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**REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD
CONFERENCE ON HUMAN RIGHTS**

EFFECTIVE FUNCTIONING OF HUMAN RIGHTS MECHANISMS

Note by the United Nations High Commissioner for Human Rights

The High Commissioner for Human Rights has the honour to transmit to the members of the Commission on Human Rights the report of the twelfth meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme, which took place in Geneva from 20 to 24 June 2005.

**REPORT OF THE TWELFTH MEETING OF SPECIAL RAPPORTEURS/
REPRESENTATIVES, INDEPENDENT EXPERTS AND CHAIRPERSONS
OF WORKING GROUPS OF THE SPECIAL PROCEDURES OF THE
COMMISSION ON HUMAN RIGHTS AND OF THE ADVISORY SERVICES
PROGRAMME**

(Geneva, 20-24 June 2005)

Rapporteur: Sigma Huda

Summary

The twelfth annual meeting of mandate holders was held in Geneva from 20 to 24 June 2005. Participants at the meeting elected Philip Alston as Chairperson and Sigma Huda as Rapporteur.

During the meeting, mandate holders held meetings with representatives of non-governmental organizations (NGOs) and with representatives of United Nations agencies and programmes. They also had a meeting with representatives of the Expanded Bureau of the sixty-first session of the Commission on Human Rights and a joint meeting with participants at the seventeenth meeting of persons chairing the human rights treaty bodies.

Pursuant to Commission decision 2005/113, to launch a discussion on enhancing the effectiveness of the special procedures system, the Office of the United Nations High Commissioner for Human Rights (OHCHR) organized an informal meeting between representatives of Member States and of NGOs in consultative status with the Economic and Social Council to discuss issues related to the effectiveness of the special procedures system.

The mandate holders emphasized the importance of enhancing the effectiveness of the special procedures, both in terms of the functioning of each mandate and of the system as a whole. To this end the major focus of the meeting was the identification of specific measures which should be taken within the context of current discussions of reform of the Commission on Human Rights, the Secretary-General's proposals for reform, and the OHCHR Plan of Action, as well as measures to enhance coordination among themselves, in order to better follow up on their findings and recommendations and to communicate more effectively.

The meeting also agreed to establish a coordination committee, whose principal role will be to contribute to the ability of the individual experts to carry out their mandates in the most effective way and to promote the standing of the special procedures system within the broader framework of the United Nations and its human rights programmes. It was agreed that the Coordination Committee for 2005/06 would consist of: Philip Alston (Chairperson of the twelfth meeting), Sigma Huda (Rapporteur of the twelfth meeting), Ghanim Alnajjar, Rodolfo Stavenhagen and Leïla Zerrougui.

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Introduction

1. Since 1994, annual meetings of special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures and the advisory services programme of the Commission on Human Rights have been organized as a follow-up to the World Conference on Human Rights. The Vienna Declaration and Programme of Action underlined the importance of preserving and strengthening the system of special procedures and specified that the procedures and mechanisms should be enabled to harmonize and rationalize their work through periodic meetings (Part II, para. 95).
2. The twelfth annual meeting of special procedures was held in Geneva from 20 to 24 June 2005. It had before it a provisional annotated agenda and a series of documents prepared by the Secretariat.
3. A list of the special procedures of the Commission on Human Rights and those attending the twelfth annual meeting appears in the annex.
4. During the meeting, mandate holders held meetings with representatives of non-governmental organizations and with representatives of United Nations agencies and programmes. They also had a meeting with representatives of the Bureau of the sixty-first session of the Commission and a joint meeting with participants at the seventeenth meeting of persons chairing the human rights treaty bodies.
5. Pursuant to decision 2005/113 of the Commission on Human Rights, to launch a discussion on enhancing the effectiveness of the special procedures system, OHCHR organized an informal meeting between representatives of Member States and of non-governmental organizations (NGOs) in consultative status with the Economic and Social Council to discuss issues related to the effectiveness of the special procedures system.

I. ORGANIZATION OF WORK

6. In the absence of Theo Van Boven, the Chairman of the eleventh annual meeting, who resigned as Special Rapporteur on the question on torture in December 2004, the meeting was opened by Hina Jilani, the Chairperson of the tenth meeting.
7. Philip Alston was elected Chairman and Sigma Huda was elected Rapporteur of the twelfth annual meeting.
8. Owing to the in-depth discussions on enhancing the special procedures system and the wider United Nations reform which took place during the meeting, there was no time to discuss the agenda item on "The role of special procedures in early warning and prevention of human rights violations", which had been originally proposed as agenda item 5.
9. The participants adopted the present report on 24 June 2005.

II. DISCUSSION WITH THE HIGH COMMISSIONER FOR HUMAN RIGHTS

10. In her opening statement, the High Commissioner noted that the twelfth meeting came at a time when the United Nations was embarking on the most significant reform since its creation. On the one hand, there was growing recognition of the key role played by special procedures for the better protection of human rights, but on the other hand, the system was facing a number of challenges. She recommended that the participants reflect upon those challenges, review the way in which mandate holders performed their tasks, think about the way they interacted with the broader system, and identify the steps to be taken to ensure that human rights were protected in the most effective manner. The ongoing review of the special procedures system should continue to address the improvement of their working methods, in addition to issues such as the eligibility and selection of the mandate holders and the need to follow up on their recommendations.

11. The High Commissioner reiterated her readiness to engage with mandate holders more systematically with a view to complementing each other's work, noting that such an engagement would not only address questions of increasing resources but would also allow the establishment of a more coherent working framework. She encouraged the mandate holders to enhance and strengthen coordination among themselves and to reflect on the desirability of setting up a mechanism that would coordinate inputs from all the mandate holders on joint actions and initiatives with a view to improving the special procedures system.

