

# **Strengthening cooperation with the Special Procedures**

**Submission to the 22nd annual meeting of Special  
Procedures of the UN Human Rights Council**

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## 1. Introduction

This submission by the International Service for Human Rights updates ISHR's submission to the 21<sup>st</sup> annual general meeting in September 2014.<sup>1</sup> While some progress was made, ISHR's recommendations remain relevant. Given the relatively high turnover in Special Procedures mandate holder as well as the addition of new mandate holders, some recommendations are reiterated here.

The submission incorporates a range of recommendations contained in a joint submission made by a group of NGOs to the 20<sup>th</sup> annual meeting of Special Procedures in 2013,<sup>2</sup> however it is made by ISHR in its own right.

ISHR sees the annual meeting of Special Procedures as a critical opportunity for substantive interaction between mandate holders and various stakeholders, and for mandate holders to coordinate their approaches with a view to optimising the contribution of the Special Procedures system to the promotion and protection of all human rights for all.

ISHR considers the failure of many States to fully cooperate in good faith with Special Procedures – mechanisms established by the Member States – to be an issue of grave concern, which clearly undermines the effectiveness of the work of Procedures. We welcome the efforts made to provide easier access to updated information regarding State responses to communications, and on country visits requested and carried out. In this paper we would like to suggest additional recommendations to encourage better State responses and cooperation.

We regret and condemn the fact that Special Procedures have been targeted for personal attack, within and outside of the Human Rights Council, as a result of their work as independent experts. We will support all efforts to demand retraction of these in the strongest terms, and to support the independence of mandate holders.

We thank the Special Procedures for their acknowledgement of previous submissions, as well as the commitment shown by the Coordination Committee at its 21<sup>st</sup> annual meeting to consult regularly with civil society on the effective work of mandate holders. This paper reiterates several of the recommendations that the Special Procedures have yet to respond to, in the hope they may be considered during the 2015 annual meeting, and by the Coordination Committee throughout the year.

## 2. The role of the Coordination Committee

We welcome the openness of the Coordination Committee to meet regularly throughout the year, but note the challenge for both the Special Procedures and civil society to effectively follow up recommendations and outcomes of the annual meeting.

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<sup>1</sup> *Strengthening cooperation with the Special Procedures: Submission to the 21st annual meeting of Special Procedures of the UN Human Rights Council*, September 2014. See at [http://www.ishr.ch/sites/default/files/article/files/ishr\\_submission\\_to\\_21st\\_meeting\\_of\\_special\\_procedures.pdf](http://www.ishr.ch/sites/default/files/article/files/ishr_submission_to_21st_meeting_of_special_procedures.pdf).

<sup>2</sup> The original paper was prepared for the 20th Annual Meeting of the Special Procedures by the following non-governmental organisations: Alkarama, Amnesty International, the Asian Forum for Human Rights and Development (FORUM-ASIA) and the International Service for Human Rights, and endorsed by the Association for the Prevention of Torture, Bahá'í International Community, CIVICUS World Alliance for Citizen Participation, Child Rights Connect, Human Rights Watch, the International Rehabilitation Council for Torture Victims (IRCT) and the World Organisation Against Torture (OMCT).

Among the most notable developments in the last 20 years is the consolidation of a collection of separate mandates into an actual ‘system of Special Procedures’, a development consolidated by the General Assembly in its creation of the Human Rights Council.<sup>3</sup>

The holding of annual meetings, the support of the OHCHR to the Special Procedures individually but also as a system, and the formation and continuous strengthening of the **Coordination Committee of Special Procedure Mandate Holders** (the Coordination Committee), established in 2005, have all made valuable contributions to the better functioning of a system that is among the most valuable tools from the perspective of human rights defenders on the ground.

In recent years the Coordination Committee has carved out an important independent space in the institutional architecture of the UN human rights system. Today, it plays an important role in ensuring the integrity of individual mandate holders, and the ‘system’ of Special Procedures as a whole.

This is perhaps best exemplified by the standing invitation to mandate holders agreed with the President of the Council in 2008 to participate in special sessions of the Council.

