

HISTORY OF THE UNITED NATIONS SPECIAL PROCEDURES MECHANISM

Origins, Evolution and Reform

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PREFACE

This paper on the origins, evolution and reform of the United Nations' system of independent human rights experts expands on research conducted by Marc Limon and Hilary Power in the context of the preparation of the Universal Rights Group – Brookings Institution Policy Report 'Special Procedures: Determinants of Influence,' authored by Marc Limon and Ted Piccone and published in March 2014.

The research reflects primary and secondary research, and draws heavily on the resolutions, reports and other documents of the United Nations Commission on Human Rights and its successor, the Human Rights Council.

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TABLE OF CONTENTS

Contents	p.1
Introduction	p.3
Origins	p.4
'No power to act' doctrine (1946-1966)	p.4
'The violation of human rights in all countries' (1965)	p.5
Evolution	p.6
The accidental emergence of thematic Special Procedures (1975-1980)	p.6
'Auto-development' of Special Procedures (1980-1993)	p.7
Wider still and wider...	p.10
The 'systemisation' of Special Procedures (1993)	p.12
Reform	p.12
Special Procedures reform: an elusive goal	p.12
1998-2000 Commission reforms	p.13
2002-2004 UN-wide reforms	p.14
2005-2006 and 2011 reforms: the Human Rights Council	p.14
Conclusion	p.17
Appendix I: Comprehensive list of Special Procedures mandates over time (1967-2013)	p.18



INTRODUCTION

The United Nations' independent human rights experts – otherwise known as 'Special Procedures' – are considered by many to be, in the words of then United Nations Secretary-General Kofi Annan, the 'crown jewel'¹ of the international human rights system.

From their first appearance in 1967, when the United Nations Commission on Human Rights established an *Ad Hoc* Working Group to inquire into the situation of human rights in southern Africa, the Special Procedures system has developed into one of the international community's most important tools for promoting and protecting human rights. Today, the United Nations human rights system boasts over fifty active Special Procedures mandates, covering a wide-range of thematic and country-specific issues, with more in the pipeline.

PART I

ORIGINS

'NO POWER TO ACT' DOCTRINE (1946-1966)

The foundations of today's international human rights system were laid in the aftermath of the Second World War as part of the new United Nations (UN) organisation. Participants in the first meetings of the Commission on Human Rights ('the Commission'), established under Article 68 of the UN Charter ('the Charter') as the main UN body charged with promoting human rights, envisioned a human rights system built upon two inter-related and inter-dependent pillars: first, the establishment of international human rights norms through an International Bill of Human Rights consisting of a declaration of principles and one or more treaties that, after ratification by governments, would contain legally binding obligations; and second, the establishment of 'measures of implementation'² – i.e. the international institutions, mechanisms and processes needed to realise those norms.

The second part of this new human rights architecture – establishing effective 'measures of implementation' – has consistently proved more difficult to achieve than the first. A persistent obstacle to progress has been disagreement over whether the UN should be empowered to protect human rights, or merely to *promote* them.

In the 1940s, it was the major Western powers who took the position that the UN could only *promote* – rather than actively *protect* – human rights, due to national preoccupations concerning the human rights implications of colonialism (in the case of Great Britain and France) and of segregation and racial discrimination (in the case of the United States). The predominant position of these states (together with emerging Cold War dynamics) in the post-war era meant that the foundations of the international human rights system – most particularly the Charter and the Commission – reflected their pro-sovereignty views.

As has been widely noted, 'the Charter nowhere explicitly provides authorisation for the political organs of the United Nations to assume monitoring competences in the field of human rights.'³ Indeed, the term 'protection,' was deliberately left out of the Charter, *inter alia* on the grounds that it 'would (...) raise hopes going beyond what the United Nations could successfully accomplish.'⁴ So it was that the Charter stated that the UN would seek to 'achieve international cooperation... in *promoting* and *encouraging respect* for human rights,'⁵ and mandated the Economic and Social Council (ECOSOC) to 'set up commissions in economic and social fields and for the *promotion* of human rights...'⁶

If there was any doubt as to the UN's reluctance to hold states accountable for human rights violations, it was immediately dispelled when members of the Commission met for the first time at Lake Success in 1947 and declared that the Commission had no power 'to take any action in regard to any complaints concerning human rights.'⁷

This 'no power to act' doctrine⁸ held sway for the next twenty years (1946-1966). During that time, the Commission gave priority to human rights promotion actions, such as drafting the international human rights instruments, and repeatedly rejected the notion that it had a protection mandate. For example, in 1947 an ECOSOC resolution recognised the capacity of the Commission to receive communications submitted by individuals, but stated that it did not have the power to take any action in regard to such communications.⁹ Another resolution, adopted in 1959, put in place new procedures authorising the Commission to compile and consult communications received and to request replies from the governments concerned, but it too reiterated the position that the Commission had no power to take any action in regard to any complaint concerning human rights.¹⁰

Though the 'no power to act' doctrine would not be seriously challenged until 1965-1966, it began to fray around the edges a number of years earlier. Perhaps the most remarkable (and often ignored) example of this came in the autumn of 1963, when fourteen (developing country) members of the UN¹¹ requested that the General Assembly agenda include a discussion on the 'Violation of Human Rights in South Viet-Nam.'¹² These

members alleged that the Diem regime had embarked upon a systematic campaign to repress the religious and civil rights of Vietnamese Buddhists, who comprised over seventy per cent of the population. On 4th October, after the General Assembly had placed the item on its agenda, the Government of South Viet-Nam invited representatives of the United Nations to visit the country to determine the situation for themselves.¹³ On 11th October, the President of the General Assembly began to assemble a mission to be led by Abdul Rahman Pazwak of Afghanistan, then Chair of the Commission on Human Rights, with the assistance of John P. Humphrey, Director of the Secretariat's Human Rights Division.¹⁴

Although this was not a 'Special Procedure' in the sense that we now understand the term (it was made up of state representatives not independent experts), it nevertheless represented an effort by the UN to respond to allegations of human rights violations in a certain country by organising a visit to 'seek factual evidence... collect information, conduct on-the-spot investigations, receive petitions and hear witnesses' and thereafter to report back to the General Assembly. It therefore pioneered all the pillars of what would become the Special Procedure 'tool-kit.' Moreover, although the procedure was composed of state representatives rather than independent experts, its members were at pains to emphasise 'the impartiality of the Mission.'¹⁵ The Mission also drafted its own terms of reference, based its investigation on 'the provisions of laws in force, press articles, and submissions from human rights civil society,'¹⁶ insisted on following its own programme for the visit (with the UN flag on display), held secret (in order to protect them from reprisals) meetings with over fifty victims, examined, in a confidential setting, over a hundred individual petitions (after having made an initial ruling on their admissibility), made careful use of press releases and press comment, and emphasised the importance of working in cooperation with the concerned government (by meeting with eight high-level government officials including the President).¹⁷

'THE VIOLATION OF HUMAN RIGHTS...IN ALL COUNTRIES...' (1965)

This example notwithstanding, the post-war 'no power to act' consensus was not seriously challenged until 1965, when a group of newly-independent states from Africa, the Middle East and Asia started to press the UN to respond to human rights violations associated with colonialism, racism and apartheid. In June of that year, the UN Committee on Decolonization called on the Commission 'to consider individual petitions concerning human rights violations in the territories under Portuguese Administration, South Africa and South Rhodesia.'¹⁸ Pursuant to this request, ECOSOC invited the Commission 'to consider as a matter of importance and urgency the question of the violation of human rights and fundamental freedoms (...) in all countries.'¹⁹

One consequence of this historic shift was that it gave rise to a further question: by what means would the Commission consider such violations 'in all countries'? In response to this question, the newly-enlarged Commission passed resolution 2 (XXII)²⁰ informing ECOSOC that in order to deal with human rights violations in all countries, it needed the appropriate tools. The authorisation to create such tools was subsequently

provided by ECOSOC in resolution 1164 (XLI)²¹ and by the General Assembly in resolution 2144 A (XXI), which invited the Commission 'to give urgent consideration to ways and means of improving the capacity of the UN to put a stop to violations of human rights wherever they may occur.'²²

The following year (1967), the Commission not only gave urgent consideration to such 'ways and means,' it actually put them in place. In March, a cross-regional group of states from Africa, Asia, the Middle East and the Caribbean secured the adoption of two Commission resolutions (2 (XXIII)²³ and 7 (XXIII))²⁴, establishing the first two Special Procedure mandates: an *Ad-Hoc* Working Group of Experts on South Africa and a Special Rapporteur on Apartheid. The Special Procedures mechanism was born.

Commission resolution 2 (XXIII)²⁵, which established the *Ad-Hoc* Working Group of Experts on South Africa, cited as its legal basis General Assembly resolution 2144 (XXI) and ECOSOC resolution 9 (III) (21st June 1946), which authorised the Commission to 'call in *ad hoc* working groups of non-governmental experts...or individual experts.'²⁶ Both resolutions were adopted by a vote, with most Western countries abstaining.²⁷

Immediately after establishing these first-ever Special Procedure mandates, the Commission adopted resolution 8 (XXIII) on the 'study and investigation of situations which reveal a consistent pattern of violation of human rights,' which decided to 'give annual consideration to the item entitled question of violations of human rights,' and requested authority (from ECOSOC) to make 'a thorough study and investigation of situations which reveal a consistent pattern of violations of human rights.'²⁸

Then, to confirm the Commission's general and permanent prerogative to deal with human rights violations (including a *post facto* approval of its decision to appoint Special Procedures), it asked ECOSOC (in resolution 9 (XXIII)) to include 'the power to recommend and adopt general and specific measures to deal with violation of human rights' in its terms of reference.²⁹ This request was significant because it led to ECOSOC resolution 1235 (XLII), which constituted the legal basis for the establishment of future Special Procedures.

Today's international human rights system owes an enormous debt of gratitude to the small group of African, Asian and Caribbean states that, between 1966-1967, took a determined decision to act against human rights violations associated with colonialism, racism and apartheid. In so doing, they sent a clear message to the world that, when faced with serious human rights abuses, the UN did indeed have 'the power to act.' These states also, perhaps unknowingly, struck a first blow against one of the founding principles of the United Nations: non-interference in domestic affairs (Article 2.7 of the Charter). As Thomas Buergenthal has argued, by taking this step the UN began 'to pierce the veil of national sovereignty' of states in order to respond to serious cases of human rights violations.³⁰

ECOSOC resolution 1235 (XLII)

ECOSOC resolution 1235 (XLII), adopted in August 1967, authorised the Commission 'to examine information relevant to gross violations of human rights and fundamental freedoms,' including through 'a study of situations which reveal a consistent pattern of violations of human rights.'

Perhaps the most important (and generally overlooked) words in resolution 1235 (XLII) however, appear in its very first paragraph. Although the resolution (in common with all the momentous decisions of the General Assembly, ECOSOC and the Commission between 1966 and 1967) was focused primarily on the question of human rights violations in the context of racial discrimination and apartheid, it nonetheless welcomed 'the decision of the Commission to consider the question of the violation of human rights...*in all countries*.'

As will be seen, it was never the intention of the sponsors of the first two Special Procedures to establish a new human rights protection mechanism to cover, potentially, every country in the world. Yet that is exactly what was to happen.

PART II

EVOLUTION

THE ACCIDENTAL EMERGENCE OF THEMATIC SPECIAL PROCEDURES (1975-1980)

Two years later, in 1969, India, Mauritania, Pakistan and Yugoslavia tabled a resolution establishing a further Working Group, on the situation of human rights in the Palestinian territories occupied since 1967.³¹ Thirteen countries voted in favour of the resolution, one voted against (Israel) and sixteen abstained (mainly Western and Latin American States).³²

Until this point, the Commission's work under the mandate provided by ECOSOC resolution 1235 (XLII) had been focused solely on racial discrimination and colonialism, especially in the context of Africa. Between 1975 and 1980, however, the Commission's focus shifted to political developments in Latin America, a shift that would have two deep and lasting consequences for the Special Procedures system:

- First, the shift represented a *de facto* rejection of the assumption or understanding (on the part of the initiators and sponsors) that the mandates on apartheid, South Africa and the Palestinian Territories were 'special' in the sense that they were specific responses to very specific (and special) human rights situations and should not constitute a precedent.

- Second, the widening of the Commission's gaze to cover 'the violation of human rights and fundamental freedoms... *in all countries*' led, indirectly, to the establishment of the first thematic mandate.

In 1975, against a backdrop of international concern at the violent coup d'état in Chile and doubts as to the effectiveness of the UN's confidential 1503 procedure for dealing with allegations of human rights violations (as opposed to the public 1235 procedure), the Commission adopted resolution 8 (XXXI), establishing an *Ad Hoc* Working Group on the situation of human rights in Chile. The resolution was tabled by Senegal (combining drafts provided by the UK, Netherlands, Nicaragua and the USSR) and was adopted without a vote.

The *Ad Hoc* Working Group on Chile would be composed of five experts and was to report to the Commission at its 32nd session. Four years later, the *Ad Hoc* Working Group was transformed (partly to reduce costs) into a Special Rapporteur on the situation of human rights in Chile,³³ the first Special Rapporteur with a country mandate.³⁴

Concerns over the issue of enforced disappearances were, however, by no means limited to Chile – a point made by the US delegation in 1978, when the General Assembly's Third Committee met to consider the report the *Ad Hoc* Working Group on Human Rights in Chile. During the ensuing debate, the US argued that the problem of missing persons was 'not limited to Chile,' but 'also existed in Cyprus and Argentina.' On this basis, the delegate argued that 'a mechanism should be set up to examine the problem.'³⁵

During the second half of the 1970s, the phenomenon of disappearances was particularly associated with Argentina. At the 1979 session of the Commission, a draft resolution was introduced by Western states concerning the practice of disappearances. This mentioned Argentina by name and proposed the establishment of a mechanism with more or less similar competences to the *Ad Hoc* Working Group on Chile. But, taking note of UN action against Chile, and fearful of being 'named and shamed' in the international arena, Argentina launched a massive diplomatic offensive to 'avoid the condemnation and institutionalization of the case of Argentina' in the United Nations.³⁶

Action on the draft was consequently postponed – though not for long. At the Commission's 1980 session, Western arguments that disappearances were not limited to Chile, a weakening of Non-Aligned Movement (NAM) support for Argentina and the effects of the enlargement of the Commission from 32 to 43 members (including countries 'with a commitment to improved procedures'),³⁷ combined to move the Commission towards establishing a new Special Procedure. However, by arguing that the creation of a country-specific mechanism would be discriminatory, Argentina eventually succeeded in channelling Commission action towards the adoption of a mechanism with a *thematic* mandate: the Working Group on enforced or involuntary disappearances.