12. The High Commissioner referred to the proposals contained in her Plan of Action which could assist and support mandate holders in major aspects of their work, such as an effective follow-up to their recommendations. For example, in its dialogues with Member States her Office would ensure that the observations and recommendations of the special procedures were an important basis for action. Developing and strengthening the substantive thematic expertise of the Office would also benefit the work of the mandate holders when undertaking studies and research. A better linking of the work of special procedures to other parts of the Secretariat, OHCHR field presences and the United Nations country teams would increase the impact of the work of mandate holders and their recommendations, particularly at the country level.

13. For their part, participants also stressed the need for more effective follow-up to the work of special procedures, including through the assistance of the High Commissioner. In particular, participants encouraged the High Commissioner to follow up on the field missions of special procedures in her direct contacts with States. One participant encouraged the High Commissioner in her commitment to produce an annual report, noting that while resource intensive and politically sensitive, such a report could become an essential tool in guiding human rights discourse in the future. One participant raised the question of staffing, noting that there had been a number of changes in the staff supporting his mandate, and that effective special procedures depended not only on good mandate holders, but also on competent staff.

14. The exchanges of views and the various proposals made during the discussion with the High Commissioner are reflected in section IX below.

15. The High Commissioner attended a later meeting with the mandate holders to be briefed on the outcome of their discussion. Mandate holders emphasized the need to continue receiving

adequate support from OHCHR and expressed their wish to see an increase in the resources allocated for their respective functions and activities. They reminded the High Commissioner that the credibility of the system required that it function effectively and that it receive adequate support, including financial support. Adequate resources were also required to enable them to implement the initiatives adopted during the meeting, including those required by the new Coordination Committee. The mandate holders, while acknowledging that increasing resources was important, nevertheless expressed their readiness to better utilize existing resources and explore with the High Commissioner the possibility of using other resources within the United Nations system.

16. The High Commissioner noted that she believed that any increase in OHCHR regular budget resources would be enjoyed across the board, including by special procedures. At the same time, strengthening other parts of the Office would also lead to direct and indirect benefits for special procedures by strengthening of the whole human rights system. She welcomed the establishment of the Coordination Committee.

17. Increases would ideally come from the regular budget, which ultimately should lead to a reduction in the percentage of resources from extrabudgetary sources and therefore greater predictability. The Office would encourage considerably less earmarking by larger donors of extrabudgetary resources for specific projects, while encouraging smaller donations from a number of other countries. Additional resources would not be used to duplicate the work of other agencies.

III. SHARING OF EXPERIENCES AMONG MANDATE HOLDERS

18. Under this agenda item, the mandate holders exchanged their experiences in fulfilling their respective mandates, including problems deriving from the lack of cooperation from certain Member States, the lack of information on specific situations, a lack of adequate resources, etc. Most of the points raised by the speakers addressed possible proposals to be made by the meeting in the context of the current reform of the United Nations and the ongoing discussions on enhancing the effectiveness of the special procedures. Those proposals are reflected in the reports of the four working groups (see below).

19. In the course of the discussions, a number of mandate holders raised specific issues of concern that the meeting felt should be reflected in its report to the Commission on Human Rights. In particular, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health raised with the meeting the follow-up to the request by the eleventh annual meeting that the four mandate holders should together visit “those persons arrested, detained or tried on grounds of alleged terrorism or other violations, in Iraq, Afghanistan, the Guantánamo Bay military base and elsewhere, with a view to ascertaining ... that international human rights standards are properly upheld with regard to these persons, and also to make themselves available to the authorities concerned for consultation and advice on all issues within their areas of competence” (E/CN.4/2005/5, annex I.A). At the end of the discussion, the meeting agreed to support their initiative to hold a press conference and issue a press statement on that situation.

20. Other issues addressed by several mandate holders were the following:
- Commemoration of the sixtieth birthday of the human rights defender Aung San Suu Kyi, and the need to pay tribute to her work as a symbol of human rights promotion;
 - The famine threatening sub-Saharan Africa;
 - Recent mass forced evictions in Zimbabwe;
 - Discrimination faced by peoples of African descent all over the world;
 - The situation of people detained for their political activities in Belarus;
 - The lack of follow-up within the United Nations to the Advisory Opinion of the International Court of Justice dated 9 July 2004 on the “Legal consequences of the construction of a wall in the Occupied Palestinian Territories”.

A. Presentation of the thematic database

21. Under this agenda item, the Special Procedures Branch of OHCHR gave a presentation on the role of the Quick Response Desk and the thematic database in the processing, sending and filing of communications. Particular attention was given to the information tools developed through the search capacity of the new database, including monthly bulletins on communications, statistics on trends of each mandate, the number of individuals covered, the number of countries to which communications had been sent, the countries with the highest number of communications and Government replies; analyses of communications sent to and replies received from countries to determine trends; and “good news” stories, that is, communications that had produced results.

22. It was suggested that the information in the database could also feed into peer review efforts, serve as a monitoring tool and help to evaluate the scope of the mandate holders’ work. Consideration could also be given to a possible format whereby the mandate holders’ work could be made available on the Internet for public comment. Availability in all United Nations languages was also a concern. It was also noted that as of August 2005, the Working Group on Enforced or Involuntary Disappearances would also make use of the facilities provided by the thematic database.

23. It was further suggested that a steering committee be established to study the question of communications, consulting with mandate holders on important questions and proceeding with analysis and action on less contentious issues.

B. Secretary-General’s study on violence against women

24. Rachel Mayanja, Special Adviser to the Secretary-General on Gender Issues and the Advancement of Women, gave a presentation on the Secretary-General’s study on violence against women. The study, under the responsibility of the Division for the Advancement of Women, was expected to be finalized by June 2006. Its goal was to strengthen political

commitment and joint efforts towards addressing the problem and identifying means for more effective implementation of related obligations. The process included the constitution of a task force comprising United Nations and non-governmental entities, and of a high-level advisory committee; a series of consultations with different stakeholders; and two expert group meetings, held earlier in 2005. It would also draw on the input of Member States and their reports under the Convention on the Elimination of All Forms of Discrimination against Women.