We welcome the emerging practice of the Coordination Committee feeding into substantive debates of the Human Rights Council, as it shows the potential for joint contributions of mandate holders on urgent human rights issues, a contribution which on the institutional front was shown to be effective during the Council’s institution-building and review. A particularly welcome example is the presentation of the report of the annual meeting and the joint communications report to the Human Rights Council by the Chair of the Committee in March 2015.<sup>4</sup>

We also welcome the Committee’s ongoing discussion with the President of the Council advocating for greater participation in Council sessions, the UPR, special sessions and panel discussions.<sup>5</sup>

We encourage the systemisation and regularisation of the Committee’s participation in both regular and special Council sessions. To facilitate more substantive engagement with the work of the Coordination Committee and the Special Procedures system as a whole, upgrading these to interactive dialogues would be welcome.

#### RECOMMENDATIONS FOR THE 22<sup>ND</sup> ANNUAL MEETING:

- **Mandate the Coordination Committee to consult on and contribute the views of mandate holders to urgent debates and special sessions of the Human Rights Council**
- **Continue conversations with the President of the Human Rights Council with a view to systemising and regularising the presentation of the Special Procedures’ work and reports at Council sessions, especially during interactive dialogues**

### 3. Selection and appointment of mandate holders

In the past, we had witnessed increasingly political ‘bargaining’ over the selection of mandate holders, particularly in relation to the geographic origin of mandate holders, which we deeply

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<sup>3</sup>For instance, General Assembly Resolution 60/251 creating the Human Rights Council tasked it to maintain a ‘system of Special Procedures’.

<sup>4</sup> <https://twitter.com/lneichenM/status/578143729472675840>

<sup>5</sup> Report on the twenty-first annual meeting of special rapporteurs/representatives, independent experts and working groups of the Special Procedures of the Human Rights Council, including updated information on the Special Procedures (‘Report on the twenty-first annual meeting’), UN doc A/HRC/28/41, para 86.

regret. This bargaining resulted in the delay of appointments and the annual meeting itself, and has the potential both to politicise the mandate holders' eventual appointment and undermine the integrity and independence of the system of Special Procedures as a whole. While cultural and regional diversity is important in the composition of the mandate holder group, we strongly endorse the Committee's view, expressed at its 21st annual meeting, that the 'main selection criteria' for mandate holders should remain 'expertise and skills'.<sup>6</sup>

A potential contribution to depoliticising the selection of mandate holders may be for the Coordination Committee to engage at an early stage with the Consultative Group and the President of the Human Rights Council to provide expert input into the appointment of new mandate holders, based on the experience of outgoing mandate holders.

There is currently no systematic elaboration of 'job descriptions' for new or vacant Special Procedure positions. The Coordination Committee could play a key role in soliciting input on the required qualifications, expertise and experiences from outgoing mandate holders, which would enable more targeted outreach and advertising of vacant positions. Such criteria or 'job descriptions' could contain both general requirements that apply to all mandates, and specific criteria for specific mandates. While such job descriptions may not have a formal character, a more systematic collection of criteria by the Coordination Committee could greatly facilitate the maintenance of a pool of suitable candidates at the nomination stage, and therefore improve the selection process.

For several of the appointments in 2014, ISHR and other NGOs have drafted such criteria, seeking to contribute to more informed decisions by the Consultative Group and the Human Rights Council President.<sup>7</sup>

#### RECOMMENDATIONS FOR THE 22<sup>ND</sup> ANNUAL MEETING:

- **Mandate the Coordination Committee to compile input from outgoing mandate holders to help establish clear criteria for each vacancy**
- **Special procedures as a group should refrain from allowing national or regional origin of candidates from becoming additional and decisive criteria for the selection of mandate holders for thematic or geographic mandates, particularly where it distracts from more crucial criteria such as skills and experience.**
- **Special procedures should support the selection of applicants who otherwise qualify to fill new vacancy, irrespective of a perceived geographic or regional imbalance in the mandate holder group.**

## 4. State cooperation and the development of cooperation indicators

### STATE COOPERATION

As we have outlined during previous sessions of the annual meeting, the issue of **State cooperation** with Special Procedure mandate holders remains a long-standing concern for many NGOs, and extends to all aspects of the work of mandate holders, including the willingness of States to respond to communications, accept and facilitate invitations for country visits, and implement recommendations.

We share your deep concern about the lack of State response to communications and to requests for country visits. In a statement to the 27<sup>th</sup> session of the Human Rights Council, ISHR

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<sup>6</sup> *Report on the twenty-first annual meeting*, UN doc A/HRC/28/41, para 30.