Ironically, considering the impetus behind this step was partly a wish, on the part of states, to avoid the spread of Special Procedure mandates to address violations '*in all countries*,' the emergence of thematic mandates achieved precisely that. Thematic mandates may be vertically limited in terms of the narrowness of the issue(s) at hand, but they are not limited horizontally (geographically); in other words, they can investigate that issue in any country of the world, without the Commission's explicit authorisation, and regardless of a particular State's ratification of relevant human rights conventions. This move towards thematic mechanisms is considered by Miko Lempeinen to be 'one of the most dramatic developments in the work of the Commission on Human Rights after the abandoning of the doctrine of inaction more than a decade earlier.' Its profound impact, however, 'may not have been fully realized' by governments at the time.³⁸

'AUTO-DEVELOPMENT' OF SPECIAL PROCEDURES (1980-1993)

With the establishment of the first thematic mandate (1980), building as it did on the establishment of the first country Working Group (1967) and country Special Rapporteur (1979), a new phase in the development of Special Procedures began, which might be labelled as an 'auto-development' phase.

With the legal basis to act against violations of human rights and the 'ways and means' of doing so (country and thematic Special Procedures) both firmly in place, it now fell to the courage and ingenuity of the Special Procedures mandate-holders themselves to drive the mechanism's development. They began almost immediately.

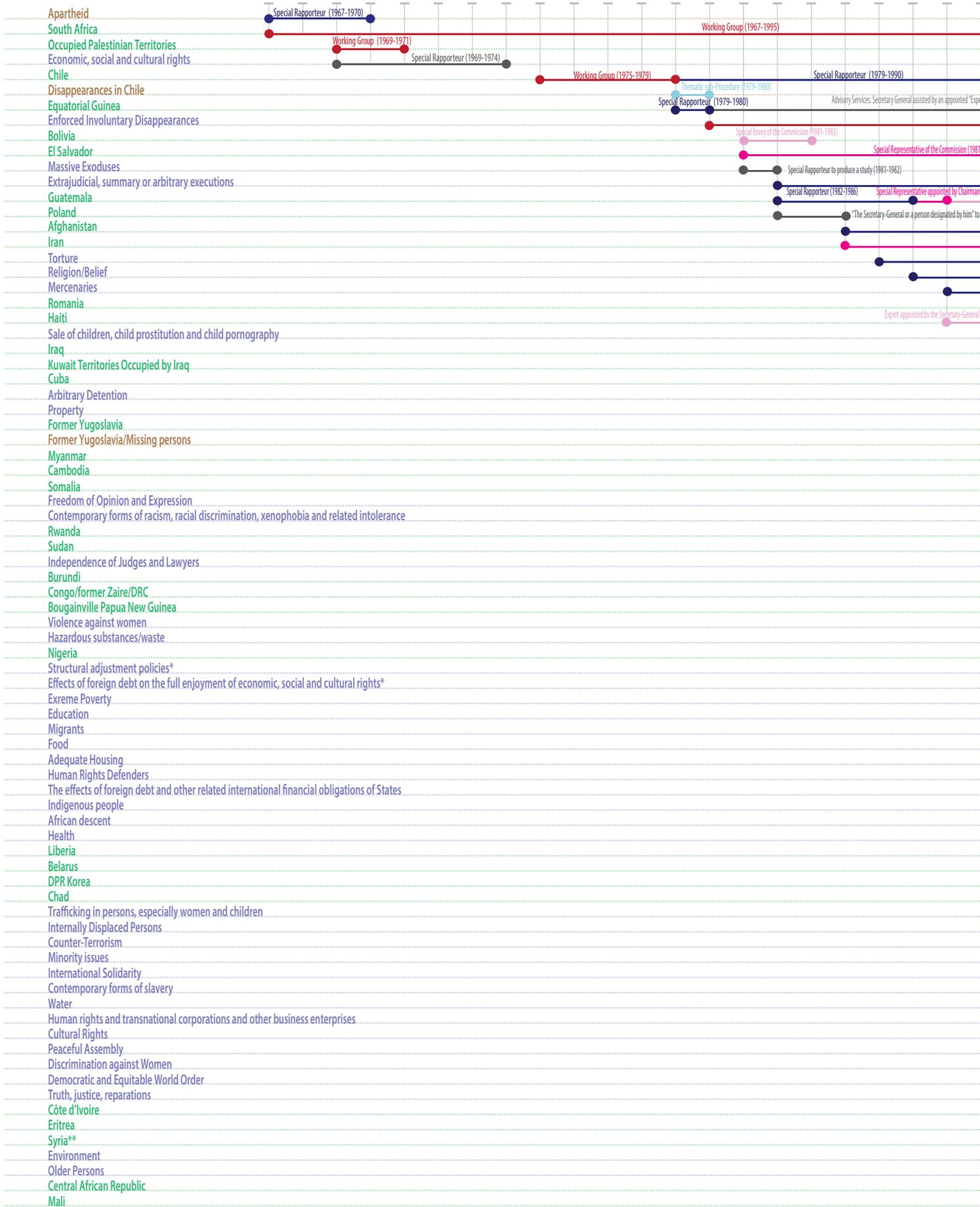
Upon his appointment as UN Special Rapporteur on human rights in Chile, Justice Abdoulaye Dieye (Senegal) immediately faced opposition from states arguing that he did not have the mandate to consider petitions from victims and that all communications should be handled through the confidential 1503 procedure. When Justice Dieye responded that the UN had authorised him to determine the best methods for investigating possible violations, he set an important precedent for the independent development of working methods by mandate-holders.

Building on the leadership and independence of Justice Dieye and earlier mandate-holders, the Working Group on enforced disappearances began to develop its own unique methodology, including the establishment of a communications procedure for petitions, regular meetings to take decisions on cases, the conduct of country visits to meet with governments and NGOs, and the presentation of annual reports to the Commission.

The Working Group on enforced disappearances was soon followed by new thematic mandates: a Special Rapporteur on extrajudicial, summary and arbitrary executions (1982); and a Special Rapporteur on torture, and other cruel, inhuman or degrading treatment (1985). These individual thematic mandates would introduce further innovations and set important precedents for the future. For example, Amos Wako, the first Special Rapporteur on extrajudicial, summary and arbitrary executions, addressed country-specific situations in his annual report and, despite state opposition, insisted on the report's discussion and consideration. Peter Kooijmans, the first Special Rapporteur on torture, focused on the communications mechanism and was the first to develop Urgent Appeals.

A pattern emerged whereby these and other mandate-holders would develop and apply a flexible interpretation of their mandate (often in the face of state opposition), which afterwards the Commission would endorse. Eventually these individual innovations and steps forward would combine to become the procedural standards employed by all thematic and country Special Procedures.

Name of Mandate



Mandate focus: Country-Specific TH
Mandate type: ● Special Rapporteur ● In

* These two mandates were merged in 2000 to create the
** The Special Rapporteur on the situation of human rights

SPECIAL PROCEDURES TIMELINE

WIDER STILL AND WIDER...

Building on the establishment (prior to 1980) of the first four country mandates – on South Africa, the Occupied Palestinian Territories, Chile and Equatorial Guinea – between 1981 and 2000, the Commission established twenty-one more country-specific mandates: El Salvador, Bolivia, Guatemala and Poland (in the early 1980s), Afghanistan and Iran (1984), Haiti (1987), Romania (1989), Iraq, the Kuwaiti territories occupied by Iraq and Cuba (all 1991), the former Yugoslavia and Myanmar (both 1992), Cambodia, Somalia and Sudan (all 1993), Rwanda, Congo, Bougainville Papua New Guinea (all 1994), Burundi (1995) and Nigeria (1997). The number of country mandates peaked in 1994, and continued to outstrip thematic mandates until 1998.

Similarly, the Working Group on disappearances, the Special Rapporteur on extrajudicial, summary and arbitrary executions and the Special Rapporteur on torture were soon followed by new thematic mandates: a Special Rapporteur on religious intolerance³⁹ (1986); a Special Rapporteur on mercenaries (1987); a Special Rapporteur on the sale of children (1990); and a Working Group on arbitrary detention (1991).

Virtually every annual session of the Commission resulted in the creation of one or more new Special Procedures mandate(s). Initially, new mandates continued to focus on core rights associated with physical integrity and on civil and political rights. However, after the adoption of the 1993 Vienna Declaration and Programme of Action, which proclaimed that ‘all human rights are universal, indivisible and interdependent and interrelated’ and must be treated ‘globally in a fair and equal manner, on the same footing, and with the same emphasis,’⁴⁰ mandates focused on economic, social and cultural rights began to be established.

The first such mandate – the Special Rapporteur on toxic waste – was established in 1995, and between 1995 and 2002, the Commission established further mandates on extreme poverty, education, food, foreign debt, structural adjustment, adequate housing, and health.

Looking at the quantitative evolution of Special Procedures mandates over time (see right), two major trends can be discerned.

The first is the overall quantitative expansion of the mechanism since the start of the 1980s. In 1980, there were only 4 mandates. By 1990, the number had grown to 14, and in 2000 had increased to 34. By the time the Commission on Human Rights was replaced by the Human Rights Council in 2006, there were 40 Special Procedure mandates. Since then, the rapid growth (some would say ‘proliferation’) in the number of mandates has continued, and in May 2014, the number of active Special Procedure mandates reached 50 for the first time.

The second trend relates to the balance of country and thematic mandates. Since 1993 (the date of the Vienna Declaration), there has been a significant absolute decline in the number of country mandates (though with a small reversal of this decline since the US joined the Human Rights Council in 2009) and an even more significant relative decline of country mandates vis-à-vis thematic mandates. From a peak of 18 country mandates in 1994, the number dropped over the following 15 years to a low of 8, while during the same time the number of thematic mandates grew from 12 to 31. In 1998, the number of thematic mandates surpassed the number of country mandates for the first time. Today, there are 37 thematic mandates and only 13 country mandates.

GROWTH OF MANDATES



Data source: Commission on Human Rights Session Reports 1966-2005; HRC Extranet; OHCHR website. Note: Projected growth rates based on growth rates of mandates over time (1980-2013; 2009-2013).

This reversal in fortunes has been driven by a number of factors, but at a most basic level it is because of the broad acceptance of thematic mandates as a tool and the (almost) limitless number of human rights ‘themes’ to be – potentially – addressed, as opposed to the (generally) politically divisive nature of country mandates.

The contentious nature of country mandates means that such mandates are both difficult to establish (securing the votes to establish country mandates has always been a challenge, often falling along geopolitical fault lines of East and West or, more recently, North and South) and more prone to be discontinued than their thematic counterparts. On the latter point, this is because country mandates only last one year (unlike three years for thematic mandates) and, generally speaking, any small positive



change or improvement in a given country's political situation is likely to be used by some countries (usually including the country concerned) to argue for the termination of the mandate (or its transformation into a mandate focused on capacity-building).

The net result of this dynamic is startling. Since 1967 (during which time 79 Special Procedures mandates have been established - 42 thematic, 34 country specific, and 3 'mixed'), while country mandates have been terminated on 23 occasions,⁴² thematic mandates have only ever been discontinued on one occasion: with the 2000 merger of the Independent Expert on structural adjustment policies and the Special Rapporteur on the effects of foreign debt (even then it is notable that the mandates were not dropped but combined).

When is a Special Procedure not a Special Procedure?

It is perhaps useful, at this point, to consider the question of definitions, in particular: what is a Special Procedure (and what isn't)?

A given UN resolution establishing a new human rights mechanism will not specify whether that mechanism is a 'Special Procedure.' Rather, attaching the Special Procedure 'label' to a given mechanism is a matter of interpretation and judgement based, mainly, on the function, form and methods of work of the mandate. But this is not always straightforward or clear-cut. Even today, following efforts to rationalise and improve clarity around the different types of and nomenclatures attached to Special Procedure mandates, there can still be confusion. For example, some diplomats consider the UN Expert Mechanism on the Rights of Indigenous Persons to be a Special Procedure, while others (a majority) don't. Earlier, during the Special Procedure mechanism's formative years in the Commission, this conceptual confusion was significantly worse - mainly because Special Procedures evolved in an *ad hoc* manner to meet the needs of the time - with little thought to system-wide cohesion or standardisation.

A good example of this conceptual opacity relates to the emergence of economic, social and cultural rights mandates. It is generally assumed that, as noted in this Policy Brief, the first such mandate was established in 1995: the Special Rapporteur on toxic waste. However, an objective review of UN resolutions shows that, in 1969, the Commission established a Special Rapporteur on Economic, Social and Cultural rights, tasked with reporting to the Commission on 'the realization, without distinction of any kind...of economic, social and cultural rights set forth in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights' (1969-1974). And in 1991, it established an Independent Expert on Property (1991-1994).

Were these then not the first economic, social and cultural rights mandates? The answer, in our opinion, is 'no.' This is principally because their function and methods of work do not fit within the broadly accepted theoretical framework that allows them to be identified as Special Procedures *sensu stricto*. In particular, these and similar mechanisms were charged with specific, time-bound tasks such as preparing studies or reports for consideration by the Commission, rather than with broader (and longer-term) promotion and protection functions.⁴¹

THE 'SYSTEMISATION' OF SPECIAL PROCEDURES (1993)

If one lesson, above all else, can be gleaned from the early history of Special Procedures, it is that the system developed not according to any grand design, but rather in an *ad hoc*, incremental manner. States identified a gap – the need to address the violation of human rights in all countries – and the Special Procedures system grew organically to fill that gap.

Indeed, it was only in the early 1990s that people began to conceive of Special Procedures as a new, distinct and coherent *system* or *mechanism*. By this time, it had become clear that the system's various constituent parts (the different mandates) all had clearly defined and broadly similar roles and methods of work, and were increasingly projecting themselves collectively as well as individually. The explicit importance that states attached to 'preserving and strengthening the system of special procedures'⁴³ in the Vienna Declaration further codified and legitimised this 'systemisation' of the mechanism.