25. The Division was reviewing the work of the special procedures of the Commission on Human Rights on the issue, and Ms. Mayanja welcomed the views and recommendations of the special procedures, with particular respect to:

- The linkages between violence against women and their mandates;
- Reasons for insufficient implementation of international frameworks at the national level with regard to their mandates;
- Suggestions for good practices in preventing or eliminating violence against women.

26. Mandate holders suggested that particular emphasis should be placed on reporting more incidents of rape, notably in post-conflict situations, and the need for corresponding action-oriented efforts; the need for satisfactory legislation against such violence; the relevance to the problem of trafficking, migration and internal displacement; the role of social and economic exclusion, including highlighting the linkages to denial of land and housing rights and to education; and recent developments in the adoption into national penal codes of jurisprudence coming from international criminal tribunals, such as those for Rwanda and the former Yugoslavia. All were areas of possible future cooperation on the study.

27. Ms. Mayanja assured the group that every effort was being made to minimize duplication with other efforts, while fulfilling the mandate provided by the General Assembly.

IV. INFORMAL MEETING WITH MEMBER STATES AND NGOs IN CONSULTATIVE STATUS

28. During the session mandate holders met, pursuant to Commission decision 2005/113, with Member States and NGOs in consultative status to discuss the enhancement and strengthening of the special procedures system. As a basis for the discussion, papers submitted by the African Group, the Asian Group, the Eastern European Group, the Latin American and the Caribbean Group and the Western European and Other States Group, Japan, Romania and the United States of America, as well as by OHCHR, had been circulated to all the participants in advance. The High Commissioner participated in the meeting and made an introductory statement, emphasizing the need for cooperation.

29. During the discussion, a consensus emerged on the need for the special procedures system to be strengthened in order to be more effective and have more of an impact. All participants also agreed that a substantial increase in resources should be allocated to permit OHCHR to strengthen its support to the special procedures. In that respect, all participating Member States underlined the importance of securing an increased level of funds from the regular budget of the United Nations.

30. Participants emphasized that a crucial feature of a properly functioning system of special procedures was effective cooperation between States and the special procedures, at all levels of their interactions. Underlining that States were the principal actors in the promotion and protection of human rights, and therefore the main recipients of the recommendations and requests for information from the special procedures, participants called for a constructive and continuous dialogue to be established between States and special procedures mandate holders, the modalities for which needed to be discussed and agreed jointly. The need to identify ways of addressing cases when Governments refused to cooperate with the special procedures was particularly stressed by many speakers.

31. The lack of adequate time for a proper interactive dialogue during the sessions of the Commission was raised. It was proposed that a specific segment for the special procedures be held at the beginning of the session. Many speakers called for the involvement of NGOs in the interactive dialogue.

32. The need to address the issue of the selection and appointment of the mandate holders, including by establishing criteria for the inclusion of candidates on the roster maintained by OHCHR and ensuring greater involvement by OHCHR in the selection of appropriate candidates, was highlighted.

33. The enhancement of the working methods of the special procedures was addressed by most speakers. In this respect, there were diverging views on the need for, and the possible format and status of a proposed document formalizing the working methods of the special procedures and to some extent delineating their mandates; some speakers proposed that a manual of operations or a code of conduct be drafted, while many were opposed to any such formalization.

34. Calls were also made for greater coordination in the work of the special procedures, inter alia with respect to their requests for visits, their communications on alleged violations of human rights and their public statements on specific or common issues of concern. In respect of the last, support was expressed by many speakers for the prerogative of the special procedures to use public statements and press releases to express their concerns on specific situations. Joint public statements in serious situations of common concern were strongly supported.

35. In a joint statement, 22 NGOs proposed measures to strengthen the special procedures, recommending that they be discussed further at the seminar to be held in September (see para. 37). The proposed measures included: special procedures' response to emergency situations; regular reporting of activities and active engagement of civil society; a right of access to all countries; an expanded interactive dialogue; greater cooperation by States; an improved selection process for mandate holders; a substantial increase in regular budget funding for the special procedures.

36. The need to take into account, in the process of the reform of the special procedures, the wider reform of the United Nations, especially the proposed reform of the Commission on Human Rights, was also highlighted. In particular, the relationship between the special procedures and the proposed "peer review" under the mandate of the Human Rights Council should be given careful consideration in future discussions. All agreed that in any case, no "peer review" mechanism should replace the special procedures system or duplicate its work.

37. Further discussions on the question of the enhancement of the special procedures would take place between Member States, the special procedures mandate holders and non-governmental organizations during an open-ended seminar to be organized by OHCHR from 5 to 7 September 2005 in Geneva.

V. CONSULTATIONS WITH NON-GOVERNMENTAL ORGANIZATIONS

38. Participants met with representatives of several NGOs to exchange views, in particular on issues related to the special procedures in the context of the United Nations reform process, initiatives to follow up on mandate holders' recommendations and country visits, and issues related to emerging cross-cutting themes, including sexual orientation.

39. All participants highlighted that the independence, impartiality and functions of special procedures in a Human Rights Council needed to be maintained and strengthened. They stressed that the Human Rights Council should allow for more thorough and regular consideration of the special procedures' work and guarantee that effective, consistent and sustained access was provided to mandate holders. The participants also stressed the need for the Human Rights Council to respond to recommendations of special procedures and to ensure that its decisions were properly followed up. A peer review mechanism should benefit from input from the special procedures on a sustained basis.

40. A number of participants also referred to the High Commissioner's Plan of Action, which not only recognized the importance and valuable work of the special procedures but also offered opportunities to strengthen their work with a view to increasing their impact and effectiveness.

41. The importance of systematic follow-up to mandate holders' recommendations and communications was also addressed by a number of NGOs. They reiterated that the primary responsibility for implementing mandate holders' findings remained with States and stressed the importance of scrutinizing States' cooperation to that effect.

42. A number of suggestions were made to facilitate that process: mandate holders could draft more targeted recommendations, could prioritize their recommendations, and differentiate between those with and without budgetary implications. OHCHR could also ensure that the recommendations were integrated into its overall workplan and objectives, entrusting a particular role in that regard to the geographic desk officers.