<sup>7</sup> See, eg, <http://www.ishr.ch/news/ishr-releases-guidelines-appointment-un-human-rights-experts> and [http://www.ishr.ch/sites/default/files/article/files/a\\_hrc25\\_ngo\\_176\\_en\\_item5.pdf](http://www.ishr.ch/sites/default/files/article/files/a_hrc25_ngo_176_en_item5.pdf).

proposed one approach to increase the likelihood of States responding to communications in a prompt and substantive way; namely that during interactive dialogues with mandate holders, those States that have received but not responded substantively to mandate-holder communications be invited to take the floor first. This would mirror the practice of concerned countries speaking first when mission reports are presented.

Lack of adequate responses is particularly galling when it concerns Members of the Human Rights Council, who are required under GA *Resolution 60/251* to ‘fully cooperate with the Council.’ In the joint communications report submitted to the 28<sup>th</sup> session, there were communications *without response* concerning 18 members of the Council; namely, Pakistan, China, Qatar, El Salvador, Saudi Arabia, Sierra Leone, Mexico, Nigeria, Venezuela, Viet Nam, Maldives, Cuba, India, Congo, Indonesia, United Arab Emirates, Bangladesh and Brazil. ISHR named each of these States in a statement to the 28<sup>th</sup> session of the Council during the General Debate under Item 5. We are pleased to advise that a one Member State that had not responded to a communication at the time of publication of the joint communications report was prompted to respond urgently when ISHR advised that we would be compelled to name that State in the Item 5 statement. This experience demonstrates that a practice such as inviting States that have not responded to communications to give a response during interactive dialogues is a positive incentive to cooperate.

A combination of positive and negative incentives, such as positive and negative mention in the formal proceedings of the Human Rights Council, is clearly an effective strategy to enhance cooperation. Therefore, building on the Committee’s practice of publishing in its annual meeting report a list of States that have received visit requests but not accepted them,<sup>8</sup> we invite the Committee to issue a public statement after its annual meeting in which it names uncooperative States and applauds cooperative ones.

#### COOPERATION INDICATORS

While States are often invited to cooperate fully with Special Procedures through resolutions on individual mandates, and many States make specific commitments on their cooperation with international human rights mechanisms when running for seats on the Human Rights Council, there is currently no common standard of cooperation that States can aspire to or are bound by.

In this regard, the annual meeting of Special Procedures and the Coordination Committee could play a key role in contributing to the **assessment of the level of cooperation by individual member States**, which could feed into other important processes, such as the election of members to the Human Rights Council and the universal periodic review (UPR).

While we welcome the emerging practice of some mandate holders to make information relating to state responses to communications more easily accessible in a timely fashion, there is currently no coordinated approach.

This should include elaboration by the Coordination Committee, with the input of interested mandate holders, of cooperation indicators that would cover all aspects of the work of Special Procedure. A starting point could be previous submissions, including by Amnesty International and the Friends World Committee for Consultation (Quakers), to the Human Rights Council.<sup>9</sup>

As a next step, individual Special Procedures could include standardised summaries of performance measures using the indicators in their annual reports, capturing elements of communications, visits and follow-up. Mirroring the good practice gained with the production of a joint report on communications, information on State cooperation could also be provided in an

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<sup>8</sup> *Report on the twenty-first annual meeting*, UN doc A/HRC/28/41, Annex IV.

<sup>9</sup> UN Doc A/HRC/19/NGO/24.

aggregated form. Currently, while some mandate holders include information on, for example, outstanding visit requests in their annual report, such information is not available across the 'system' of Special Procedures.

Since the Committee's 21<sup>st</sup> annual meeting, no progress seems to have been made on the development and publishing of clear and measurable cooperation indicators by any Special Procedures mandate holders.

#### RECOMMENDATIONS FOR THE 22<sup>ND</sup> ANNUAL MEETING:

- **Urgently commence development of cooperation indicators measuring the level to which States comply with their obligation to cooperate with Special Procedures in relation to visit requests and communications, taking into account the differentiated responsibilities of member States of the Human Rights Council**
- **During each interactive dialogue on the presentation of annual reports, Special Procedures mandate holders should as a matter of practice invite States that have not responded adequately to any communications in the interim period to take the floor first<sup>10</sup>**
- **After each annual meeting of Special Procedures, at a minimum, make a public statement regarding failure of States to abide by standing invitations or respond to requests for country visits**