The Vienna Declaration also encouraged Special Procedures to 'harmonize and rationalize their work through periodic meetings.'⁴⁴ Accordingly, in 1993, Special Procedures began convening annual meetings, which allowed them to work together to further systematise and professionalise the mechanism. At their sixth gathering in 1999, they adopted a Manual of Operations (since updated) that aimed 'to provide guidance to mandate-holders...(and) to facilitate a better understanding of their work by other stakeholders.'⁴⁵ At their 12th annual meeting in 2005, mandate-holders made further efforts to coordinate their work by founding a five person Coordination Committee.⁴⁶

Vienna also helped improve organisational support for Special Procedures. The Declaration called for the provision of 'necessary human and financial resources' to support their work,⁴⁷ while the recommendation to the General Assembly to establish an Office of the High Commissioner for Human Rights (OHCHR) helped institutionalise and regularise that support – a task that would be led by the Office's Special Procedure Branch (initially established in 2003).⁴⁸

PART III

REFORM

SPECIAL PROCEDURES REFORM: AN ELUSIVE GOAL

The flip side of systemisation, however, was that states and other stakeholders (including mandate-holders themselves) were now able to stand back, perceive and question what they had created. States in particular did not always like what they saw.

With the realisation that Special Procedures now represented a distinct and increasingly important human rights mechanism came the impetus to conduct systemic reviews of the mechanism – partly to ensure that all stakeholders (especially states and mandate-holders) had a common understanding of its parameters (its scope, what it could do and, importantly from the perspective of states, what it could not do), and partly to allow states to try to exercise some degree of control over the mechanism's continued evolution.

There have been three serious efforts to undertake a systemic and comprehensive review and reform of the Special Procedure system:

1. By the Commission between 1998 and 2000;
2. In the context of broader UN reforms between 2002 and 2004; and
3. A 'review, rationalisation and improvement' (RRI) exercise at the time of the establishment of the Human Rights Council in 2006 and in the context of the Human Rights Council's five-year review in 2011.

In general, these reform exercises have embodied the law of diminishing returns, with each achieving less than the one before.

1998-2000 COMMISSION REFORMS

In 1998, the Commission decided to conduct a review of its mechanisms with a view to 'enhancing the[ir] effectiveness.'⁴⁹ A key factor underlying the decision to undertake the review 'was a concern about the 'proliferation' of special procedure mandates'⁵⁰ and a recognition of the '*ad hoc* manner' in which the system had developed up until this point.⁵¹ To inform the review, the Commission's Bureau presented a report in late

1998, which noted that while 'the Special Procedures had been one of the Commission's major achievements,' there was nonetheless 'scope for rationalizing and strengthening the existing network.'⁵²

The Bureau's report made a number of astute observations about the nature of the Special Procedure system and the key determinants of its influence on human rights policy, and made a number of important recommendations. These included concrete proposals to rationalise the expanding network of Special Procedures by merging, broadening, transforming, terminating and (in one case) creating mandates (see below). It also, *inter alia*:

- Reaffirmed that the standard three-year term for thematic mandates should be maintained and that consideration be given to increase the one-year term of country mandates;
- Recommended that a greater role be assigned to the Chair of the Commission in securing government responses to Urgent Appeals (petitions);
- Proposed the inclusion in every Commission session of 'regular, focused and systematic deliberations' on serious incidences of non-cooperation by governments; and
- Proposed the establishment of a regular dialogue in the Commission on implementation and follow-up.

The Bureau's report, together with submissions from other stakeholders including Special Procedure mandate-holders themselves,⁵³ was then considered by an inter-sessional open-ended 'Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights,' made up of all states.⁵⁴ The final report of this Working Group, perhaps unsurprisingly, significantly watered down the proposals put forward by the Bureau.⁵⁵

On the matter of rationalisation, the Working Group agreed with the Bureau that the mandates on structural adjustment and on foreign debt should be merged, but essentially rejected or put off all other recommendations. The Bureau's recommendations to convert the mandate on toxic waste into a broader mandate on human rights and the environment,⁵⁶ and the proposal to terminate the mandate on the use of mercenaries⁵⁷ were both put off until 2001, when they would be considered in the context of the normal mandate renewals. The suggestions to transform the Working Groups on arbitrary detention and on enforced disappearances into Special Rapporteurs,⁵⁸ and the proposal to establish a Special Rapporteur on contemporary forms of slavery,⁵⁹ were all rejected. The Working Group did, however, recognise the risks involved in the continued organic expansion and *ad hoc* evolution of Special Procedures, and proposed that a 'thorough review of all mandates should be conducted periodically by the Commission,' based on certain general criteria to guide decision-makers.⁶⁰

Other key recommendations of the Bureau were similarly watered down:

- While the Working Group agreed, for example, that financial support for Special Procedures should be 'significantly improved,'⁶¹ no steps were put in place to secure those improvements;

- Instead of a greater role for the Chair of the Commission in securing government responses to Urgent Appeals, the Working Group made a vague call on the High Commissioner to 'assist in seeking to promote the establishment of fruitful dialogue and cooperation between the Government and the special procedure concerned';⁶²

- Instead of 'regular, focused and systematic deliberations' on serious incidences of government non-cooperation to take place at each session of the Commission,⁶³ the Working Group argued that 'refusal of cooperation occurs only in a minority of cases' and merely recommended that 'steps to encourage a more cooperative response should be carefully considered by the Commission';⁶⁴

- Finally, instead of considering the Bureau's bold proposal to establish a regular dialogue in the Commission on implementation and follow-up,⁶⁵ the Working Group instead sought to place the onus for improving 'the quality of dialogue' on Special Procedures themselves, claiming that mandate-holders were often late in making their reports available to states ahead of meetings and that they should take more care in 'structuring their executive summaries'!⁶⁶

On 26th April 2000, the Commission adopted Decision 2000/109 in which it agreed to implement the report of the Working Group in its entirety.⁶⁷ This Decision was then transmitted to ECOSOC to be rubber-stamped.⁶⁸ The sum total of almost seventeen months of work was a decision to merge the mandates on structural adjustment and on the effects of foreign debt, and an agreement to limit all thematic mandate-holders to two terms of three years.⁶⁹

One of the key lessons of the 1998-2000 review, which one diplomat familiar with the negotiations described as 'a year-long slog ending in a 0-0 draw',⁷⁰ was the political sensitivities and difficulties inherent in any attempt to rationalise or improve Special Procedure mandates. At one level, this difficulty stemmed from the 'competing considerations involved' in, on the one hand, 'responding to human rights imperatives' and, on the other, avoiding an uncontrolled 'proliferation' of mandates that would 'create difficulties in terms of overlap and inadequate support services, as well as straining the capacity of States to absorb the output.'⁷¹ But at another level, the difficulty was purely political: stemming from differences of opinion as to which mandates (and types of mandate) were useful or not, and a determination on the part of sponsoring states to protect their 'favoured' mandates.

2002-2004 UN-WIDE REFORMS

The ink was barely dry on Decision 2000/109 before a second effort at reviewing and reforming the system of Special Procedures began with the publication of the UN Secretary-General Kofi Annan's landmark 2002 report *Strengthening of the United Nations: an agenda for further change*,⁷² itself part of the process of UN reform kick-started at the Millennium Assembly. In response to a request of the General Assembly, the report paid particular attention to human rights, including key mechanisms such as Special Procedures.⁷³

The report noted that these 'vital instruments' had proliferated 'in an *ad hoc* fashion and without clear ground rules for their operation',⁷⁴ and called for steps to improve the quality of the output of Special Procedures (including by developing clear criteria for the selection of appointees and establishing better guidelines for their operation), and for (related) improvements in resources made available to them. It thus requested the High Commissioner for Human Rights to undertake a review of Special Procedures and report back by September 2003.⁷⁵

As part of the same process of UN reform, and after having considered the report of the Secretary-General, the General Assembly adopted resolution 57/300 (7th February 2003) which requested, *inter alia*, 'the Commission on Human Rights and the relevant intergovernmental bodies to review the human rights special procedures in order to rationalize their work and enhance their effectiveness,' and again urged the High Commissioner to support the review.⁷⁶

In February 2003, the High Commissioner presented a short note to the Commission outlining some of the steps taken in the context of the 1998-2000 reforms.⁷⁷ These included the drafting by Special Procedures of a Manual of Operations and the establishment of a Quick Response Desk to better coordinate petitions and communications.⁷⁸ A further update by OHCHR was provided in February 2004.⁷⁹

The 2002-2004 reform exercise soon became swallowed up in the broader reform of the UN human rights system, a reform that would eventually lead to the establishment of the Human Rights Council. However, it was still significant in that its various outputs revealed the emergence of a consensus, on the part of stakeholders, around six key issues and challenges facing the Special Procedure system:

1. Protecting the independence of Special Procedures while 'establishing better guidelines for their operations' (i.e. distinguishing between their substantive independence and the need for them to conform with certain common standards of procedure and conduct);
2. Securing better cooperation and responsiveness from governments;
3. Improving the quality and focus of Special Procedure reports;
4. Improving the interactive dialogues during Commission sessions;
5. Securing improved implementation of Special Procedure recommendations and follow-up;
6. Ensuring the availability of adequate resources.

All these points were encapsulated in a resolution adopted by the Commission in 2004: resolution 2004/76 on 'Human Rights and Special Procedures.' Resolution 2004/76, while not directly related to the 2002-2004 reforms was nonetheless inspired by them, and provided clear and implementable requests to governments, mandate-holders, civil society, the High Commissioner and the Secretary-General, designed to strengthen the mechanism's effectiveness. It remains one of the great tragedies of the Special Procedures system that this enlightened resolution has never been fully implemented or revisited.

2005-2006 AND 2011 REFORMS: THE HUMAN RIGHTS COUNCIL

The third (and final) set of opportunities to reform the Special Procedures mechanism came in the context of the establishment and institution-building processes of the new Human Rights Council⁸⁰ in 2006, and the new body's five-year review in 2011.

In October 2005, OHCHR organised an open-ended seminar on enhancing and strengthening the effectiveness of Special Procedures. Although not formally convened to contribute to the Human Rights Council's institution-building process, the meeting nevertheless took place against a backdrop of international moves to establish the new human rights apex body. The meeting reaffirmed the coalescing of views around certain key challenges for the Special Procedure system that had become evident during previous reforms, namely: independence and accountability, 'proliferation' and 'specialness,' cooperation and follow-up, mainstreaming with the wider UN, secretariat support and the availability of resources, and the elaboration of working methods (communications, country visits, reporting, interaction with the media).

Ideas put forward during the meeting included:

- Employing mandate-holders on a full-time (paid) basis;
- Having OHCHR prepare an analysis of gaps and overlaps to aid rationalisation;
- Harmonising the nomenclature of Special Procedures;
- Strengthening the appointment procedure by establishing an 'advisory panel';
- Updating and improving the Manual, including by having stronger guidelines on interactions with the media and by reflecting the spread of new technologies;
- Drafting a new 'Code of Conduct' for mandate-holders (according to some of those present at the meeting, this was initially an idea proposed by Spain);
- Using the Coordinating Committee as a self-regulatory mechanism to deal with complaints against mandate-holders;
- Having OHCHR produce an annual 'cooperation' report containing statistics reflecting responses, or lack thereof, to requests for visits and communications (and putting this on the OHCHR website);
- Requesting the Secretary-General or High Commissioner to intervene in cases of sustained non-cooperation;
- Having the Human Rights Council play a systematic role in monitoring follow-up including, for example, by including a specific item on follow-up on its agenda; and
- Directing OHCHR to produce a report on the implementation of recommendations.⁸¹

Many of these themes and ideas were repeated the following year (2006) during negotiations on the Institution-Building Package (IBP) of the new Human Rights Council. General Assembly resolution 60/251, which established the Human Rights Council, called upon the new body to 'review, and where necessary, improve and rationalise all mandates, mechanisms, functions, and responsibilities of the Commission on Human Rights in order to maintain a system of special procedures.'⁸²

On 30th June 2006, the newly formed Council decided to extend all mandates, mechanisms, functions and responsibilities of the Commission for one year⁸³ (including its 40 Special Procedure mandates: 11 country mandates and 29 thematic mandates)⁸⁴ and then established an open-ended intergovernmental working group to formulate recommendations on the review, rationalisation and improvement (RRI) of all mandates.⁸⁵ The working group met three times – in October 2006, January 2007 and April 2007 – before the working group's facilitator presented his report to the President of the Human Rights Council, Ambassador Luis Alfonso de Alba of Mexico.

Interventions during the 2006 IBP negotiations again centred on a number of systemic debates with implications for the future independence, scope and operational effectiveness of Special Procedures. Generally speaking, two distinct sides emerged. One was led by the West and some Latin American states and emphasised the importance of maintaining the independence of Special Procedures, asserting that the main issue to address was the lack of cooperation with the mechanism on the part of states. The other was led by the African Group, the Organisation of the Islamic Conference (OIC) and the Non-Aligned Movement (NAM) and emphasised the need for greater supervision and accountability of mandate-holders. The negotiations were, according to their facilitator, Ambassador Tomas Husak of the Czech Republic, highly politicised and a painful reminder of the 'similarly bumpy review exercise from 1998 to 2000.'⁸⁶

The first major debate addressed the interlinked issues of independence and accountability, with different proposals put forward on the appointment of mandate-holders (would this continue to be the prerogative of the President after consulting his/her Bureau, the responsibility of the High Commissioner or the result of direct election by the Human Rights Council), on whether the Special Procedures' own Manual was sufficient or whether a new Code of Conduct for mandate-holders should be created by member states, and on whether a state-driven supervisory mechanism should be established to enforce that Code.

The issue of the Code of Conduct eventually emerged as the main source of disagreement during the 2006 RRI process, with the West and Special Procedures mandate-holders set against the Code, and the African Group, OIC and NAM arguing that it must form a central plank of the IBP and must supersede the Manual. The latter group of states eventually won the day by tabling resolution 2/1 requesting the open-ended intergovernmental working group (in addition to its existing RRI mandate) to 'draft a code of conduct regulating the work of the special procedures.'⁸⁷ The African Group positioned the Code of Conduct as being vital in order to 'enhance the cooperation between Governments and mandate-holders.' The resolution was adopted with thirty votes in favour, fifteen against and two abstentions.⁸⁸

The second key debate focused on the issue of quantitative expansion of mandates, and whether this served to strengthen the system by improving coverage and filling 'protection gaps' (for example, a non-paper by the facilitator identified gaps on the right to vote and be elected, the right of assembly and

association, the right to privacy, the right to access to justice, and contemporary forms of slavery), or whether so-called 'proliferation' undermined/diluted the system by creating unnecessary and unmanageable duplication and overlap. In the end, there was neither the time nor the political will to find a compromise on this issue.