43. The discussion then turned to the emerging cross-cutting themes, particularly human rights violations on the grounds of sexual orientation and gender identity. NGO representatives presented a publication containing excerpts of the authoritative findings, jurisprudence and commentary of treaty bodies, special procedures, the Sub-Commission on the Promotion and Protection of Human Rights and the Office of the United Nations High Commissioner for Refugees (UNCHR) with explicit reference to sexual orientation. They drew attention to the fact that discrimination on the ground of sexual orientation was widely practised and that persons suffering such discrimination were more exposed to human rights violations and were less likely to claim their rights and obtain remedies. States should take measures to curb discriminatory laws and practices and take initiatives such as the enactment of non-discrimination legislation, including the prohibition of discrimination on the ground of sexual orientation.

44. The following suggestions were made for future action:

(a) Mandate holders should organize themselves so as to feed effectively into the United Nations reform process;

(b) Focal points should be designated for intersessional liaison;

(c) A review of progress made regarding the recommendations arising from the meeting should be initiated for the next annual meeting in 2006.

45. Mandate holders expressed their appreciation for the work done by NGOs in connection with their mandates and also suggested that NGOs designate focal points for an ongoing dialogue throughout the year with respect to issues addressed during the meeting, as well as issues of common interest.

VI. CONSULTATIONS WITH THE UNITED NATIONS SYSTEM

46. Participants met with representatives of UNHCR, the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Development Programme (UNDP), the Food and Agriculture Organization of United Nations (FAO) and the World Bank to exchange views on the interaction between the special procedures mandate holders and the organizations and bodies of the United Nations system, including the specialized agencies.

47. The meeting began with presentations by individual agencies. The representative of UNHCR, noting the close link between human rights law and refugee law, underlined the importance of the work of special procedures to the work of UNHCR. At the same time, the representative highlighted the need to strengthen cooperation in order to avoid duplication. The representative of UNESCO referred to the work on human rights within that organization, noting the particular relevance of the work of the Special Rapporteur on the right to education. The representative of UNDP gave an example of excellent cooperation between the United Nations Country Team in Uzbekistan, OHCHR and the Special Rapporteur on torture when he visited the country. All partners had worked closely together in the preparations for the mission, during the mission, as well as on follow-up. The representative noted the importance of constant dialogue with the resident coordinator from an early stage in the preparations for missions. Finally, the representative of the World Bank noted the organization's appreciation for the close cooperation it had had with special procedures, in particular the Special Rapporteur on the right to the highest attainable standard of physical and mental health and the independent expert on the effects of economic reform policies and foreign debt on human rights. However, the representative also noted concern about the appointment of mandate holders, suggesting that time limits could be set on the terms of appointment and that a mid-term evaluation could be undertaken prior to extension of the mandate. A lack of resources continued to be an operational limitation for special procedures.

48. The presentations were followed by an exchange of experiences on cooperation with the United Nations system. Several participants, noting their heavy reliance on United Nations agencies, particularly country teams, described both successful and challenging experiences. Some participants highlighted the critical role of resident coordinators, particularly in the preparation of and follow-up to missions; however, such cooperation often depended on the

willingness of individual resident coordinators. Consequently, there was a need to systematize and generalize cooperation. One participant suggested that United Nations country teams and OHCHR could hold local meetings, presenting the mission reports and recommendations so as to increase awareness of and follow-up to missions.

49. Participants also stressed the importance of sharing information. In particular, there was a need for greater dissemination of information among United Nations agencies on the special procedures themselves and on their role. Similarly, while the sharing of information between United Nations agencies and mandate holders was important for the mandates, representatives of United Nations agencies were sometimes unsure as to whether information could be shared.

50. Several participants discussed the relevance of human rights mainstreaming in United Nations agencies. Economic, social and cultural rights were particularly relevant to United Nations agencies and the World Bank, not least because denial of those rights could lead to violations of civil and political rights. Some participants highlighted the importance of promoting the right to education as a means through which other rights could be realized. Similarly, poverty had important linkages with the phenomena of trafficking and migration. One participant noted that cooperation between special procedures and United Nations agencies was important for the effective integration of human rights in national development plans, the Common Country Assessment / United Nations Development Assistance Framework process and in the development of poverty reduction strategies.

51. Participants also discussed the importance of joint action. There was a need to improve dialogue between United Nations agencies and special procedures, while at the same time safeguarding the critical independence of mandate holders. Similarly, special procedures, as independent experts, could make statements on issues that might be too risky for United Nations agencies, particularly country teams, to make. This could support United Nations work on difficult issues. Special procedures, in turn, depended on the wisdom of United Nations agencies.

VII. COOPERATION WITH THE HUMAN RIGHTS TREATY BODIES - THEMATIC DISCUSSION ON “HUMAN SECURITY”

52. The seventh joint meeting with the chairpersons of the human rights treaty bodies was co-chaired by Mr. Alston and Fernando Mariño Menendez, Chairperson of the meeting of chairpersons.

53. The discussion was introduced by OHCHR, which provided recent information on human rights and human security. It was noted that, at its recent session, the Commission had established a new special procedure concerning human rights and counter-terrorism. The mandate holder, yet to be appointed, would undertake the traditional functions of special procedures such as country visits, but also bring concerns to United Nations bodies, including the Security Council, and report to the General Assembly or the Commission when necessary. Importantly, the mandate holder would coordinate with other special procedures on issues relating to counter-terrorism.

54. It was noted that the United Nations system more generally had continued discussing linkages between human security and human rights, most notably within the context of the

current United Nations reform, which highlighted security, development and human rights as the three pillars of the organization. It was suggested that the discussion within the United Nations on human security and counter-terrorism should be more strongly linked to human rights, particularly in the context of the Security Council Committee on Counter-Terrorism. It was also suggested that wider economic and social issues should also be taken into account in the discussion.