## 5. Intimidation and reprisals

ISHR deeply regrets the continued incidence of intimidation and reprisals against individuals and organisations which cooperate or seek to cooperate with the UN in the field of human rights, including intimidation and reprisals against persons in connection with their communication or proposed communication with Special Procedures. The Secretary-General's 2014 report to the Human Rights Council on cooperation with the UN human rights mechanisms documents a number of cases in this regard, including the arrest, incommunicado detention, ill-treatment and even torture of persons in connection with their cooperation with Special Procedures.<sup>11</sup>

ISHR's 2015 reprisals report,<sup>12</sup> submitted to inform the Secretary-General's new reprisals report to be presented to the Human Rights Council in September, also illustrates the latest regressions and case studies emblematic of this growing issue. We welcome comments by a mandate holder during the 21<sup>st</sup> annual meeting of the need to develop a 'systematic approach to the issue',<sup>13</sup> particularly to protect sources who are now more vulnerable because of new electronic ways by which they could be exposed.

Such cases engage the obligations of the Special Procedures and the UN human rights system as a whole, as discussed further below.

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<sup>10</sup> Note that the practice of an interactive dialogue allows for States to indicate their wish to speak immediately after the mandate holders opening remarks. It is therefore in the power of each mandate holder to explicitly invite States to respond, and does not require a change in the Council's working methods. Instead, a clear, systematic and universal commitment by mandate holders to incentivise cooperation, and discourage non-cooperation would go a long way.

<sup>11</sup> 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights: Report of the Secretary-General', UN Doc A/HRC/27/38.

<sup>12</sup> *Ending reprisals against those who cooperate with the United Nations in the field of human rights*, May 2015.

<sup>13</sup> *Report on the twenty-first annual meeting*, UN doc A/HRC/28/41, para 56.



## OBLIGATIONS OF SPECIAL PROCEDURES TO PREVENT AND PROMOTE ACCOUNTABILITY FOR 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.

ISHR welcomes the Deputy Secretary General's invitation to mandate holders at the 21<sup>st</sup> annual meeting of Special Procedures to find a more institutional way of sharing information with the Human Rights Up Front initiative to help prevent human right violations before they happen.<sup>14</sup> This is particularly important to end impunity for reprisals, which are human rights violations in and of themselves.<sup>15</sup> We invite the Coordination Committee to provide an update as to the proposal of the Chairperson of the Coordination Committee that a consultation be organised between the Coordination Committee, OHCHR and the Deputy Secretary-General on submitting early warning information to the Human Rights Up Front Initiative.<sup>16</sup> We welcome such an initiative.

As mechanisms of the Human Rights Council, Special Procedures also have legal obligations in this regard. Such obligations derive from, inter alia, the constituent instruments of the Human Rights Council,<sup>17</sup> and relevant resolutions adopted by the General Assembly,<sup>18</sup> and the Human Rights Council, with Human Rights Council resolution 24/24 explicitly calling on Special Procedures to 'give an account of action' they have taken in relation to allegations of intimidation or reprisals.<sup>19</sup>

In ISHR's view, the legal obligations of the Special Procedures in this regard include an obligation to:

1. take such preventative and precautionary measures as are necessary to reduce the likelihood of reprisals, including in the context of country missions and communications;
2. fully and promptly investigate allegations of intimidation or reprisals arising in connection with their mandate or work;
3. publicly condemn cases of intimidation and reprisals;
4. call on the State concerned to respond promptly and substantively to allegations of intimidation or reprisals;
5. set out what steps are required to prevent recurrence and provide an effective remedy;
6. report publicly to the Council on cases of intimidation or reprisals, including steps taken by the mandate holder and the response or lack thereof by the State; and
7. support and pursue efforts to strengthen the response of the Special Procedures and the UN as a whole to the issue of intimidation and reprisals.

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<sup>14</sup> *Report on the twenty-first annual meeting*, UN doc A/HRC/28/41, para 77.

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

<sup>16</sup> *Report on the twenty-first annual meeting*, UN doc A/HRC/28/41, para 77.

<sup>17</sup> This includes UNGA Resolution 60/251 on the Human Rights Council, 3 April 2006, UN Doc A/RES/60/251, which sets out the obligations of the Council and, by extension, its mechanisms, in relation to prevention, protection, cooperation and remediation, among other things.

<sup>18</sup> 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).

<sup>19</sup> See Human Rights Council resolution 24/24, UN Doc A/HRC/Res/24/24, OP 11.

## APPOINTMENT OF UN WIDE FOCAL POINT

There is clear consensus on the need for a coherent and systematic approach to prevent and respond to acts of intimidation and reprisal at the national, regional and international levels, as reflected in the calls in Human Rights Council resolution 24/24 for States to adopt specific laws and policies to prevent reprisals and for the UN Secretary-General to designate a UN-wide senior focal point on reprisals.