Linked with the issue of 'proliferation' was the issue of the continuation (or not) of country mandates, with some states arguing that the new Universal Periodic Review (UPR) process made such mandates unnecessary, and others arguing that particularly grave situations still necessitated country rapporteurs. According to one diplomat involved, the argument in favour of ending all country mandates⁸⁹ came remarkably close to carrying the day, and was only averted by a last-minute gambit by a small number of Western states. In the end, only the mandates on Cuba and Belarus were discontinued.

The final outcome of the 2006 negotiations, encapsulated in Human Rights Council resolution 5/1, were small but important modifications to the Special Procedure appointment process, a vague statement that the RRI of mandates 'would take place in the context of the negotiations of the relevant resolutions' (essentially kicking the matter into the political 'long grass'), an assertion that it would be preferable to move to a 'uniform nomenclature...to make the whole system more understandable,' and the establishment of the Code of Conduct. On the matter of state cooperation (or lack thereof) with Special Procedures, resolution 5/1 only said that 'the principles of objectivity, non-selectivity, and the elimination of double standards and politicisation should apply,' while on the matter of the implementation of recommendations and follow-up, the Human Rights Council remained silent. Notwithstanding these modest outcomes, Ambassador Husak later identified the 'major achievement' of the process to be 'the retention of country resolutions (i.e. country mandates) as an instrument.'⁹⁰

General Assembly resolution 60/251 establishing the Human Rights Council also stipulated that the new body should 'review its work and functioning five years after its establishment.'⁹¹ In principle this offered another opportunity for states to consider the challenges facing the Special Procedures system and identify ways to strengthen the mechanism so that it might better respond to its original (1967) mandate to study 'situations which reveal a consistent pattern of violations of human rights.' However, in practice the 2011 review achieved nothing more than a further crystallisation of opposing state visions of what the mechanism is and what it is there to do.⁹² Of the 437 state proposals put forward on the question of Special Procedure reform, 154 (35%) presented (conflicting) views on the question of independence and accountability, 31 (7%) focused on the 'proliferation' of mandates, 75 (17%) focused on what to do (or not to do) about state non-cooperation, 74 (17%) centred on secretariat support and the management of resources⁹³ and 20 (5%) on implementation and follow-up. Unsurprisingly, the negotiations failed to agree on any significant changes to the *status quo* and, moreover, left many states wary of any further attempts at system-wide reform.

CONCLUSION

Today, there are fifty-one Special Procedures mandates - an increase of more than 25% over the past eight years. However, it is not clear that this rapid quantitative expansion is being matched by a corresponding improvement in the mechanism's on-the-ground effectiveness.

If the Special Procedures are to remain relevant and credible in the 21st Century, it is clear that states and other stakeholders must ensure that the horizontal growth of the mechanism occurs in parallel to a 'deepening' in terms of its efficiency and real-world impact. To do so, policymakers must address the six interconnected 'determinants of influence' that lay at the heart of the mechanism's contemporary effectiveness. These determinants, identified and analysed in the recent URG-Brookings Institution Policy Report on Special Procedures, are: independence and accountability; expertise and standing; flexibility reach and accessibility; cooperation; implementation and follow-up; and availability of resources and secretariat support.

While the three major Special Procedures reform exercises of the past twenty-five years have, by and large, failed to secure major improvements across these systemic issues, there are some signs that states are beginning to consider them and take tentative steps forward.

During the 25th and 26th sessions of the Human Rights Council, a number of states delivered statements focused on key 'determinants of influence' and how to improve them. These statements, by a newly-emerged 'group of friends of Special Procedures,' by the Like-Minded Group (LMG), and by India, covered key points including, *inter alia*: implementation and follow-up; cooperation; adequate, equitable and transparent funding; and equitable geographic representation and gender balance in the selection and appointment of mandate-holders.

While each of these statements offered different policy prescriptions, they were all based on a common understanding that states and other stakeholders, at the same time as adding more and more issues onto the agenda of the international human rights system, must pay attention to the health of the few mechanisms established to pursue those issues and implement international human rights norms.



APPENDIX I: COMPREHENSIVE LIST OF SPECIAL PROCEDURES MANDATES OVER TIME (1967-2013)

This appendix provides an exhaustive list of all Special Procedures mandates established since 1967, based on primary research based on session reports of the Commission on Human Rights ('the Commission') since 1967 and Human Rights Council ('the Council') resolutions since its inception in 2006.

A Special Procedures mandate, for the purposes of this study, can be defined as an independent expert or group of experts (referred to, *inter alia*, as Special Rapporteurs, Independent Experts, Special Representatives of the Commission, Special Representatives of the Secretary General etc.) mandated by the Commission/Council to consider specific cases of country-specific or thematic (or in some cases both, e.g. Disappearances in Chile) human rights violations, and to report thereon to the Commission/Council (as well as the General Assembly (GA) in some cases).

From 1967, the Special Procedures system developed in a somewhat ambiguous and ad hoc manner and was not recognised as a coherent 'system' or 'mechanism' as such until the 1990s. Because of this, and an ostensible lack of self-awareness in the early days of the system's development, the status of some of the Commission's independent experts as Special Procedures *per se* was slightly ambiguous. For this reason, a number of the mandates recorded in this study have been categorised as 'quasi-Special Procedures'. These fall into three categories:

1. The mandate on Internally Displaced Persons started with a very narrow mandate, which was gradually expanded by the Commission over the years so as to become - beyond all doubt - a fully fledged 'Special Procedure,' with all of the tools mandates enjoy today. The mandate began in 1992 with the Commission asking the Secretary-General to 'designate a representative to seek again views and information from all governments... and to submit a comprehensive study at the 49th session.' This mandate was only established as a 'mechanism' in 2004 (the date OHCHR recognises to be the start of the mandate) when the Commission asked the Secretary-General, 'in effectively building upon the work of his Representative, to establish a mechanism that will address the complex problem of internal displacement.' Despite the fact that this mandate was not recognised as a 'mechanism' until 2004, much like the Special Procedures system itself it had developed organically over time within the Commission. The period from 1992-2004 is thus interesting and important for the purposes of this study and has therefore been included, albeit as a quasi-Special Procedure.

2. Others established with similarly narrow mandates, typically to produce a report (or multiple reports) to be presented to the Commission, never evolved, and therefore never fully evolved into something we might today recognise as a 'Special Procedure.' Nevertheless, they might just as easily have developed over time and they were still independent experts appointed by the Commission to report to the Commission (rather than the Sub-Commission, as was more common practice at the time when commissioning reports). As such, these early mandates have also been included in this study marked as quasi-Special Procedures. Examples include the Special Rapporteur on economic, social and cultural rights (1969-1973), the Special Rapporteur on massive exoduses (1981-1982) and the Independent Expert on property (1991-1995).

3. The mandate of the Special Rapporteur on Equatorial Guinea ended in 1980, to be superseded by 'advisory services' (which continued until an 'Expert of the Commission' was established in 1992). The Commission asked the Secretary-General 'to appoint... an expert in his individual capacity... with a view to assisting the Government of that country in taking the action necessary for the full restoration of human rights and fundamental freedoms' and further asked the Secretary-General, 'in consultation with the expert, to provide the assistance necessary to help the Government of Equatorial Guinea take the action necessary for the full restoration of human rights and fundamental freedoms in that country.' The Secretary-General reported to the Commission on a number of occasions, on the basis of assistance and recommendations from the independent expert. Later, in 1988 and 1989 the expert was asked by the Commission (directly, rather than indirectly through the Secretary-General) to report to it, while in 1990 and 1991 the Commission asked the Secretary-General to 'extend the mandate of the Expert responsible for co-operating with the Government of Equatorial Guinea in the full implementation of the Plan of Action proposed by the United Nations and accepted by that Government.' This period of the Commission's focus on Equatorial Guinea might not be considered to be a Special Procedure *per se* - as it effectively reported to the Secretary-General rather than the Commission - yet this was still an independent expert charged (sometimes) with directly reporting to the Commission on capacity-building activities not too dissimilar from a modern-day country-specific Independent Expert. As such, this mandate has also been included as a quasi-Special Procedure.

The three 'mixed' mandates have also been marked apart. Two of those have been categorised as 'thematic sub-procedures' of country-specific mandates; the Two Experts on disappearances in Chile (1979-1980) who were appointed from the Working Group on Chile to look into this thematic issue, and later the 'Special Process' on Missing persons in the Former Yugoslavia (1994-1997) which saw one of the members of the Working Group on enforced or involuntary disappearances cooperate with the Special Rapporteur on the Former Yugoslavia. The Special Rapporteur on Apartheid, described by B. G. Ramcharan as 'the first investigative rapporteur,' was also a mixed mandate and the second Special Procedure to have been created. The work of the Special Rapporteur was eventually absorbed into the scope of the Working Group on South Africa after 3 years (in 1970).

For each mandate, notes concerning its establishment and, where relevant, its development and conclusion, are drawn from the reports of the Commission and the Council.

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Apartheid	Special Rapporteur (1967-1970)	Mixed	Special Rapporteur
South Africa	Working Group (1967-1995)	Country-Specific	Working Group
Occupied Palestinian Territories	Working Group (1969-1971)	Country-Specific	Working Group
	Special Rapporteur (1993-Current)	Country-Specific	Special Rapporteur
Economic, social and cultural rights	Special Rapporteur (1969-1974)	Thematic	<i>Quasi-Special Procedure (type 2)</i>
Chile	Working Group (1975-1979)	Country-Specific	Working Group
	Special Rapporteur (1979-1990)	Country - Specific	Special Rapporteur

Notes

Commission resolution 7 (XXIII) 'Decides to appoint a Special Rapporteur to survey United Nations past action in its efforts to eliminate the policies and practices of apartheid in all its forms and manifestations, to study the legislation and practices in South Africa, South West Africa and Southern Rhodesia, instituted to establish and maintain apartheid and racial discrimination in all their forms and manifestations in the Republic of South Africa, South West Africa and Southern Rhodesia, including such matters as forced labour, inequality of opportunity in the economic, social and educational fields, arrest, detention and treatment of prisoners, right to counsel and fair trial, and to report and to make recommendations to the Commission at its twenty-fourth session on the appropriate measures which might be taken by the General Assembly effectively to combat racial discrimination and the policies of apartheid and segregation.'

Commission resolution 2 (XXIII) 'Decides to establish, in accordance with resolution 9 (II) of 21 June 1946 of the Economic and Social Council, an Ad hoc Working Group of Experts composed of eminent jurists and prison officials to be appointed by the Chairman of the Commission.'

Resolution 6 (XXV) 'Decides to establish a special Working Group of Experts composed of the members of the Ad Hoc Working Group of Experts established under Commission resolutions 2 (XXIII) and 2 (XXIV). ENDS: Resolution 9 (XXVII) of 1971 neither ends nor extends the working group, but notes the establishment by the UNGA of a 'Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories.'

With resolution 1993/2, the Commission 'Decides to appoint a special rapporteur... To report, with his conclusions and recommendations, to the Commission on Human Rights at its future sessions, until the end of the Israeli occupation of those territories.'

A Special Rapporteur was appointed in 1969 to report to the Commission on 'the question of the role of the Commission in this respect, on the realization, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions, national or social origin, property, birth or other status, of economic, social and cultural rights set forth in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights' (by resolution 14 (XXV)). The Special Rapporteur submitted a report to the 29th session in 1973, at which point he was authorised 'to carry out further consultations, as he deems necessary, with the bodies of the United Nations concerned, the specialized agencies and appropriate regional intergovernmental organizations,' and to report to the Commission at its 30th session. At the 30th Session, the Special Rapporteur was thanked for his report, and his duties were not renewed.

Note: this was not a special procedure sensu stricto, as the Special Rapporteur was just asked to prepare a study on an issue rather than having a broader 'mandate'. Nevertheless, this has been noted in the scope of this study because he reported to the Commission, rather than to the Sub-Commission and at this early time in the development of the special procedures, it is feasible that this could have become a mandate of sorts.

Commission resolution 8 (XXXI) 'Decides that an Ad Hoc Working Group of five members of the Commission, to be appointed in their personal capacity by the Chairman of the Commission on Human Rights and to operate under his chairmanship, shall inquire into the present situation of human rights in Chile on the basis of the above-mentioned resolutions and of a visit to Chile and of oral and written evidence to be gathered from all relevant sources.'

Commission resolution 11 (XXXV) decides 'To authorize its Chairman, in accordance with General Assembly resolution 33/175 of 20 December 1978 to appoint Mr. Abdoulaye Diéye as Special Rapporteur on the situation of human rights in Chile, who, on the basis of the mandate in Commission resolution 8 (XXXI) of 27 February 1975 and, in contact with the Chilean authorities, will inquire into the present situation of human rights in Chile, and report to the Commission...'

With Resolution 1990/78 the Commission 'Decides that the present Chilean democratic process and management by the Government-elect will make for the restoration of the rule of law based on full enjoyment of human rights and fundamental freedoms, not to renew the mandate of the Special Rapporteur, as from the time the Government-elect takes office.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Disappearances in Chile	Two Experts (1979-1980)	Mixed	Thematic Sub-Procedure
Equatorial Guinea	Special Rapporteur (1979-1980)	Country-Specific	Special Rapporteur
	Advisory Services: Secretary General assisted by an appointed 'Expert' (1980-1992)	Country-Specific	<i>Quasi-Special Procedure (type 3)</i>
	Expert of the Commission (1992-1993)	Country-Specific	Other
	Special Rapporteur (1993-1999)	Country-Specific	Special Rapporteur
	Special Representative of the Commission (1999-2002)	Country-Specific	Special Representative of the Commission

Notes

With Resolution 11 (XXXV), the Commission decided 'to authorize its Chairman... to appoint as experts in their individual capacity, Mr. Felix Ermacora and Mr. Waleed M. Sadi to study, in conformity with the modalities set forth in its resolution 8 (XXXI) ... in co-operation with the Special Rapporteur and in contact with the Chilean authorities, the question of the fate of missing and disappeared persons in Chile, and to report to the Commission on Human Rights at its thirty-sixth session and, through the Special Rapporteur, to the General Assembly at its thirty-fourth session.'

