning country visit requests is not provided in a routine and standardised reporting format for each yearly cycle. At times, the reporting methods adopted by individual mandate holders do not clearly indicate whether country visit requests made, and to whom, and furthermore often fail to include information on responses and, importantly, non-responses. Whilst mandate holders usually set out which countries they visited during the reporting period, there does not appear to be a minimum standard of reporting expectations that all mandate holders should fulfil.

The current guidance manual available to mandate holders allows for an enhanced level of detail in annual reporting on country visit requests, as it sets out that in cases of non-response it is 'appropriate for a mandate-holder to remind the Government concerned, to draw the attention of the Council to the outstanding request, and to take other appropriate measures designed to promote respect for human rights.'²⁴ It is incumbent on the Special Procedures to examine how this principle can be best put into practice.

Specific improvements to build on this could include obliging mandate holders to include in their annual reports, at a minimum, the following categories of information:²⁵

- The total number of invitations for country visit requests made.
- The identification of all countries who were extended invitations for country visits.
- Outcomes of each response received to country visit requests including, where possible, the intended broad timeframes of when the visit is set down to be conducted.
- Which countries did not respond to country visit requests made in the reporting cycle. Which countries have continued to not respond to a request made during the previous reporting period that remains outstanding.

These improvements could be buttressed through the Coordination Committee providing a **fresh working-method best practises note** to all mandate holders on this, to facilitate the standardisation of an improved reporting framework on country visit requests.

This detailed information on (non)responses to country visit requests – in standardized text form which would facilitate conversion to the standing database – would enable both civil society and the Council access and assess a valuable key metric, and could potential serve as an indicator of a State's disengagement with the UN human rights system. **A State that fails to respond to an invitation for a country visit by a mandate holder arguably engages in active**

²⁴ See, Manual of Operations of the Special Procedures of the Human Rights Council, (August 2008), Part II, Section C(2) 'Invitations and requests for visits' para. 56, p. 16.

²⁵ Enhancing visibility and clarity on this, mandate holders should also include in this component of their annual report a confirmation that if no states ignored or did not respond to a country visit request made during this reporting cycle.

disregard for the value of the external human rights expertise the Special Procedures provides. Transparent and consistent reporting on this element of the Special Procedures' working methods could also potentially enhance response rates from states who would be placed on notice that their non-response will be on the record and publically available.

Standardising annual reporting practises on country invitation requests and responses by mandate holders is a small but significant change that would provide greater overall visibility of country visit data to all key human rights stakeholders within the UN system. This information, in turn, would allow for stakeholders at all levels to reward response, and seek to prevent or disincentivize non-response, and so improve the overall understanding of cooperation with the Council and its mechanisms.

c. Follow-up to Communications, Decisions and Country Visits

The importance of follow-up to ensuring implementation cannot be overstated, whether regarding recommendations of the Council, through its decisions and resolutions, or of the mandate holders through the range of tools at their disposal. We welcome the creativity with which mandate holders have pursued follow-up,²⁶ but we are aware that these efforts are largely *ad hoc* and sometimes risk going unacknowledged given the lack of longitudinal data. **While we acknowledge the need for flexibility and the centrality of these decisions to the independence of the mandates, we urge the Special Procedures to consider identifying a set of baseline indicators that, if met, would initiate a mandatory follow-up process.**

This is essential because, too often and in particular linked to the Communications and Decisions of mandate holders, States fail to take the recommended actions. Faced with an extended non-response to communications, or a response that fails to substantively treat the allegations and the potential recommendations, the Special Procedures should seek to leverage change. Sometimes States' actions directly oppose the recommendations of the Special Procedures; take for example the continued detention or indictment of a prisoner of conscience despite a Decision from the Working Group on Arbitrary Detention. **In these egregious cases of 'non-cooperation', we urge the Special Procedures to standardize a practice of response, either through follow-up letters (to be made public in the next joint Communications report) or through immediate public action.**

We welcome the discussions at the last Annual Meeting regarding the engagement with OHCHR field presences on the issue of follow up to, in particular, country visits. Without discrimination to the above recommendations regarding follow-up on allegations of intimidation and reprisals associated with country visits, we echo the call that information collected by actors in OHCHR and across the UN system be regularly and transparently shared with the Special Procedures and would add that, wherever possible, this information should be made public.²⁷ Discussion of strengthening human rights competencies within UN Country

²⁶ This includes 'issuing of observations on communications reports, conducting follow-up visits... the convening of roundtable discussions and the issuing of follow-up reports and press releases'. *Report on the twenty-second annual meeting*, UN doc A/HRC/31/39, para 27 and Annex IX.

²⁷ *Report on the twenty-second annual meeting*, UN doc A/HRC/31/39, paras 47-49..

Teams to facilitate implementation should be a part of broader UN-wide consideration of the third pillar (see below).

d. Engagement of Special Procedures with international and regional forums

The annual report indicates in great detail the engagement with other parts of the UN system,²⁸ including listing joint press statements and assistance with country visits. We urge that this relationship become the norm, as opposed to the exception, and that the Special Procedures seek to increase opportunities to interface with other parts of the UN system, whether at country level or at HQ. **We welcome the opportunity of the meeting of heads of OHCHR Field Presences announced for 9 June 2016, as a chance to further deepen coordination with the Special Procedures.**

At minimum, this serves a capacity-building role, infusing human rights attention across the other pillars of the UN; at its best, however, this can ensure human rights mainstreaming and effective, trusted relationships to foster communication. The case of the Sustainable Development Goals and the engagement of the Special Procedures, individually and as a whole, can be instructional in this regard both for the successes and the challenges. More positively, we welcome the increase in briefings at the Security Council by the Council's mechanisms, including over the last year.

The experts of the regional human rights mechanisms, and in particular the African Commission on Human and Peoples' Rights and the Inter-American Commission on Human Rights, should continue to be at the table for relevant discussions. We encourage learning and knowledge sharing between the regional and international levels, in both directions, to ensure that policies and procedures are coherent and effectively generate a 'race to the top' in key areas such as consultation with civil society and responses to reprisals. In joint activities, we reiterate our recommendation from last year that **civil society be effectively engaged early in the process**, in order to maximise the impact of the activity on the ground.

The practice of some mandates – such as the Special Rapporteur on human rights defenders – of regular exchange with 'sister-mandates' from regional systems is welcome, and should be strengthened and encouraged for other mandate holders too.

The biennial resolution on 'regional arrangements on human rights' adopted by the Human Rights Council is a further avenue that the Special Procedures should use actively to enhance cooperation among them and their regional counterparts.

4. Conclusion

The undersigned NGOs and partners on the ground consider the Special Procedures system on balance to be one of the most nimble, responsive and accessible of the UN human rights mechanisms. This submission hopes to highlight potential areas for improvement that we think would have great benefit for the accessibility and effectiveness of the system.

²⁸ *Report on the twenty-second annual meeting*, UN doc A/HRC/31/39, paras 21-22 and Annex I.

The mandate holders have a unique role and responsibility to engage with all stakeholders and to take into account a range of perspectives and experiences in carrying out their mandate. The continued trend of attacks against Special Procedures mandate holders, which have taken a range of forms and which mirror the opposition confronted by human rights defenders on the ground, in fact are a testament to this fact. We reaffirm our unwavering support to efforts to ensure the independence of mandate holders and the legitimacy of their work.

We believe that the recommendations contained in this report could assist in further strengthening of the Special Procedures to enhance their value for victims of human rights violations and to stand in solidarity with human rights defenders whose struggle to effect positive human rights change on the ground can, therefore, be made just a little easier.