While the implementation of this aspect of the resolution has been delayed by the General Assembly in New York, the Secretary-General has subsequently called for the expeditious implementation of all aspects of resolution 24/24 in his most recent annual report on cooperation with the UN human rights mechanisms submitted to the Human Rights Council.<sup>20</sup> The cases documented in that report – several of which relate to individuals' engagement with – make the need for a better UN-wide response even more pressing.

In this regard, we strongly welcome the joint statement made by Special Procedures mandate holders on 10 December 2013, expressing serious concern at acts of reprisal against anyone cooperating with them and stating that they were looking forward to the designation of the focal point on reprisals.<sup>21</sup> We encourage further such statements to be made at relevant opportunities.

We also welcome statements made by a range of mandate holders, such as the Working Group on Enforced or Involuntary Disappearances<sup>22</sup> and the Special Rapporteur on the situation of human rights defenders,<sup>23</sup> calling for the prompt and comprehensive implementation of resolution 24/24. We also welcome the Working Group's call for an expeditious appointment of the UN-wide senior focal point on reprisals to 'engage with all stakeholders, in particular Member States, to promote the prevention of, protection against and accountability for reprisals and intimidation related to cooperation with the United Nations, its representatives and mechanisms.'

The substantive analysis of communications contained in the observations reports published by some mandates is a key method via which to make public cases of reprisals. Further, observations should not only note and condemn acts of alleged reprisals, but should be brought to the attention of the Human Rights Council together with specific actions that can be taken by States to tackle reprisals. Where relevant we invite the Coordination Committee to encourage mandate holders to specifically highlight in their reports non-responses from States to allegations of reprisals, and to encourage all mandate holders to publish observations on communications to Governments and replies received.

We encourage mandate holders to continue to publicly raise concerns about the further delay in the designation of a focal point. The current paralysis on the issue licences further cases of reprisals and perpetuates impunity. Due to the particular relevance of the issue of reprisals to the work of Special Procedures, we strongly encourage mandate holders – individually and through the Coordination Committee – to contribute actively to a solution on this issue.

## COORDINATION AMONG SPECIAL PROCEDURES TO PREVENT AND PROMOTE ACCOUNTABILITY FOR REPRISALS

Whilst the General Assembly continues its deliberations on reprisals, it is clear that individual parts of the system can make their own advances.

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<sup>20</sup> 'Cooperation with the United Nations, its representatives and mechanisms in the field of human rights: Report of the Secretary-General', UN Doc A/HRC/27/38.

<sup>21</sup> OHCHR press release, 10 December 2013.

<sup>22</sup> See, eg, Report of the Working on Enforced or Involuntary Disappearances, UN Doc A/HRC/27/49, para 119.

<sup>23</sup> See, eg, Report of the Special Rapporteur on the situation of human rights defenders, Michel Forst, UN Doc A/HRC/28/63/Add.1, para 10.

For example, we welcome the Coordination Committee's practice over the past 12 months of continually raising the issue of reprisals with the Secretary-General, High Commissioner for Human Rights, President of the Human Rights Council, States and civil society. We encourage the Committee to sustain these efforts.

We regret that the Coordination Committee has still not created a comprehensive and regularly updated registry of cases of reprisals across all Special Procedures as a preliminary tool to track and respond to reprisals. Neither has the Committee established a more comprehensive database on cases of reprisals (that, of course, respects the anonymity of certain cases where relevant). We recommend that steps be taken to develop these resources. The list and database should be developed with the use of clear cooperation indicators, as recommended above, to allow for a proper assessment of the substantive steps taken by States to remedy reprisals.

In their 2014 annual meeting the Chairpersons of Treaty Bodies noted that initiatives taken by individual Treaty Bodies, such as the definition of a new joint-policy on reprisals, should be part of a more general approach to reprisals by the relevant UN human rights mechanisms.

At that meeting, Treaty Body Chairs invited all Treaty Bodies which have not yet done so to establish a rapporteur for reprisals, and to take such steps as are necessary to prevent, protect against, investigate and ensure accountability for acts of intimidation or reprisals, and the upcoming meeting of Treaty Body Chairs is expected to consider and adopt a treaty-body wide anti-reprisals policy.