This was essentially a thematic sub-procedure of the country-specific Chile mandate.

Commission resolution 15 (XXXV) 'Decides that a Special Rapporteur of the Commission, to be appointed by the Chairman of the Commission, be entrusted with the task of making a thorough study of the human rights situation in Equatorial Guinea, based on such information as he may deem relevant, and to report thereon to the thirty-sixth session of the Commission.'

The mandate of the Special Rapporteur on Equatorial Guinea which ended in 1980 was superseded by 'advisory services,' which continued until an 'Expert of the Commission' was established in 1992.

The Commission asked the Secretary-General (with Commission resolution 33 (XXXVI) of 11 March 1980) 'to appoint... an expert in his individual capacity... with a view to assisting the Government of that country in taking the action necessary for the full restoration of human rights and fundamental freedoms' and further asked the Secretary-General, 'in consultation with the expert, to provide the assistance necessary to help the Government of Equatorial Guinea take the action necessary for the full restoration of human rights and fundamental freedoms in that country.'

The Secretary-General reported to the Commission on a number of occasions, on the basis of assistance and recommendations from the independent expert. Later, in 1988 (with resolution 1988/52) and 1989 (with resolution 1989/70), the expert was asked by the Commission - directly, rather than indirectly through the Secretary-General - to report to it, while in 1990 (1990/57) and 1991 (1991/80) the Commission asked the Secretary-General to 'extend the mandate of the Expert responsible for co-operating with the Government of Equatorial Guinea in the full implementation of the Plan of Action proposed by the United Nations and accepted by that Government.'

This period of the Commission's focus on Equatorial Guinea might not be considered to be a Special Procedure per se - as it effectively reported to the Secretary-General rather than the Commission - yet this was still an independent expert charged (sometimes) with directly reporting to the Commission on capacity-building activities not too dissimilar from a modern-day country-specific Independent Expert. As such, this mandate has also been included as a quasi-Special Procedure.

Commission resolution 1992/79 requested the Chairman of the Commission 'following consultations with the Bureau, to appoint an individual of recognized international standing... as an expert of the Commission.'

Commission resolution 1993/69 requests the Chairman, 'following consultations with the Bureau, to appoint an individual of recognized international standing in the field of human rights who is entirely familiar with the situation in Equatorial Guinea as special rapporteur of the Commission.'

Commission resolution 1999/19 'decides to appoint a special representative of the Commission for one year and requests him to monitor the situation of human rights in Equatorial Guinea and to report to the Commission at its fifty-sixth session.'

ENDS: Commission resolution 2002/11 'Decides to end the mandate of the Special Representative to monitor the situation of human rights in Equatorial Guinea.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Enforced Involuntary Disappearances	Working Group (1980-Current)	Thematic	Working Group
Bolivia	Special Envoy of the Commission (1981-1983)	Country-Specific	Other
El Salvador	Special Representative of the Commission (1981-1992)	Country-Specific	Special Representative of the Commission
	Independent Expert (1992-1995)	Country-Specific	Independent Expert
Massive Exodus	Special Rapporteur to produce a study (1981-1982)	Thematic	<i>Quasi-Special Procedure (type 2)</i>
Extrajudicial, summary or arbitrary executions	Special Rapporteur (1982-Current)	Thematic	Special Rapporteur
Guatemala	Special Rapporteur (1982-1986)	Country-Specific	Special Rapporteur

Notes

Commission resolution 20 (XXXVII) 'Decides to establish for a period of one year a working group consisting of five of its members, to serve as experts in their individual capacities, to examine questions relevant to enforced or involuntary disappearances of persons.'

Commission resolution 34 (XXXVII) 'Requests its Chairman to appoint, after consultations within the Bureau, a Special Envoy of the Commission whose mandate will be to make a thorough study of the human rights situation in Bolivia, based on such information as he may deem relevant, including such comments and materials as the Bolivian Government may wish to submit.'

1982/33 'Decides to extend the mandate of the Special Envoy for another year' but 1983/33 does not.

Commission resolution 32 (XXXVII) 'Requests its Chairman to appoint, after consultations within the Bureau, a Special Representative of the Commission'.

Commission resolution 1992/62 'Requests the Secretary-General to appoint an independent expert.'

Commission resolution 1995/63 'Decides to conclude consideration of this matter.'

Commission resolution 29 (XXXVII) 'Decides to appoint for a period of one year a special rapporteur to study the question of human rights and massive exoduses... Invites the Chairman of the Commission to appoint an individual of recognized international standing as special rapporteur... Considers that the special rapporteur in carrying out his study may seek and receive information mainly from United Nations agencies or departments concerned, with due regard to the terms of reference of the agency and department concerned, and governments, as well as specialized agencies, intergovernmental organizations and non-governmental organizations in consultative status with the Economic and Social Council.'

1982/32 'Requests the Special Rapporteur, in order to facilitate consideration by the General Assembly of his study, to explore further with interested Governments, the Secretary-General, United Nations agencies and specialized agencies, intergovernmental organizations and non-governmental organizations the study and the recommendations contained therein, to convey their observations together with his comments to the General Assembly in the course of introducing his study and to remain available for consultations with the Group of Governmental Experts as required,' but does not renew the mandate.

Note: This was not a special procedure sensu stricto, as the Special Rapporteur (like the special rapporteur on economic, social and cultural rights before him) was just asked to prepare a study on an issue rather than having a broader 'mandate'. Nevertheless, this has been noted in the scope of this study because he reported to the Commission, rather than to the Sub-Commission, and it is feasible that this could have become a fully-fledged mandate.

Commission resolution 1982/29 recommended that ECOSOC should request the Chairman of the Commission, after consultations within the Bureau, to appoint an individual of recognized international standing as Special Rapporteur; ECOSOC resolution 1982/35 'Decides, therefore, to appoint for one year a special rapporteur to examine the questions related to summary or arbitrary executions.'

Commission resolution 1982/31 'Requests the Chairman to appoint, after consultation within the Bureau, a Special Rapporteur of the Commission.'

Commission resolution 1986/62 'Decides to terminate the mandate of the Special Rapporteur and its study of the human rights situation in Guatemala' but 'Requests the Chairman of the Commission on Human Rights at its forty-second session to appoint a special representative to receive and evaluate the information referred to in paragraph 7 above, to solicit any other relevant information from reliable sources, and to submit a report to the Commission on Human Rights at its forty-third session.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
	Special Representative appointed by Chairman of Commission (1986-1987)	Country-Specific	Special Representative of the Commission
	Representative/Independent Expert appointed by SG (1987-1997)	Country-Specific	Other
Poland	'The Secretary-General or a person designated by him' to undertake a thorough study of the human rights situation in Poland (1982-1984)	Country-Specific	<i>Quasi-Special Procedure (type 2)</i>
Afghanistan	Special Rapporteur (1984-2003)	Country-Specific	Special Rapporteur
	Independent Expert appointed by the Secretary-General (2003-2005)	Country-Specific	Independent Expert
Iran	Special Representative of the Commission (1984-2002)	Country-Specific	Special Representative of the Commission
	Special Rapporteur (2011-current)	Country-Specific	Special Rapporteur
Torture	Special Rapporteur (1985-current)	Thematic	Special Rapporteur
Religion/Belief	Special Rapporteur on religious intolerance (1986-2001)	Thematic	Special Rapporteur

Notes

Commission resolution 1986/62 'Decides to terminate the mandate of the Special Rapporteur and its study of the human rights situation in Guatemala' but 'Requests the Chairman of the Commission on Human Rights at its forty-second session to appoint a special representative to receive and evaluate the information referred to in paragraph 7 above, to solicit any other relevant information from reliable sources, and to submit a report to the Commission on Human Rights at its forty-third session.' ENDS Commission resolution 1987/53 'Decides to terminate the mandate of the Special Representative'

Commission resolution 1987/53 'Requests the Secretary-General to appoint an expert with a view to assisting the Government of Guatemala, through direct contacts, in taking the necessary action for the further restoration of human rights, and requests the expert to report on his direct contacts with the Government of Guatemala and to formulate recommendations for the further restoration of human rights.' The subsequent resolutions ask the SG to extend the mandate. ENDS Commission resolution 1997/51 notes the resignation of the independent expert and 'requests the Secretary-General to send a mission to Guatemala at the end of 1997, within the approved overall budget for the current biennium, to submit a report to the Commission on Human Rights at its fifty-fourth session on the evolution of the situation of human rights in Guatemala in the light of the implementation of the peace agreements'

Commission resolution 1982/26 'Decides to request the Secretary-General or a person designated by him to undertake a thorough study of the human rights situation in Poland, based on such information as he may deem relevant, including comments and materials the Government of Poland may wish to provide, and to present a comprehensive report to the Commission at its thirty-ninth session.' The Secretary-General did appoint an expert to prepare the study, Mr. Hugo Gobbi, and resolution 1983/30 'Thanks the Secretary-General and Mr. Hugo Gobbi for the report on the human rights situation in Poland, prepared in accordance with Commission on Human Rights resolution 1982/26' and 'Decides to request the Secretary-General or a person designated by him to update and complete the thorough study of the human rights situation in Poland requested in its resolution 1982/26, based on such information as he may deem relevant, including comments and materials the Government of Poland may wish to provide, and to present a comprehensive report to the Commission at its fortieth session.'

Note: This is not a special procedure sensu stricto, as the expert was appointed essentially to assist the Secretary-General with the preparation of a report and was not given an independent mandate. Nevertheless, it is feasible that it could have become a fully-fledged mandate at this point in history.

Commission resolution 1984/55 and ECOSOC resolution 1984/37 'Requests the Chairman of the Commission on Human Rights to appoint an individual of recognized international standing as Special Rapporteur with the mandate to examine the human rights situation in Afghanistan.'

Commission resolution 2003/77 welcomes the report of the Special Rapporteur, but instead of renewing mandate requests the Secretary-General 'To appoint an independent expert for a period of one year to develop, in strict collaboration with the Afghan Transitional Authority, including the Afghan Independent Human Rights Commission, as well as with the Office of the High Commissioner and the Assistance Mission, a programme of advisory services to ensure the full respect and protection of human rights and the promotion of the rule of law and to seek and receive information about and report on the human rights situation in Afghanistan in an effort to prevent human rights violations.'

Commission resolution 1984/54 'requests the Chairman to appoint, after consultation with the Bureau, a special representative of the Commission...'

The 2002 renewal of the mandate was rejected by 20 votes to 19, with 14 abstentions (see para 240 of the Report of the 58th Session of the Commission on Human Rights).

UNHRC resolution 16/9 'Decides to appoint a special rapporteur on the situation of human rights in the Islamic Republic of Iran.'

Commission resolution 1985/33 'Decides to appoint for one year a special rapporteur to examine questions relevant to torture.'

Commission resolution 1986/20 'Expresses its deep concern about reports of incidents and governmental actions in all parts of the world which are inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief' and 'Decides therefore to appoint for one year a special rapporteur to examine such incidents and actions and to recommend remedial measures, including, as appropriate, the promotion of a dialogue between communities of religion or belief and their Governments.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
	Special Rapporteur on freedom of religion or belief (2001-Current)	Thematic	Special Rapporteur
Mercenaries	Special Rapporteur (1987-2005)	Thematic	Special Rapporteur
	Working Group (2005-Current)	Thematic	Working group
Romania	Special Rapporteur (1989-1992)	Country-Specific	Special Rapporteur
Haiti	Expert appointed by the Secretary-General (1987-1990)	Country-Specific	Other
	Independent Expert appointed by the Chairman of the Commission (1990-1992)	Country-Specific	Independent Expert
	Special Rapporteur (1992-1995)	Country-Specific	Special Rapporteur
	Independent Expert (1995-Current)	Country-Specific	Independent Expert
Sale of children, child prostitution and child pornography	Special Rapporteur (1990-Current)	Thematic	Special Rapporteur

Notes

Commission resolution 2000/33 'Decides to change the title of the Special Rapporteur from **Special Rapporteur on religious intolerance to Special Rapporteur on freedom of religion or belief** and that this change will be implemented at the next extension of the Special Rapporteur's mandate.'

Anecdotal evidence suggests this name change was a decision made by the then mandate-holder to give a more positive slant to the mandate.

Commission resolution 1987/16 'Decides to appoint for one year a special rapporteur to examine the question of the use of mercenaries as a means of violating human rights and of impeding the exercise of the right of peoples to self-determination.'

Commission resolution 2005/2 'Decides to end the mandate of the Special Rapporteur on mercenaries and to establish a working group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, made up of five independent experts, one from each regional group, for a period of three years.'

Commission resolution 1989/75 'Decides to request its Chairman, after consultation with the Bureau, to appoint a special rapporteur of the Commission with the mandate to examine the human rights situation in Romania.' Commission resolution 1992/64 does not renew mandate.

Commission resolution 1987/13 'Decides, in view of the findings of the Special Representative and the information provided by the Government, to discontinue its consideration of the situation in Haiti under the procedure established by Economic and Social Council resolution 1503 (XLVIII)' and 'Requests the Secretary General to appoint an expert with a view to assisting the Government of Haiti, through direct contacts, in taking the necessary action for the full restoration of human rights.'

Commission resolution 1990/56 'Requests the Chairman of the Commission on Human Rights to appoint an independent expert to examine developments in the human rights situation in Haiti and to help to devise measures capable of making the necessary improvements.'

A year later, Commission resolution 1991/77 repeats this request, requesting 'its Chairman to appoint an independent expert to examine developments in the human rights situation in Haiti and to help devise measures capable of making the necessary improvements.'

Commission resolution 1992/77 'Requests the Chairman of the Commission on Human Rights, following consultations with the Bureau, to appoint a special rapporteur with a mandate to prepare a report on the situation of human rights in Haiti...'

Commission resolution 1995/70 'Requests the Secretary-General to appoint an independent expert to furnish assistance to the Government of Haiti in the area of human rights, to examine the development of the situation of human rights in Haiti and to monitor the fulfillment by Haiti of its obligations in this field.'