55. Participants welcomed the initiatives to enhance respect for human rights in counter-terrorism efforts, and stressed that a broad understanding of human security and respect for human rights must form the basis of a successful counter-terrorism strategy. They were concerned that a range of human rights could be violated by certain anti-terrorism measures. These included civil and political rights such as the right not to be tortured, freedom of association, and the right to non-discrimination on the basis of sex, race, or ethnic origin; and economic, social and cultural rights such as the right to adequate housing or the right to food. Some participants noted that the absence of a definition of terrorism facilitated the use of anti-terrorism measures that violated human rights.

56. Following a suggestion by the Chairpersons, the participants discussed initiatives to reform the United Nations human rights framework, including the proposal for a standing, unified treaty body, but stressed that the proposal needed in-depth discussion among all stakeholders. Several participants underscored that the expertise developed by the existing treaty bodies must not be lost in any harmonization process. Several participants raised the legal issues that might be relevant with respect to the proposal and the concern that a unified body might not be able to address the specificities of the respective treaties. Participants called for broad consultations on the proposal with members of treaty bodies, special procedures mandate holders, States, NGOs and others.

57. The chairpersons of the treaty bodies reported on the progress made to draft an expanded core document, which would facilitate reporting by allowing States parties to report on the implementation of human rights norms that were common to the various treaties (referred to as “congruent” provisions) in one document. They highlighted the challenge of streamlining the reporting process without neglecting the specificities of each treaty.

VIII. SPECIAL PROCEDURES AND THE COMMISSION ON HUMAN RIGHTS

58. Participants held a meeting with the Expanded Bureau of the sixty-first session of the Commission on Human Rights. In his statement, the Chairperson of the Commission, Ambassador Makarim Wibisono, affirmed the vital importance of the special procedures to the work of the Commission and paid tribute, on behalf of the Expanded Bureau, to all mandate holders for their dedication and commitment. The Chairperson referred to the six new mandates that had been established at the sixty-first session and indicated that the Expanded Bureau had focused considerable attention on the issue of appointments since the conclusion of the session. In such efforts, the Bureau was guided by the principles set out in Commission decision 2000/109, in particular that expertise, integrity, independence and impartiality were of paramount importance with regard to the selection of mandate holders, with due regard given to overall geographical and gender balance among mandate holders, as well as to ensuring familiarity with different legal systems.

59. Mandate holders echoed the Chairperson's call for mandate holders to be selected on the basis of independence, expertise and impartiality alone, which would exclude Government officials from being eligible. Noting the need to promote geographical diversity among mandate holders, they underscored that no specific mandate should be reserved for a mandate holder from a specific region and that no region should be granted the exclusive privilege of nominating candidates for a specific mandate.

60. The Expanded Bureau was also informed about the establishment of the Coordination Committee, to be composed of five mandate holders, to oversee the overall coordination of special procedures' activities, including within the context of the reform discussions. It was suggested that the Committee could also consider and address a number of the issues raised in the current discussion, such as the need to avoid overlap and duplication of activities, to reduce the burden on States that were the subject of numerous visits by different mandate holders, to address lack of cooperation by some States, and the need for increased cooperation with civil society.

61. The mandate holders reiterated their support for the proposal to increase the resources allocated to OHCHR from the regular budget of the United Nations and called upon the Expanded Bureau also to support this proposal as a priority in any discussions on reform.

62. The participants also discussed the proliferation of mandates and its potential impact on the Commission's time management. While the importance of the interactive dialogue in enhancing communication between the special procedures and the Commission was acknowledged, several participants noted that there was still room for improvement, particularly with regard to time allocation. Suggestions were made on possible ways to enhance the usefulness of the interactive dialogue, including through the involvement of non-governmental organizations. Members of the Expanded Bureau noted that dialogue with the special procedures was not limited to the Commission's annual session, and encouraged increased communication with regional groups during the intersessional period.

63. Mr. Alston stated his personal view that the Commission could only respond to the doubts expressed about its credibility if it dealt with all truly serious human rights crises in the world on its agenda; that would make it necessary for the special procedures, which reported on virtually every such crisis, to be given a prominent role. A peer review mechanism in the framework of the Human Rights Council would only be credible if it took into account the reports of special procedures.

64. All participants concurred that the current format of the Commission allowed too little time for meaningful interactive dialogue between mandate holders and the Commission. Hope was expressed that the creation of the proposed Human Rights Council would solve the time problem, since it would be in permanent session. Several participants noted that human rights should be more fully integrated into the work of the United Nations as a whole and that the special procedures should also be given access to United Nations organs other than the proposed Human Rights Council. Some participants also encouraged the Expanded Bureau to devote a specific item to follow-up on the country-specific recommendations of the mandate holders.

IX. MEASURES TO ENHANCE THE EFFECTIVENESS OF THE SPECIAL PROCEDURES SYSTEM

65. The mandate holders emphasized the importance of enhancing the effectiveness of the special procedures both in terms of the functioning of all individual mandates and of the system as a whole. To this end the major focus of the meeting was the identification of specific measures which should be taken within the context of current discussions of reform of the Commission on Human Rights, the Secretary-General's proposals for reform, and the OHCHR Plan of Action. Based on intensive work carried out by four working groups, the meeting agreed upon the following steps designed to ensure that the special procedures system would be able to carry out effectively its role at the core of the United Nations human rights programme.

A. Special procedures and the reform process

1. The mission of the special procedures system

66. The hallmarks of the special procedures system are its independence, impartiality and objectivity. Its ability to monitor the situation in any country of the world in relation to the specific mandates established by States within the framework of the Commission on Human Rights ensure that it plays a crucial role within the overall United Nations human rights system. It is uniquely placed to act as an early warning system in relation to situations involving serious human rights violations. It is thus essential that the special procedures be accorded full and free access to all countries. Mandate holders must also be assured appropriate access, on an effective and consistent basis, to all bodies within the United Nations system dealing with issues of human rights. Their ability to act in a timely fashion is also of the essence.