We also strongly encourage the Coordinating Committee to designate a rapporteur on reprisals to coordinate and encourage consistent best practice in follow up on cases of reprisals against those cooperating with Special Procedures. This could be part of developing an overall policy on reprisals, providing specific guidance on preventing and responding to cases.

In addition, we recommend that Special Procedures mandate holders request States designate an individual responsible for investigating allegations of intimidation or reprisals. This could be an element in the planning of country visits.

#### RECOMMENDATIONS FOR THE 22<sup>ND</sup> ANNUAL MEETING:

##### ***Recommendations to mandate holders***

- **Take such preventative and precautionary measures, including in relation to communications and country missions, as is necessary to reduce the risk of reprisals**
- **Provide an update about efforts being made to find a more institutional way of sharing information with the Human Rights Up Front initiative to help prevent reprisals**
- **Where allegations of intimidation or reprisal are made, Special Procedures should, in accordance with their legal obligations:**
  - **fully and promptly investigate the allegation;**
  - **to the extent that the allegation is verified and the safety of the victim will not be put at risk, send a communication to the State concerned which: (a) strongly condemns the act of intimidation or reprisal; (b) sets out what steps are required to prevent recurrence and provide an effective remedy; and (c) requests the State to report back urgently on the steps and measures taken in this regard; and**
  - **report publicly to the Council on cases of reprisals, including**
    - **specifically naming those States who perpetrate or fail to protect against reprisals; and**

- providing specific steps and actions that can be taken in response to reprisals
- Special Procedures should systematically request States to designate an individual responsible for investigating allegations of intimidation or reprisals as part of the TOR's for country missions.

#### ***Recommendations to the Coordination Committee***

- Provide an update on steps being taken by the Coordination Committee to develop and adopt a comprehensive policy to guide action on reprisals across the Special Procedures
- Provide an update on whether a consultation, on submitting early warning information about violations, between the Committee, OHCHR and the deputy Secretary-General has taken place and the outcome of the talks
- Continue to raise the issue of reprisals with the Secretary-General, High Commissioner for Human Rights, President of the Human Rights Council, States and civil society.
- Request all mandate holders to specifically highlight in their reports non-responses from States to allegations of reprisals and name the States in question
- Encourage all mandate holders to publish observations on communications to Governments and replies received
- Designate a rapporteur on reprisals, with authority to follow-up on cases of intimidation or reprisals, in conjunction with the mandate holders concerned.
- Maintain a publicly available (where appropriate) registry of allegations of intimidation or reprisals, potentially as part of a general database of communications. The registry and database should include clear cooperation indicators.
- Annually review cases of reprisals across all the Special Procedures and assess both the actions taken by the mandate holders and by the State concerned, and make recommendations to the Special Procedures as relevant to ensure a consistent and effective approach.
- Ensure effective coordination to follow up on cases of reprisals including by sharing particular cases of reprisals arising with respect to one mandate holder with other mandate holders where this could be relevant to an upcoming mission or report, to provide for follow up and ensure that States are held accountable in a consistent manner.

## **6. Individual cases**

The **joint communications report** of the Special Procedures is proving a useful tool for civil society. It is particularly helpful in reassuring victims and their families that action has been taken about the violation(s) they have suffered. It also allows the source of the communication to know whether the case has been taken up with a much shorter delay than previously, and provides the reference number of the correspondence. Finally, the fact that the communication letter and any available government reply is available as sent is helpful for monitoring and accountability purposes as well as for advocacy work.

However, as we did in 2012, 2013 and 2014, we again encourage the report to be organised by country, rather than chronological order, to better facilitate research and monitoring. Most NGOs and civil society members address alleged violations by reference to the country in which they allegedly took place (not the date of their occurrence), and seek to monitor cases on that basis.

To complement the joint communications report, an online database – inspired by the Working Group on Arbitrary Detention database – would be the logical next step.<sup>24</sup> Such a database should include the original communications, but also Government responses, if any, as well as follow-up steps taken by the State.

While we commend the use of **joint actions by Special Procedures**, we are concerned about the excessive delay caused by the need to coordinate with several mandate holders. We encourage Special Procedures, as is foreseen by the Code of Conduct of Special Procedures for cases where alleged violations are time-sensitive, to make use of **individual Urgent Appeals**, which could be followed up by joint action by several mandate holders.