Commission resolution 1990/68 'Decides to appoint for a period of one year a Special Rapporteur to consider matters relating to the sale of children, child prostitution and child pornography, including the problem of the adoption of children for commercial purposes.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Iraq	Special Rapporteur (1991-2004)	Country-Specific	Special Rapporteur
Kuwait Territories Occupied by Iraq	Special Rapporteur (1991-1992)	Country-Specific	Special Rapporteur
Cuba	Special Representative of the Secretary-General (1991-1992)	Country-Specific	Special Representative of the Secretary-General
	Special Rapporteur (1992-1998)	Country-Specific	Special Rapporteur
	Personal Representative of the High Commissioner (2002-2007)	Country-Specific	Other
Arbitrary detention	Working Group (1991-Current)	Thematic	Working Group

Notes

Commission resolution 1991/74 'Requests its Chairman, after consultation with the Bureau, to appoint an individual of recognized international standing in the field of human rights as special rapporteur of the Commission.'

The mandate of the Special Rapporteur was not renewed at the 60th session.

Commission resolution 1991/67 'Decides to appoint an individual of recognized international standing as special rapporteur with a mandate to examine the human rights violations committed in occupied Kuwait by the invading and occupying forces of Iraq and to report as soon as possible to the General Assembly and to the Commission on Human Rights at its forty-eighth session.'

The mandate was not renewed at 48th session of the Commission.

Commission resolution 1991/68 'Requests the Secretary-General, after consultation with the Chairman and the Bureau of the Commission, to appoint a special representative, in accordance with Commission decision 1989/113, to maintain direct contact with the Government and citizens of Cuba on the issues and questions contained in, and associated with, the report of the mission which took place in Cuba.'

Commission resolution 1992/61 'Commends and endorses the report... prepared by the Special Representative of the Secretary-General' and 'Requests the Chairman of the Commission at its forty-eighth session to designate the Special Representative appointed by the Secretary-General pursuant to its resolution 1991/68 as its Special Rapporteur to review and report on the situation of human rights in Cuba.'

A draft resolution which sought to extend the mandate of the special rapporteur in the 54th Session (1998) was rejected by 19 votes to 16, with 18 abstentions (*In favour:* Argentina, Austria, Canada, Czech Republic, Denmark, El Salvador, France, Germany, Ireland, Italy, Japan, Luxembourg, Poland, Republic of Korea, United Kingdom of Great Britain and Northern Ireland, United States of America; *Against:* Belarus, Bhutan, Cape Verde, China, Congo, Cuba, Democratic Republic of the Congo, Guinea, India, Indonesia, Malaysia, Mali, Mozambique, Pakistan, Russian Federation, Rwanda, South Africa, Sudan, Uganda; *Abstaining:* Bangladesh, Botswana, Brazil, Chile, Ecuador, Guatemala, Madagascar, Mexico, Morocco, Nepal, Peru, Philippines, Senegal, Sri Lanka, Tunisia, Ukraine, Uruguay, Venezuela). See Commission on Human Rights Report on the Fifty-Fourth Session (E/CN.4/1998/177), p.351.

Commission resolution 2002/18 'Requests the United Nations High Commissioner for Human Rights to take the steps necessary to send a personal representative with a view to cooperation between her Office and the Government of Cuba in the implementation of the present resolution.'

The mandate was one of two mandates not renewed by resolution 5/1 [Institution-building of the United Nations Human Rights Council], 18th June 2007.

Commission resolution 1991/42 'Decides to create, for a three-year period, a working group composed of five independent experts, with the task of investigating cases of detention imposed arbitrarily or otherwise inconsistently with the relevant international standards set forth in the Universal Declaration of Human Rights or in the relevant international legal instruments accepted by the States concerned.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Property	Independent Expert (1991-1994)	Thematic	<i>Quasi-Special Procedure (type 2)</i>
Former Yugoslavia	Special Rapporteur (1992-2001)	Country-Specific	Special Rapporteur
	Special Representative of the Commission (2001-2003)	Country-Specific	Special Representative of the Commission
Former Yugoslavia/ Missing persons	'Special Process' (1994-1997)	Mixed	Thematic Sub-Procedure
Myanmar	Special Rapporteur (1992-Current)	Country-Specific	Special Rapporteur
Cambodia	Special Representative of the Secretary General (1993-2008)	Country-Specific	Special Representative of the Secretary-General
	Special Rapporteur (2008-current)	Country-Specific	Special Rapporteur
Somalia	Independent Expert (1993-current)	Country-Specific	Independent Expert

Notes

Commission resolution 1991/19 'Requests its Chairman to entrust an independent expert with the task of preparing a study, within the existing resources, on the means whereby and the degree to which respect for the right to own property.' Commission resolution 1993/21 'Decides to renew the mandate [emphasis added] of the independent expert for one year so that he may complete his report using the observations and comments submitted by Governments and intergovernmental and non-governmental organizations which could not be included owing to the time when they were received.' 1994/13 'Welcomes the final report of the independent expert' and does not renew the mandate.

Note: As with the Special Rapporteur on economic, social and cultural rights, this is not a special procedure sensu stricto, as the expert is asked to prepare a study rather than having a broader mandate established. As he is an 'independent expert' tasked with reporting to the Commission (rather than the sub-Commission), however, it is still interesting for the purposes of this study and should be considered to be a Quasi-Special Procedure.

Mandate established by Commission resolution 1992/S-1/1, passed on 14 August 1992 during a special session to study 'the situation of human rights in the territory of the former Yugoslavia.'

Commission resolution 2001/12 'Thanks the Special Rapporteur for his efforts to fulfill his mandate and takes note of his report' and 'Requests the Chairperson of the Commission to appoint for one year a special representative of the Commission with a mandate to examine the situation of human rights in Bosnia and Herzegovina and the Federal Republic of Yugoslavia.'

Mandate not renewed at the 59th session (2003).

Commission resolution 1994/72 'requests the Working Group (on Enforced or Involuntary Disappearances) represented by one of its members, to cooperate as appropriate with the Special Rapporteur (on the Former Yugoslavia) in dealing with this issue.' By the next session, this has become known as a 'special process dealing with the problem of missing persons in the territory of the former Yugoslavia' (Commission resolution 1995/35).

The process is led by an expert member of the Working Group on Enforced or Involuntary Disappearances and reports to the Commission separately until 1997, when the process is not renewed.

Commission resolution 1992/58 'Decides to nominate a special rapporteur to establish direct contacts with the Government and with the people of Myanmar...'

Commission resolution 1993/6 'Requests the Secretary-General to appoint a special representative.'

UNHRC resolution 9/15 decides 'to extend by one year the mandate of the special procedure on the situation of human rights in Cambodia through the appointment of a special rapporteur to carry out the former functions of the Special Representative to the Secretary-General.'

Commission resolution 1993/86 'Requests the Secretary-General to appoint for a period of one year a person having wide experience in the field of human rights as an independent expert, in his or her individual capacity, to assist the Special Representative of the Secretary-General for Somalia.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Freedom of opinion and expression	Special Rapporteur (1993-current)	Thematic	Special Rapporteur
Contemporary forms of racism, racial discrimination, xenophobia and related intolerance	Special Rapporteur (1993-current)	Thematic	Special Rapporteur
Rwanda	Special Rapporteur (1994-1997)	Country-Specific	Special Rapporteur
	Special Representative of the Commission (1997-2001)	Country-Specific	Special Representative of the Commission
Sudan	Special Rapporteur (1993-2003)	Country-Specific	Special Rapporteur
	Independent Expert (2004-2005)	Country-Specific	Independent Expert
	Special Rapporteur (2005-2009)	Country-Specific	Special Rapporteur
	Independent Expert (2009-Current)	Country-Specific	Independent Expert

Notes

Commission resolution 1993/45 'Requests the Chairman of the Commission to appoint, for a period of three years, after consultations with other members of the Bureau, an individual of recognized international standing as special rapporteur on the promotion and protection of the right to freedom of opinion and expression.'

Commission resolution 1993/20 'Decides, in particular in the light of recent trends, to appoint, for a three-year period, a special rapporteur on contemporary forms of racism, racial discrimination and xenophobia and related intolerance, and requests the special rapporteur to report thereon to the Commission on an annual basis, beginning at its fiftieth session.'

Mandate established by Commission resolution S-3/1 of 25 May 1994.

Commission resolution 1997/66 'Requests the Chairman of the Commission to appoint a special representative with the mandate to make recommendations on how to improve the human rights situation in Rwanda, to facilitate the creation and effective functioning of an independent national human rights commission in Rwanda, and further to make recommendations on situations in which technical assistance to the Government of Rwanda in the field of human rights may be appropriate.'

Commission resolution 2001/23 'Decides to end the mandate of the Special Representative of the Commission on the situation of human rights in Rwanda.'

Commission resolution 1993/60 'Requests the Chairman of the Commission, after consultations within the Bureau, to appoint an individual of recognized international standing and expertise in human rights as special rapporteur on the situation of human rights in the Sudan.'

A draft resolution renewing the mandate at the 59th session (2003) was rejected by 26 votes to 24, with 3 abstentions (*In favour:* Argentina, Armenia, Australia, Austria, Belgium, Brazil, Canada, Chile, Costa Rica, Croatia, France, Germany, Guatemala, Ireland, Japan, Mexico, Paraguay, Peru, Poland, Republic of Korea, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay; *Against:* Algeria, Bahrain, Burkina Faso, Cameroon, China, Cuba, Democratic Republic of the Congo, Gabon, India, Kenya, Libyan Arab Jamahiriya, Malaysia, Pakistan, Russian Federation, Saudi Arabia, Senegal, Sierra Leone, South Africa, Sri Lanka, Sudan, Swaziland, Syrian Arab Republic, Togo, Ukraine, Viet Nam, Zimbabwe; *Abstaining:* Thailand, Uganda, Venezuela). See Commission on Human Rights Report of the Fifty-Ninth Session, para 190, p.375.

With Commission resolution decision 2004/128, 'The Commission requests its Chairman to appoint an independent expert on the situation of human rights in the Sudan for a period of one year and requests the independent expert to submit an interim report to the General Assembly at its fifty-ninth session and to report to the Commission at its sixty-first session on the situation of human rights in the Sudan.'

Commission resolution 2005/82 'Decides to establish the mandate of a special rapporteur on the situation of human rights in the Sudan for one year.'

UNHRC resolution 11/10 'Decides to create the mandate of independent expert on the situation of human rights in the Sudan for a period of one year.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Burundi	Special Rapporteur (1995-2004)	Country-Specific	Special Rapporteur
	Independent Expert (2004-2011)	Country-Specific	Independent Expert
Congo/former Zaire/DRC	Special Rapporteur (1994-2004)	Country-Specific	Special Rapporteur
	Independent Expert (2004-2008)	Country-Specific	Independent Expert
Bougainville Papua New Guinea	Special Representative of the Secretary General (1994-1995)	Country-Specific	Special Representative of the Secretary-General
Violence against women	Special Rapporteur (1994-Current)	Thematic	Special Rapporteur
Independence of judges and lawyers	Special Rapporteur (1994-Current)	Thematic	Special Rapporteur
Hazardous substances/waste	Special Rapporteur (1995-Current)	Thematic	Special Rapporteur
Nigeria	Special Rapporteur (1997-1999)	Country-Specific	Special Rapporteur

Notes

Commission resolution 1995/90 'Calls upon the Chairman of the Commission rapidly to appoint, after consultation with the Bureau, a special rapporteur with the task of drawing up, on the basis of all the information he considers relevant and his contacts with the Burundi authorities and population, a report on the situation of human rights in Burundi for submission to the Commission at its fifty-second session.'

Commission resolution 2004/82 'Decides to appoint an independent expert to provide backing for the Government of Burundi in its efforts to improve the human rights situation.'

The mandate ended with the establishment of the Independent National Commission of Human Rights (INCHR) in Burundi in accordance with Council resolution 9/19, which decided 'to extend the mandate of the independent expert until an independent national human rights commission has been established.'

Commission resolution 1994/87 'Invites the Chairman of the Commission to appoint, after consultations with the Bureau, a special rapporteur mandated to establish direct contacts with the authorities and the people of Zaire.'

Commission resolution 2004/84 decides 'To appoint an independent expert to provide assistance to the Government of the Democratic Republic of the Congo in the field of human rights, to study the evolving situation of human rights in the Democratic Republic of the Congo and to verify that its obligations in this field are being fulfilled.'

The mandate is not renewed in its first consideration after the Council is established (UNHRC resolution 7/20).

Commission resolution 1994/81 'Requests the Secretary-General, in the light of developments between the adoption of the present resolution and 30 September 1994, to consider the appropriateness of appointing a special representative.' A Representative of the Secretary-General subsequently submitted a report to the 51st session of the Commission in 1995 [E/CN.4/1995/60/Add.1].

Commission resolution 1994/45 'Decides to appoint, for a three-year period, a special rapporteur on violence against women, including its causes and its consequences.'

Commission resolution 1994/41 'Requests the Chairman of the Commission to appoint, for a period of three years, after consultation with the other members of the Bureau, a special rapporteur.'

Commission resolution 1995/81 'Decides to appoint a special rapporteur for a period of three years.'

Commission resolution 1997/53 decides 'To invite the Chairman of the Commission to appoint, after consultations with the Bureau, a special rapporteur on the situation of human rights in Nigeria.'

Commission resolution 1999/11 does not renew the mandate.

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Structural adjustment policies*	Independent Expert (1997-2000)	Thematic	Independent Expert
Effects of foreign debt on the full enjoyment of economic, social and cultural rights*	Special Rapporteur (1998-2000)	Thematic	Special Rapporteur
Poverty	Independent Expert (1998-2011)	Thematic	Independent Expert
	Special Rapporteur (2011-Current)	Thematic	Special Rapporteur
Education	Special Rapporteur (1998-Current)	Thematic	Special Rapporteur
Migrants	Special Rapporteur (1999-Current)	Thematic	Special Rapporteur
Food	Special Rapporteur (2000-Current)	Thematic	Special Rapporteur
Adequate housing	Special Rapporteur (2000-current)	Thematic	Special Rapporteur
Human Rights Defenders	Special Representative of the Secretary-General (2000-2008)	Thematic	Special Representative of the Secretary-General
	Special Rapporteur (2008-Current)	Thematic	Special Rapporteur

Notes

Commission resolution decision 1997/103 requests 'the Chairman of the Commission, in consultation with the regional groups, to appoint an independent expert, preferably an economist specialized in the area of structural adjustment programmes, to study the effects of structural adjustment policies on economic, social and cultural rights in cooperation with the Centre for Human Rights.'