2. Specific issues

(a) Appointment of mandate holders

67. The overriding considerations in the appointment of mandate holders should be to ensure the highest standard of professionalism and independence. The requisite independence and impartiality are not compatible with the appointment of individuals currently holding decision-making positions within the executive or legislative branches of their Governments. While recognizing the importance of ensuring overall regional diversity, there should be no link between a given region and any particular mandate. Such linkage would undermine the emphasis on finding the individual who is most highly qualified for a specific mandate. It is essential that a gender balance be achieved in relation to the overall list of mandate holders.

68. To facilitate the identification of the most qualified persons, the High Commissioner should actively seek advice from States, civil society and all other relevant parties in the preparation of a list of potential appointees. Appointments should remain the ultimate responsibility of the Chair of the Commission/Council, with appropriate inputs by the High Commissioner.

(b) Relations with the Commission/Council

69. An interactive dialogue with States and civil society is an indispensable part of the process. The existing arrangements whereby each mandate holder is accorded only a few minutes to present a report and to respond to a range of questions from Governments is inadequate. Despite the enormous time demands upon the Commission/Council, the centrality of the special procedures system makes it necessary to ensure the allocation of more time. For this purpose consideration might be given to the establishment of a special segment devoted to the discussion of key concerns with mandate holders; however, this should not exclude their participation in discussions under other parts of the agenda.

(c) Relationships with stakeholders

70. In addition to the initiatives described in this report, which are designed to ensure more effective coordination among the mandate holders and a more consistent input on their behalf into broader discussions of United Nations reform, the mandate holders have identified various other dimensions which needed to be strengthened.

(d) Relationship with OHCHR

71. The partnership between the mandate holders and the Office must be designed to ensure the availability of the necessary resources and expertise and to protect the independence of the experts in carrying out their mandates. In the context of future reforms, strengthening and increased professionalism on the part of the services provided to mandate holders is indispensable. The system is radically underfunded and in need of greater expertise. The Coordination Committee is requested to obtain the agreement of the mandate holders in the course of 2005/06 to specific proposals to be put to OHCHR to promote this objective.

(e) Relationship with States

72. In addition to the specific proposals adopted in relation to follow-up (see paras. 85-96 below) the meeting emphasized the need to promote universal adherence to the system whereby States extend a standing invitation to the special procedures. The fact that only 52 States have currently issued such an invitation is inconsistent with calls by States for the special procedures system to operate in a balanced and comprehensive manner. Full and unhindered access is an essential component of efforts to ensure the credibility of the United Nations human rights system.

(f) Relationship with civil society

73. The meeting emphasized the vital role played by civil society in the protection of human rights and in contributing to the effective functioning of the special procedures. The role of human rights defenders is indispensable and must be protected and facilitated.

(g) Relationship with the United Nations system

74. The role of the United Nations country teams in contributing to the implementation of recommendations emerging from the special procedures is of great importance and every effort should be made to integrate measures responding to these recommendations into United Nations programmes and activities at the country level and elsewhere.

3. Peer review

75. If a system of peer review is introduced in connection with the creation of a Human Rights Council, the reports emanating from the special procedures system should be an integral part of the relevant process.

4. Early warning function

76. The special procedures system has a responsibility to act as an early warning mechanism in relation to situations involving serious violations of human rights. If the Commission/Council is to operate on a more continuous basis in the future (a “standing” body), it would be appropriate for the mandate holders, especially acting through their Coordination Committee, to call the attention of the Commission/Council to the need for urgent action such as the convening of a special session. More effective use should also be made in this regard of the possibility of engaging with the Security Council, whether on the basis of the Arias formula or some other basis.

5. Accountability

77. The concept of accountability is central to the role of the special procedures and to that of the Human Rights Council in responding to their reports. Thus, the Council has an obligation to respond appropriately to the recommendations of the special procedures, and there should also be a role for the Council’s Bureau in ensuring follow-up to the decisions taken. Where the Council fails to act, the responsibility inevitably falls to other United Nations organs and to civil society.

B. Enhanced coordination

78. The Meeting agreed to establish a Coordination Committee, whose principal role will be to contribute to the ability of the individual experts to carry out their mandates in the most effective way and to promote the standing of the Special Procedures system within the broader framework of the United Nations and its human rights programs. It was agreed that the Coordination Committee for 2005-06 would consist of: Philip Alston (Chairperson of the annual meeting), Sigma Huda (Rapporteur of the annual meeting), Ghanim Alnajjar, Rodolfo Stavenhagen, and Leila Zerrougui.

79. The Committee’s proposals will be of a recommendatory nature, designed to play a facilitative role. The Committee will have no role in relation to the substantive issues being dealt with by each special procedure. Its overall role will be limited in order to avoid an excessive workload for its members and to ensure the independence and autonomy of mandate holders.

80. The mandate will be reviewed by the meeting of special procedures in 2006 in light of experience in the first year.

81. The Committee's main function is to seek to assist coordination among mandate holders and to act as a bridge between them and the OHCHR, the broader UN human rights framework, and civil society. Consequently, it should play a role in:

(a) Enhancing the effectiveness and independence of mandate holders and facilitating their work;

(b) Being available to mandate holders to share experience concerning methods of work;

(c) Ensuring that the concerns of the Special Procedures system are taken into account in the reform process, and reporting on the developments and progress in this regard;

(d) Proactively identifying issues of concern to groups of mandates and facilitating joint action on cross-cutting issues or issues of shared concern;

(e) Structuring the exchange of information and in particular keeping mandate holders informed of the activities carried out by colleagues; and

(f) Proposing a draft agenda for the Annual Meeting of the Special Procedures and presenting a report to the Meeting.

82. The Coordination Committee will not be a policy making body, nor will it set priorities or have a role in relation to substantive issues, except to express the collective concerns of the experts. It will not deal with issues of resources available to individual Special Procedures.

83. The Coordination Committee will consist of five members, including the Chairperson and the Rapporteur of the annual meeting. The Chairperson and the Rapporteur will select three more members from a list of nominees submitted to them by mandate holders. Those members shall be selected with a view to ensuring appropriate balance and diversity in terms of country and thematic mandates, geographical balance, gender, and experience in the special procedure system. There should be some continuity over time in the composition of the Committee.