The lack of acknowledgement of communications, and the **lack of information provided to the authors** of communications in relation to the steps taken by mandate holders is, at best, problematic. At worst, it is disenchanting and disempowering for victims. Grassroots and national organisations in particular, as well as families, are often unaware of resource or time constraints. Therefore, they have high expectations that action will be taken after a case is submitted, and high expectations of a positive result. Special Procedures should therefore, at a minimum, inform authors of receipt of communications and what, if any, steps are taken, even if only in general terms. The criteria for the selection of cases could also be made clearer.

In relation to this, the large number of **communications, which receive no government response** is of concern and undermines the effectiveness of Special Procedures' work. A proposed overall approach to enhancing State cooperation is already outlined above.

We regret that according to the 21<sup>st</sup> annual meeting report, only four Special Procedures issued observation reports on communications to Governments and replies received.<sup>25</sup> Observations reports are a key way of contextualising and analysing communications, and encourage State cooperation in that regard.

As requested in previous annual meetings in relation to the **follow-up of cases**, authors of communications should be invited to comment on responses received by Special Procedures. This is a practice that is already in place for cases provided to the Working Group on Enforced or Involuntary Disappearances and the Working Group on Arbitrary Detention. This would allow the Special Procedures to ensure they are able to make the best assessment of government replies, and would provide valuable information for the assessment of the level of cooperation (see cooperation indicators, above).<sup>26</sup>

Finally, we suggest the Special Procedures explore the possibility of working more closely with other **human rights mechanisms at regional and national levels** with regards to individual cases. For example, joint allegation letters could be sent with mandate holders of the African Commission on Human and Peoples' Rights, where this is feasible in an efficient and effective manner. It might also be beneficial for Special Procedures to be in contact with other national entities regarding individual cases and other work, for example with parliaments or national human rights institutions or ombudspersons, provided that they are established and operate in full compliance with the Paris Principles.

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<sup>24</sup> The database of the Working Group on arbitrary detention (WGAD), searchable by individual case, country, theme and opinion, is another extremely useful tool. Currently, it contains basic information about whether a State has responded to the initial communication. <http://www.unwgadatabase.org/>

<sup>25</sup> *Report on the twenty-first annual meeting*, UN doc UN doc A/HRC/28/41, Annex IX (A).

<sup>26</sup> Note that in ISHR's opinion, this form of communication would be in line with the Manual of Operations, falling under the 'specific circumstances' provided for in paragraph 37.

## RECOMMENDATIONS FOR THE 22<sup>ND</sup> ANNUAL MEETING:

- **Publish an online, regularly updated and easily accessible database of all individual cases dealt with by Special Procedures, including government responses and a qualitative assessment based on author comments and/or other relevant cooperation indicators (this database could also include cases of intimidation or reprisals linked to the work of Special Procedures, as recommended above, and any follow-up or lack thereof to those allegations)**
- **Systematically inform the author of communications of receipt, decision to act on or not, and any follow-up information received on communications in relation to individual cases**

## 7. Country visits

### PREPARATION FOR COUNTRY VISITS

The practice of the OHCHR Civil Society Section of announcing forthcoming country visits of Special Procedures mandate holders is appreciated and useful for civil society at the national level to plan their activities and engagement accordingly.

Some mandate holders have proactively initiated contact and dialogue with civil society in the planning and preparation of their country visit in order to map the contextual basis for their mission as well as determine the key expected outcomes. It is desirable that all mandate holders follow this practice, particularly by contacting those civil society organisations which have submitted case fact sheets as well as by identifying national NGO coalitions through the UPR joint submissions or shadow reports to the Treaty Bodies. Integrating civil society perspectives into the planning of country visits grants a sense of ownership to civil society, and can greatly enhance the effectiveness of the mission and contribute to follow-up activities.

### DURING COUNTRY VISITS

As has become an established practice, civil society welcomes opportunities during country visits to provide information to mandate holders. Those meetings should take place in a format that enables frank assessments of the main human rights concerns and developments, as well as suggested areas of focus, for the mission report. Mandate-holders are also encouraged to meet victims of human rights violations and, wherever possible, visit places of concern where gross and systematic violations are ongoing, particularly those in relation to the case fact sheets received. Such meetings and visits are not only of symbolic importance, but also help expedite urgent and outstanding cases.

To minimise the risk of intimidation or reprisals in connection with country visits, mandate holders are encouraged to consult closely with civil society on matters of security and, where needed, explore options of closed private meetings or alternative forms of soliciting input to help prevent reprisals as much as possible. We welcome the decision of mandate holders to suspend or abort missions where no such protections can be effectively afforded.<sup>27</sup> Where a mission is suspended or aborted, this should feature in the mandate holder's annual report to the Council, with the relevant State named and condemned.