This mandate was merged with the mandate on the effects of foreign debt in 2000, with Commission resolution 2000/82, which established an 'independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights.' This merging of mandates was recommended by the Bureau in their Report to the fifty-fourth session of the Commission on Human Rights submitted pursuant to Commission decision 1998/112 (E/CN.4/1999/104), Recommendation 1, p.14.

Resolution 1998/24 'Decides, in particular in the light of recent trends, to appoint, for a three-year period, a special rapporteur on the effects of foreign debt on the full enjoyment of economic, social and cultural rights.'

This mandate was merged with the mandate on structural adjustment policies in 2000 with Commission resolution 2000/82, which established an 'independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights.' This merging of mandates was recommended by the Bureau in their Report to the fifty-fourth session of the Commission on Human Rights submitted pursuant to Commission decision 1998/112 (E/CN.4/1999/104), Recommendation 1, p.14.

Commission resolution 1998/25 'Decides to appoint, for a period of two years, an independent expert on the question of human rights and extreme poverty.'

UNHRC resolution 17/13 'Decides to extend the mandate of the current mandate holder as a special rapporteur on extreme poverty and human rights for a period of three years in conformity with the terms set forth in Human Rights Council resolution 8/11.'

Commission resolution 1998/33 decides to 'appoint, for a period of three years, a special rapporteur whose mandate will focus on the right to education.'

Commission resolution 1999/44 'Decides to appoint, for a three-year period, a special rapporteur on the human rights of migrants.'

Commission resolution 2000/10 'Decides (...) to appoint, for a period of three years, a special rapporteur, whose mandate will focus on the right to food.'

Commission resolution 2000/9 decides 'To appoint, for a period of three years, a special rapporteur whose mandate will focus on adequate housing as a component of the right to an adequate standard of living.'

Commission resolution 2000/61 'Requests the Secretary-General to appoint, for a period of three years, a special representative who shall report on the situation of human rights defenders in all parts of the world and on possible means to enhance their protection.'

UNHRC resolution 7/8 'Decides to extend the special procedure on the situation of human rights defenders as a Special Rapporteur for a period of three years.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights	Independent Expert (2000-current)	Thematic	Independent Expert
Human rights and fundamental freedoms of indigenous people	Special Rapporteur (2001-current)	Thematic	Special Rapporteur
African descent	Working Group (2002-current)	Thematic	Working Group
Health	Special Rapporteur (2002-current)	Thematic	Special Rapporteur
Libera	Independent Expert (2003-2008)	Country-Specific	Independent Expert
Belarus	Special Rapporteur (2004-2007)	Country-Specific	Special Rapporteur
	Special Rapporteur (2012-Current)	Country-Specific	Special Rapporteur

Notes

Commission resolution 2000/82 'Decides to appoint an independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights, particularly economic, social and cultural rights, for a period of three years,' effectively merging the previous mandates of the Special Rapporteur on the effects of foreign debt on the full enjoyment of economic, social and cultural rights and the Independent Expert on structural adjustment policies. This followed a recommendation by the Bureau during the 1998-2000 reform process, presented in their Report to the fifty-fourth session of the Commission on Human Rights submitted pursuant to Commission decision 1998/112 [E/CN.4/1999/104], Recommendation 1, p. .14.

Commission resolution 2001/57 'Decides to appoint, for a three-year period, a special rapporteur on the situation of human rights and fundamental freedoms of indigenous people.'

Commission resolution 2002/68 'decides to establish a working group of five independent experts on people of African descent.'

Commission resolution 2002/31 'Decides to appoint, for a period of three years, a special rapporteur whose mandate will focus on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.'

Commission resolution 2003/82 'Decides to appoint an independent expert for an initial period of three years to facilitate cooperation between the Government of Liberia and the Office of the High Commissioner in the area of the promotion and protection of human rights by providing technical assistance and advisory services.'

UNHRC resolution 9/16 [Advisory services and technical assistance for Liberia] does not renew the mandate.

Commission resolution 2004/14 'Decides to appoint a special rapporteur, from within existing resources, to establish direct contacts with the Government and with the people of Belarus, with a view to examining the situation of human rights in Belarus and following any progress made towards the elaboration of a programme on human rights education for all sectors of society, in particular law enforcement, the judiciary, prison officials and civil society, and to report to the Commission at its sixty-first session.'

The mandate was one of two mandates not renewed by resolution 5/1 [Institution-building of the United Nations Human Rights Council], 18th June 2007.

UNHRC resolution 20/13 'Decides to appoint a special rapporteur to monitor the situation of human rights in Belarus.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
DPR Korea	Special Rapporteur (2004-Current)	Country-Specific	Special Rapporteur
Chad	Independent Expert (2004-2005)	Country-Specific	Independent Expert
Trafficking in persons	Special Rapporteur (2004-Current)	Thematic	Special Rapporteur
Internally Displaced Persons	Representative of the Secretary General (1992-2004)	Thematic	<i>Quasi-Special Procedure (type 2)</i>
	Representative of the Secretary General (2004-2010)	Thematic	Other
	Special Rapporteur (2010-Current)	Thematic	Special Rapporteur
Counter-terrorism	Special Rapporteur (2005-Current)	Thematic	Special Rapporteur
Minority issues	Independent Expert (2005-current)	Thematic	Independent Expert

Notes

Commission resolution 2004/13 'Requests the Chairperson of the Commission, after consultations within the Bureau, to appoint an individual of recognized international standing and expertise in human rights as Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea.'

Commission resolution 2004/85 decides 'To appoint an independent expert for an initial period of one year to facilitate cooperation between the Government of Chad and the Office of the High Commissioner in the promotion and protection of human rights and to submit a report to the Commission at its sixty-first-session.'

Commission resolution decision 2005/117 takes note of the report of the Independent Expert, but does not renew the mandate.

Commission resolution decision 2004/110 'decided, without a vote (...) To appoint, for a period of three years, a Special Rapporteur, whose mandate will focus on the human rights aspects of the victims of trafficking in persons, especially women and children.'

Commission resolution 1992/73 'requests the SG to designate a representative to seek again views and information from all governments... and to submit a comprehensive study at the 49th session.' At the next session, the Commission passed resolution 1993/95 which 'Requests the Secretary-General to mandate his representative for a period of two years to continue his work.'

In 1995, 1998 and 2001 the Commission passed resolutions that decided 'to extend the mandate of the representative of the Secretary-General for a further three years.'

Note: The mandate on Internally Displaced Persons started with this very narrow mandate, which was gradually expanded by the Commission over the years so as to become - beyond all doubt - a fully fledged 'Special Procedure,' with all of the tools mandates enjoy today. The mandate began in 1992 with Commission resolution 1992/73 requesting the Secretary-General to 'designate a representative to seek again views and information from all governments... and to submit a comprehensive study at the 49th session.' This mandate was only established as a 'mechanism' in 2004 (the date OHCHR recognises to be the start of the mandate) when the Commission asked the Secretary-General, 'in effectively building upon the work of his Representative, to establish a mechanism that will address the complex problem of internal displacement.' Despite the fact that this mandate was not recognised as a 'mechanism' until 2004, much like the Special Procedures system itself it had developed organically over time within the Commission. The period from 1992-2004 is thus interesting and important for the purposes of this study and has therefore been included, albeit as a Quasi-Special Procedure.

Commission resolution 2004/55 (which the OHCHR websites identifies as having established the mandate on IDPs) 'Requests the Secretary-General, in effectively building upon the work of his Representative, to establish a mechanism that will address the complex problem of internal displacement, in particular by mainstreaming human rights of the internally displaced into all relevant parts of the United Nations system.' This might be seen as the formalisation of the former 'mandate' of the Representative of the Secretary General, which had been in place since 1992.

UNHRC resolution 14/6 'Decides to extend the mandate of the special procedure on the human rights of internally displaced persons as a special rapporteur for a period of three years.'

Commission resolution 2005/80 'Decides to appoint, for a period of three years, a special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism.'

Commission resolution 2005/79 'Requests the High Commissioner to appoint an independent expert on minority issues for a period of two years.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
International solidarity	Independent Expert (2005-Current)	Thematic	Independent Expert
Contemporary forms of slavery	Special Rapporteur (2007-Current)	Thematic	Special Rapporteur
Water	Independent Expert (2008-2011)	Thematic	Independent Expert
	Special Rapporteur (2011-Current)	Thematic	Special Rapporteur
Human rights and transnational corporations and other business enterprises	Special Representative of the Secretary-General (2005-2011)	Thematic	Special Representative of the Secretary-General
	Working Group (2011-Current)	Thematic	Working Group
Cultural rights	Independent Expert (2009-2012)	Thematic	Independent Expert
	Special Rapporteur (2012-Current)	Thematic	Special Rapporteur
Peaceful assembly	Special Rapporteur (2010-Current)	Thematic	Special Rapporteur
Discrimination against women	Working Group (2010-Current)	Thematic	Working Group
Democratic and equitable world order	Independent Expert (2011-Current)	Thematic	Independent Expert

Notes

Commission resolution 2005/55 'Decides... to appoint an independent expert on human rights and international solidarity for a period of three years.'

UNHRC resolution 6/14 'Decides to appoint, for a three-year period, a Special Rapporteur on contemporary forms of slavery, including its causes and its consequences, to replace the Working Group on Contemporary Forms of Slavery of the former Sub-Commission.'

UNHRC resolution 7/22 'Decides to appoint, for a period of three years, an independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation.'

UNHRC resolution 16/2 'Decides to extend the mandate of the current mandate holder as a special rapporteur on the human right to safe drinking water and sanitation for a period of three years.'

Commission resolution 2005/69 'Requests the Secretary-General to appoint a special representative on the issue of human rights and transnational corporations and other business enterprises, for an initial period of two years.'

UNHRC resolution 17/4 'Decides to establish a Working Group on the issue of human rights and transnational corporations and other business enterprises, consisting of five independent experts, of balanced geographical representation, for a period of three years.'

UNHRC resolution 10/23 'Decides to establish, for a period of three years, a new special procedure entitled 'independent expert in the field of cultural rights', as set out in the relevant United Nations human rights instruments.'

UNHRC resolution 19/6 'Decides to extend, for a period of three years, the mandate of the current mandate holder as a special rapporteur in the field of cultural rights.'

UNHRC resolution 15/21 'Decides to appoint, for a period of three years, a special rapporteur on the rights to freedom of peaceful assembly and of association.'

UNHRC resolution 15/23 'Decides to establish, for a period of three years, a working group of five independent experts.'

UNHRC resolution 18/6 'Decides to establish, for a period of three years, a new special procedures mandate of independent expert on the promotion of a democratic and equitable international order.'

Name of Mandate	Title and timeframe	Mandate focus	Mandate Type
Truth, justice, reparations	Special Rapporteur (2011-Current)	Thematic	Special Rapporteur
Côte d'Ivoire	Independent Expert (2011-Current)	Country-Specific	Independent Expert
Eritrea	Special Rapporteur (2012-Current)	Country-Specific	Special Rapporteur
Syria	Special Rapporteur mandate established in 2011, to begin when the COI mandate ends.	Country-Specific	Special Rapporteur
Environment	Independent Expert (2012-Current)	Thematic	Independent Expert
Older persons	Independent Expert (2013-Current)	Thematic	Independent Expert
Central African Republic	Independent Expert (2013-Current)	Country-Specific	Independent Expert
Mali	Independent Expert (2013-Current)	Country-Specific	Independent Expert

Notes

UNHRC resolution 18/7 'Decides to appoint, for a period of three years, a special rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.'

UNHRC resolution 17/21 'decides to establish the mandate of independent expert on the situation of human rights in Côte d'Ivoire.'

UNHRC resolution 20/20 'Decides to appoint a special rapporteur on the situation of human rights in Eritrea for a period of one year.'

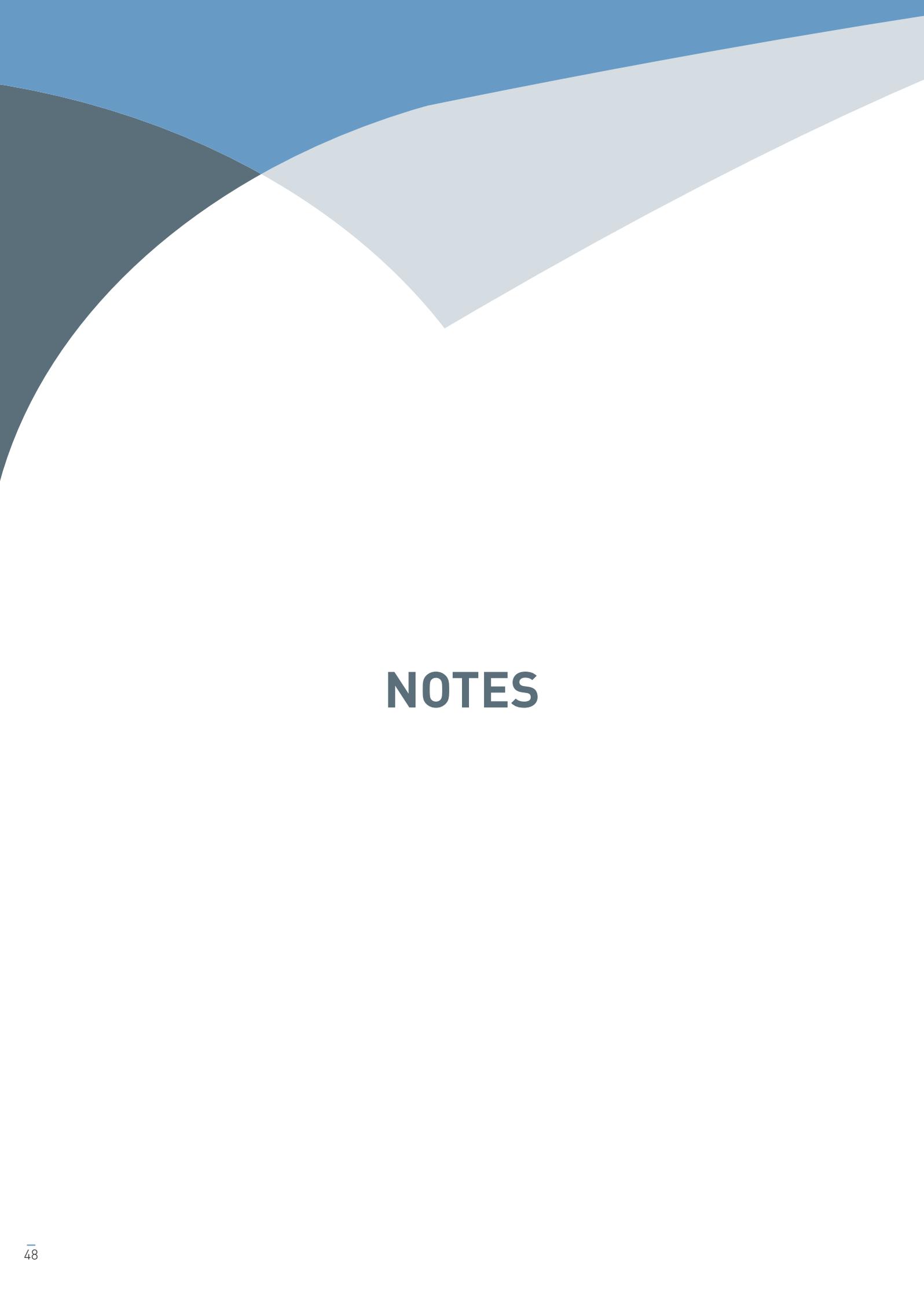
UNHRC resolution S-18/1 (passed at the 18th Special Session of the Human Rights Council) 'Decides to establish the mandate of Special Rapporteur on the situation of human rights in the Syrian Arab Republic once the mandate of the commission of inquiry ends.'