84. The Coordination Committee members should be in touch via internet and conference calls. If need be, they should meet at an appropriate time during the course of the year, and should meet informally one day before the annual meeting. The Committee should oversee the development of a more effective system of communicating among mandate-holders involving an interactive webpage or 'blog' open only to the experts themselves. The Coordination Committee needs to be provided with sufficient secretariat assistance so that the workload of the relevant mandate holders is only minimally increased.

C. Follow-up

85. *Defining follow-up.* The meeting understood "follow-up" as encompassing the variety of measures taken to encourage, facilitate and monitor the implementation of recommendations by any of the special procedures. The different procedures involve diverse methods of work, and

appropriate methods of follow-up will vary according to factors such as whether the mandate is thematic or geographic, the significance of technical cooperation, and the cooperation and goodwill of the Government(s) concerned.

86. *Adapting to the circumstance.* In identifying ways to follow up on recommendations, the approach will vary according to the context, such as in cases:

- Where Governments do not respond to requests for invitations from a thematic procedure, or, in the case of a geographic mandate, where the Government concerned refuses to permit a visit or to engage in any dialogue with the relevant procedure;
- Where a Government that has extended a standing invitation to all special procedures does not respond favourably to a request for a visit by a special procedure;
- Where a visit has taken place but the Government ignores the recommendations made and does not respond in a meaningful way to requests for information on follow-up activities;
- Where a visit has taken place and the Government is trying to implement the recommendations but is confronted with various obstacles; and
- Where a visit has taken place and the Government is implementing the recommendations by the special procedure.

87. *Partnerships.* Interaction with a range of partners should be taken into account when devising specific follow-up measures. They include: (a) Governments, which are the main “implementers” of recommendations; (b) OHCHR; (c) the United Nations system, in particular, the United Nations country team; (d) national human rights institutions; (e) parliaments; (f) civil society organizations; (g) other intergovernmental organizations, such as the World Bank, the International Monetary Fund and the World Trade Organization; and (h) donors, especially in the case of mandates with a strong focus on technical cooperation.

88. *Communications.* Follow-up to communications is also particularly important. Leaving aside the specific individual communications procedures of the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances, there is a distinction to be drawn between urgent actions and allegation letters. In both cases the setting of a deadline for a Government reply is desirable and makes it clear that reminder letters are appropriate. In relation to follow-up to both forms of communication, the anonymity of the sources must be protected. Methods involving the communication of general concerns, such as the issuance of a press release, or the sending of a letter to the authorities that do not follow the typical formats, should also be the subject of appropriate follow-up.

89. *Enhancing recommendations.* In order to facilitate follow-up measures, the recommendations adopted by special procedures should: (a) be concrete and realistic; (b) indicate priorities; (c) acknowledge their financial/budgetary implications and, when relevant, should encourage technical cooperation; and (d) indicate whether the implementation of the recommendation requires only Government action or involves a wider political reform process; and (e) indicate where implementation might involve external partners.

90. *Regular follow-up.* Each special procedure should consider providing information on measures that have or have not been undertaken to implement the recommendations made after a country visit, including information on possible obstacles met. Such information should be obtained from Governments, national human rights institutions, the United Nations country team, relevant United Nations agencies and NGOs. A standard questionnaire should be developed for that purpose and sent regularly to the relevant partners identified in the concerned countries. Inputs received will be the basis of a report on follow-up submitted annually to the Commission on Human Rights / Human Rights Council.

91. *Statistical information.* The meeting requested OHCHR to present a separate annual report to the Commission/Council containing: (a) statistics reflecting the responses to requests for visits by special procedures, disaggregated by mandate, country and region, and indicating whether the response had been positive, negative, or non-existent, and whether a scheduled visit had to be postponed and the reason therefor; and (b) statistics reflecting responses to communications, disaggregated by type of communication, mandate, country and region, and indicating whether the response adequately addressed the substance of the allegation raised in the communication.

92. *Role of OHCHR.* OHCHR should play an enhanced role in follow-up. Specifically: (a) the High Commissioner or her Deputy should organize regular meetings with the Governments concerned in order to promote follow-up to specific recommendations; (b) recommendations by special procedures should be raised by the High Commissioner or her Deputy in the course of official country visits; and (c) OHCHR could organize workshops to follow up on recommendations by special procedures and identify obstacles thereto. Such workshops could involve all special procedures that had visited the region, subregion or country recently; they could also be thematic.

93. *Technical cooperation.* OHCHR technical cooperation programmes should be fully attuned to the work of the special procedures. In this spirit: (a) criteria such as cooperation with the special procedures are relevant in determining the nature of a technical cooperation programme; (b) when a country has been visited by a special procedure, the resulting recommendations must form an integral part of the technical cooperation project; and (c) in responding to requests for technical cooperation, consideration might be given to involving the most relevant special procedure(s), either through participation in the needs assessment mission or through a visit to the country, perhaps on the basis of a preliminary situation assessment by OHCHR.

94. *Commission/Council.* To enhance the role of the Commission/ Council: (a) an item on "Follow-up to fact-finding missions by the special procedures" should be added to the agenda; and (b) all mandate holders, prior to holding their interactive dialogue during the Commission/ Council session, should meet or correspond with the representatives of the countries they have visited, in order to discuss with them steps undertaken to implement their recommendations as well as possible obstacles thereto.

95. *Reminder letters.* Such letters should be sent regularly to Governments that do not respond, or do not respond satisfactorily, to communications within the established deadlines.

96. *Annual meeting.* At each annual meeting of the special procedures, an agenda item should be devoted to discussing follow-up, and in particular to reviewing specific situations of concern to mandate holder(s).