Mandate-holders are also encouraged to insist that the State nominate an official who is the contact point in the case of any concerns about reprisals, and who can be contacted urgently at any time during the mission and after it. (See recommendations above in Section 5).

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<sup>27</sup> As was noted by a mandate holder during the 21<sup>st</sup> annual meeting, see: *Report on the twenty-first annual meeting*, UN doc A/HRC/28/41, para 56.

## FOLLOW-UP TO COUNTRY VISITS

Experience of follow-up with the Treaty Body system suggests that it is helpful to have a few priority recommendations on which to focus, at least in the immediate period following a review. The prioritisation of a few recommendations could be considered by Special Procedure mandate holders.

Good practice is being developed by mandate holders, for example, with the use of questionnaires sent to stakeholders to assess levels of implementation, for presentation in a subsequent report to the Council. It is useful to have a clear assessment of the extent of implementation, as is provided by some mandate holders already. In situations where several mandate holders visit within a short period, it might be feasible to consider joint efforts to track implementation, as happened in the situation of Darfur.<sup>28</sup>

When presenting their findings of a mission, mandate holders can also ask governments to respond within a set time-frame on the effect given to recommendations and to provide information as to the reasons why recommendations have not been implemented. States can also be encouraged to report voluntarily to the Council on their implementation of Special Procedure recommendations.

Few mandate holders are able to undertake dedicated follow-up missions, yet this is one of the most effective means of actively supporting implementation. To the extent possible, we encourage mandate holders to incorporate follow-up missions into their work plans, as well as follow-up activities, and for OHCHR to continue to support these activities.

### RECOMMENDATIONS FOR THE 22<sup>ND</sup> ANNUAL MEETING:

- **Amend the Manual of Operations of Special Procedures to ensure that, prior to conducting country visits, Special Procedures insist on the nomination by the State of an official contact point in case of any concerns about reprisals**
- **Ensure that people cooperating with Special Procedures mandate holders, particularly in connection with country visits, can do so without fear of intimidation or reprisals**
- **Mandate holders should respond to any allegations of reprisals during country visits in a timely manner, including by suspending or aborting visits as required**

## 8. Engagement of Special Procedures with international and regional forums

We welcome the participation of then Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Mr Frank La Rue, in a meeting with Security Council members, in Arria formula, on the protection of journalists in December 2013. This kind of engagement contributes to encouraging greater human rights interest by members of the Security Council, a process urged by then High Commissioner for Human Rights Navi Pillay in her final statement to Security Council members.<sup>29</sup>

We welcome participation by mandate holders in debates at the African Commission for Human and Peoples' Rights, as one piece of strengthening cooperation between mechanisms as expressed in the Addis Ababa Roadmap. Such engagement across mechanisms encourages advances on human rights concerns in different spaces, as well as solidifying working relationships between regional and international mandate holders.

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<sup>28</sup>Called for by Human Rights Council resolution HRC 4/8. Relevant mandate holders developed a consolidated chart identifying recommendations and implementation.

<sup>29</sup><http://www.un.org/News/Press/docs/2014/sc11528.doc.htm>

It is a positive sign that a review of the roadmap was conducted around the 55<sup>th</sup> ordinary session of the Commission and that common issues of interest were found across mandate holders.<sup>30</sup> We also welcome the practice of some mandate holders to hold regular ‘inter-mechanism meetings’ with their regional counterparts. We encourage further joint activities between UN and regional mechanisms to take place in close consultation with civil society, as this may significantly enhance their impact.

#### RECOMMENDATIONS FOR THE 22<sup>ND</sup> ANNUAL MEETING:

- **The Coordination Committee should provide an update as to the outcome of the most recent Addis Ababa roadmap review, particularly highlighting in what ways the review helped strengthen both international and regional Special Procedures mechanisms**
- **Mandate holders and the Coordination Committee should undertake to find effective ways to involve civil society in joint activities between international and regional mechanisms**

### Conclusion

This submission builds on previous ones, and many of the recommendation remain relevant. We see it as a contribution to Special Procedures to continuously strengthen their work and impact, so as to enhance their value for victims of human rights violations and human rights defenders to effect positive human rights change on the ground.

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<sup>30</sup> *Report on the twenty-first annual meeting*, UN doc A/HRC/28/41, para 98.









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