D. Enhanced profile and a strategy for communicating more effectively

97. The starting point is the imperative need to enhance the public profile of the special procedures, both individually and as a system. One aspect of that involves the development of a coherent and articulate communications policy, to be carried out at various levels. The first level is among the mandate holders themselves, and is addressed in the context of enhanced coordination (paras. 78-84) above. The second level is with the Human Rights Council, and is addressed above (paras. 67-77). The third is the need for a more systematic and in-depth dialogue with the relevant United Nations agencies.

98. The fourth, and perhaps most important, level is with the general public. Measures to be considered include: (a) improved dissemination of annual reports and mission reports, and more effective use of joint statements and press conferences on issues of importance; (b) posting all mission reports on the Internet as soon as they are available, rather than waiting for any artificial meeting-related deadline; (c) posting a regular bulletin on the Internet, at least monthly, covering the activities of and other news relating to the special procedures; (d) publication - on the Internet or otherwise - of occasional, carefully drafted statements by the special procedures acting together on particularly important issues; and (e) considering the possibility of an annual special procedures report providing a summary of the main issues, the principal activities, and challenges and problems.

99. It was agreed that there is a need to update the Manual for Special Rapporteurs/Representatives/Experts and Chairpersons of Working Groups of the Special Procedures of the Commission on Human Rights and of the Advisory Services Programme, and the guidelines on the relationship between the special procedures and OHCHR. That should be done as soon as possible with a view to making those documents publicly available on the Internet, thus demonstrating that the special procedures acted consistently in accordance with agreed practices. The mandate holders also called for the preparation of a report that would highlight good practices in relation to the special procedures and the achievements of the system to date.

100. To facilitate the development of a more effective strategy of public communications, consideration should be given to the appointment within OHCHR of a communications specialist to work closely with the Coordination Committee and individual mandates.

Annex

**LIST OF SPECIAL PROCEDURES OF THE COMMISSION
ON HUMAN RIGHTS AND THE MANDATE HOLDERS
INVITED TO ATTEND THE TWELFTH MEETING**

I. THEMATIC MANDATES

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|---|---|
| 1. Working Group on Enforced or Involuntary Disappearances | Chairperson-Rapporteur
Mr. S. Toope* |
| 2. Working Group on Arbitrary Detention | Chairperson-Rapporteur
Ms. L. Zerrougui* |
| 3. Special Rapporteur on extrajudicial, summary or arbitrary executions | Mr. P. Alston* |
| 4. Special Rapporteur on the independence of judges and lawyers | Mr. L. Despouy* |
| 5. Special Rapporteur on the question of torture | Mr. M. Nowak* |
| 6. Representative of the Secretary-General on the human rights of internally displaced persons | Mr. W. Kälin |
| 7. Special Rapporteur on religious intolerance | Ms. A. Jahangir* |
| 8. Special Rapporteur on the question of the use of mercenaries | Ms. S. Shameem*
(until end July 2005) |
| 9. Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression | Mr. A. Ligabo* |
| 10. Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance | Mr. D. Diène |
| 11. Special Rapporteur on the sale of children, child prostitution and child pornography | Mr. J.M. Petit* |
| 12. Special Rapporteur on violence against women, its causes and consequences | Ms. Y. Ertürk* |

* Attended the meeting.

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| 13. Special Representative of the Secretary-General on Children and Armed Conflict | Mr. O. Otunnu |
| 14. Special Representative of the Secretary-General on the situation of human rights defenders | Ms. H. Jilani* |
| 15. Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes | Mr. O. Ibeanu* |
| 16. Special Rapporteur on the human rights of migrants | Ms. G. Rodríguez Pizarro*
(until end of July 2005) |
| 17. Independent expert on economic reform policies and foreign debt | Mr. B.A. Nyamwaya Mudho* |
| 18. Special Rapporteur on the right to education | Mr. V. Muñoz* |
| 19. Special Rapporteur on the right to adequate housing as a component of the right to an adequate standard of living | Mr. M. Kothari* |
| 20. Special Rapporteur on the right to food | Mr. J. Ziegler* |
| 21. Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people | Mr. R. Stavenhagen* |
| 22. Independent expert on the question of human rights and extreme poverty | Mr. A. Sengupta* |
| 23. Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health | Mr. P. Hunt* |
| 24. Working Group on People of African Descent | Chairperson-Rapporteur:
Mr. P. Kasanda* |
| 25. Special Rapporteur on trafficking in persons, especially in women and children | Ms. S. Huda* |
| 26. Independent expert on the protection of human rights and fundamental freedoms while countering terrorism | Mr. R. Goldman
(until end of July 2005) |
| 27. Independent expert to update the Set of Principles for the protection and promotion of human rights through action to combat impunity | Ms. D. Orentlicher*
(until end of July 2005) |

II. COUNTRY MANDATES

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| 1. Independent expert on the situation of human rights in Afghanistan | Mr. C. Bassiouni
(until end of July 2005) |
| 2. Special Representative of the High Commissioner on the situation on human rights in Cuba | Ms. C. Chanet |
| 3. Special Rapporteur on the situation of human rights in Myanmar | Mr. P.S. Pinheiro |
| 4. Special Rapporteur on the situation of human rights in the Palestinian territories occupied by Israel since 1967 | Mr. J. Dugard |
| 5. Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo | Mr. T.F. Pacéré |
| 6. Independent expert on Burundi | Mr. A. Okola* |
| 7. Special Representative of the Secretary-General for human rights in Cambodia | Mr. P. Leuprecht |
| 8. Independent expert on the situation of human rights in Somalia | Mr. G. Alnajjar* |
| 9. Independent expert on the situation of human rights in Haiti | Mr. L. Joinet* |
| 10. Independent expert on technical cooperation and advisory services in Liberia | Ms. C. Abaka* |
| 11. Independent expert on the situation of human rights in Chad | Ms. M. Pinto |
| 12. Independent expert on the situation of human rights in the Sudan | Mr. E. Akwei Addo* |
| 13. Special Rapporteur on the Democratic People's Republic of Korea | Mr. V. Muntarhorn* |
| 14. Special Rapporteur on the situation of human rights in Belarus | Mr. A. Severin* |