UNHRC resolution 19/10 'Decides to appoint, for a period of three years, an independent expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.'

UNHRC resolution 24/20 'Decides to appoint, for a period of three years, an Independent Expert on the enjoyment of all human rights by older persons.'

UNHRC resolution 24/34 'Decides to appoint an Independent Expert, for a period of one year, to monitor the situation of human rights in the Central Africa Republic, to make recommendations concerning technical assistance and capacity-building in the field of human rights.'

UNHRC resolution 22/18 'Decides to establish a one-year mandate for an independent expert on the situation of human rights in Mali with a view to assisting the Government of Mali in its efforts to promote and protect human rights.'



NOTES

1 Secretary-General's message to the Third Session of the Human Rights Council [delivered by Mrs Louise Arbour, High Commissioner for Human Rights], 29 November 2006.

2 Bertrand G. Ramcharan, *Evolution of Human Rights Norms and Machinery*, Markkula Center for Applied Ethics, Santa Clara University (date published: unknown).

3 Jeroen Gutter, *Thematic Procedures of the United Nations Commission on Human Rights and International Law: in Search of a Sense of Community*, (Intersentia: 2006), p.76.

4 *Ibid*, p.77.

5 United Nations, *Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, Article 1.3.

6 *Ibid*, Article 68.

7 ECOSOC, *Report of the Commission on Human Rights to the Economic and Social Council on the First Session of the Commission on Human Rights, Held at Lake Success, New York from 27th January to 10th February 1947*, UN Doc E/259.

8 Ingrid Nifosi, *The UN Special Procedures in the Field of Human Rights* (Intersentia, Antwerpen/Oxford, 2005), p.12.

9 ECOSOC Resolution 75 (V) [Communications concerning human rights], 5th August 1947 (UN Doc. E/573, p.20).

10 ECOSOC Resolution 728 F (XXVIII) [Communications concerning human rights], 30th July 1959 (UN Doc. E/3290, p. 19).

11 Afghanistan, Algeria, Cambodia, Ceylon, Guinea, India, Indonesia, Mongolia, Nigeria, Pakistan, Rwanda, Sierra-Leone, Somalia, Trinidad and Tobago. Subsequently joined by Mali and Nepal.

12 Letter dated 4th September 1963, addressed to the Secretary-General of the United Nations, UN Doc. A/5489 [4th September 1963]; cited in UNGA, [Report of the United Nations Fact-Finding Mission to South Viet-Nam], UN Doc. A/5630 [7th December 1963].

13 Letter addressed to President of the General Assembly [4th October 1963]; cited in UNGA, [Report of the United Nations Fact-Finding Mission to South Viet-Nam], UN Doc. A/5630 [7th December 1963].

14 UNGA, [Report of the United Nations Fact-Finding Mission to South Viet-Nam], UN Doc. A/5630 [7th December 1963], paras 5-6.

15 *Ibid*, para 13.

16 *Ibid*, para 14.

17 Unfortunately, the mission was terminated early on 3rd November 1963 when President Diem was overthrown in a coup and its report was never presented to the General Assembly.

18 Nifosi, *op. cit.*, p.11.

19 ECOSOC resolution 1102 (XL), 4 March 1966 (in UN Doc. E/4176, p.6).

20 UNCHR Resolution 2 (XXII) [Question of the violation of human rights and fundamental freedoms; including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories], 25th March 1966.

21 ECOSOC resolution 1164 (XLI) [Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories], 5 August 1966, in E/4264, p.26.

22 UNGA Resolution 2144 A (XXI) [Question of the Violation of Human Rights and Fundamental Freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories], 26th October 1966, operative para 12.

23 UNCHR Resolution 2(XXIII) [Communication dated 3 February 1967 from the Acting Chairman of the General Assembly's Special Committee on the Policies of Apartheid of the Government of the Republic of South Africa], 6th March 1967; submitted by Democratic Republic of the Congo, Dahomey, Iraq, Iran, Jamaica, Morocco, Nigeria, the Philippines, Senegal and the United Arab Republic; Co-sponsored by India and Pakistan.

24 UNCHR Resolution 7(XXIII) [Action effectively to combat racial discrimination and the policies of apartheid and segregation], 16th March 1967; submitted by Democratic Republic of the Congo, Dahomey, Nigeria, Senegal and United Republic of Tanzania; Co-sponsored by India, Iraq, Iran, Morocco, Pakistan and the United Arab Republic.

25 UNCHR Resolution 2(XXIII) [Communication dated 3 February 1967 from the Acting Chairman of the General Assembly's Special Commit-

tee on the Policies of Apartheid of the Government of the Republic of South Africa], 6th March 1967; submitted by Democratic Republic of the Congo, Dahomey, Iraq, Iran, Jamaica, Morocco, Nigeria, the Philippines, Senegal and the United Arab Republic; Co-sponsored by India and Pakistan.

26 ECOSOC Resolution 9 (II) [Commission on Human Rights], 21 June 1946.

27 UNCHR Resolution 2 (XXIII) adopted 25 for, 0 against, 5 abstentions (France, Italy, New Zealand, UK, US); UNCHR Resolution 7 (XXIII) adopted 28 for, 0 against, 2 abstentions.

28 UNCHR Resolution 8 (XXIII) [Study and investigation of situations which reveal a consistent pattern of violation of human rights], 16th March 1967.

29 UNCHR Resolution 9 (XXIII) [Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid in all countries, with particular reference to colonial and other dependent countries and territories], 16 March 1967; adopted by 21 votes to 0, with 9 abstentions (see Commission on Human Rights: Report on the 23rd session, 20 February-23 March 1967, UN Doc. E/CN.4/940, p.133, para 403).

30 Thomas Buergenthal, Remarks at the 87th Annual Meeting of the American Society of International Law [2 April 1993] in *New Customary Law: Taking Human Rights Seriously? Proceedings of the Annual Meeting* (American Society of International Law), Vol. 87, Challenges to International Governance (MARCH 31-APRIL 3, 1993), p.231, quoted in Surya P. Subedi, Protection of Human Rights through the Mechanism of UN Special Rapporteurs, *Human Rights Quarterly*, Volume 33, Number 1, February 2011, p.202.

31 UNCHR Resolution 6 (XXV) [Question of human rights in the territories occupied as a result of hostilities in the Middle East], 4 March 1969.

32 At the Commission's 27th session in 1971, Morocco and Pakistan tabled a resolution calling for consideration to be given to appointing a Special Rapporteur on colonialism and self-determination at its next (28th) session. However, this did not materialise.

33 UNCHR Resolution 11 (XXXV) [Study of reported violations of human rights in Chile, with particular reference to torture and other cruel, inhuman or degrading treatment or punishment], 6 March 1979.

34 Later, at its 35th session (1979) the Commission established two Experts on the fate of disappeared persons in Chile – a sort of thematic sub-procedure.

35 UN Doc. A/C.3/33/SR.70; quoted in Nigel Rodley & Matt Pollard, *The Treatment of Prisoners under International Law*, (Oxford University Press, Oxford, 2009), p.338.

36 Gutter, *op. cit.*, p.83.

37 Howard Tolley, *The United Nations Commission of Human Rights*, 38 Miko Lempinen, *Challenges Facing the System of Special Procedures of the United Nations Commission on Human Rights*, (Institute for Human Rights, Abo Akademi University, 2001), p.10.

39 The Commission decided to change the title of this mandate to "Special Rapporteur on freedom of religion or belief" in 2000; UNCHR Resolution 2000/33 [Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief], 20 April 2000, operative para 11.

40 Vienna Declaration and Programme of Action, Adopted by the World Conference on Human Rights in Vienna on 25 June 1993, *op. cit.*, Para I.5.

41 Nevertheless, because of their similarities with Special Procedures – especially with modern thematic Independent Experts, because they reported to the Commission (rather than to the Sub-Commission as was the case with other, similarly-tasks 'Special Rapporteurs'), and because they could have, in principle, developed into full Special Procedure mandates (as others did from this starting point), the Universal Rights Group has included them in its mandate listing (see Appendix I) as 'quasi Special Procedures.'

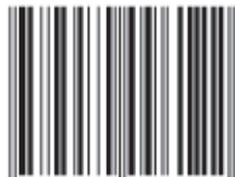
42 South Africa (1995), Chile (1990), Equatorial Guinea (2002), Bolivia (1983), El Salvador (1995), Guatemala (1997), Afghanistan (2005), Iran (2002), Romania (1992), Iraq (2004), Kuwait Territories Occupied by Iraq (1992), Cuba (1998 ; 2007), Former Yugoslavia (2003), Rwanda (2001), Sudan (2003), Burundi (2011), Congo/former Zaire/DRC (2008), Bougainville Papua New Guinea (1995), Nigeria (1999), Liberia (2008), Belarus (2007), Chad (2005).

- 43 Vienna Declaration and Programme of Action, op.cit., para 95.
- 44 Ibid.
- 45 Revised Manual of Operations of the Special Procedures of the Human Rights Council (August 2008).
- 46 UNCHR, 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, UN Doc. E/CN.4/2006/4 (3 August 2005), p.2.
- 47 Vienna Declaration and Programme of Action, op. cit., para 95.
- 48 Special Procedure Branch was established in response to UNGA Resolution 57/300 (7 February 2003), which requested the Commission, *inter alia*, to provide adequate administrative support to each of the Special Procedures.
- 49 UNCHR decision 1998/112 [Enhancing the effectiveness of the mechanisms of the Commission on Human Rights], 24 April 1998.
- 50 UNCHR, Report of the Bureau of the fifty-fourth session of the Commission on Human Rights submitted pursuant to Commission decision 1998/112, UN Doc. E/CN.4/1999/104, [23rd December 1998], para 19.
- 51 Ibid.
- 52 Ibid, Executive Summary & Recommendation 1, para 20.
- 53 UNCHR, Note by the High Commissioner for human Rights [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], UN Doc. E/CN.4/2000/5 (6 August 1999).
- 54 UNCHR, Report of the inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights, UN Doc No. E/CN.4/2000/112 (16 February 2000).
- 55 Report of the inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights (E/CN.4/2000/112), op. cit.
- 56 Ibid, para 15.
- 57 Ibid, para 21.
- 58 Ibid, para 16-20.
- 59 Ibid, para 22.
- 60 Ibid, para 13.
- 61 Ibid, para 8.
- 62 Ibid, para 28.
- 63 Report of the Bureau of the fifty-fourth session of the Commission on Human Rights submitted pursuant to Commission decision 1998/112 [E/CN.4/1999/104], op. cit., recommendation 7.
- 64 Report of the inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights (E/CN.4/2000/112), op. cit., para 25.
- 65 Report of the Bureau of the fifty-fourth session of the Commission on Human Rights submitted pursuant to Commission decision 1998/112 [E/CN.4/1999/104], op. cit., recommendation 10.
- 66 Report of the inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights (E/CN.4/2000/112), op. cit., para 30 & 32.
- 67 UNCHR decision 2000/109 [Enhancing the effectiveness of the mechanisms of the Commission on Human Rights], 26 April 2000.
- 68 ECOSOC Decision 2000/284 [Enhancing the effectiveness of the mechanisms of the Commission on Human Rights], 28 July 2000.
- 69 There were actually six action points in the Decision, but the other four were minor.
- 70 Interview with Western diplomat, conducted in the context of this report.
- 71 Report of the inter-sessional open-ended Working Group on Enhancing the Effectiveness of the Mechanisms of the Commission on Human Rights (E/CN.4/2000/112), op. cit., para 12.
- 72 UNGA, Strengthening of the United Nations: an agenda for further change [Report of the Secretary-General], UN Doc A/57/387 (9 September 2002), p.13.
- 73 Ibid.
- 74 Ibid, para 55.
- 75 Ibid, "Action 4," p.13.
- 76 UNGA Resolution 57/300 [Strengthening of the United Nations: an agenda for further change], UN Doc. A/RES/57/300 (7 February 2003), operative para 9.
- 77 UNCHR, Note by the Office of the United Nations Commissioner for Human Rights, UN Doc. E/CN.4/2003/124 (10 February 2003).
- 78 These steps were further reflected in a General Assembly report on the Status of implementation of actions described in the report of the Secretary-General entitled: "Strengthening of the United Nations: an agenda for further change"; UNGA, Status of implementation of actions described in the report of the Secretary-General entitled "Strengthening of the United Nations: an agenda for further change": Report of the Secretary-General, UN Doc. A/58/351 (5 September 2003), para 8.
- 79 UNCHR, Report of the United Nations High Commissioner for Human Rights and follow-up to the World Conference on Human Rights [Implementation by the Office of the United Nations High Commissioner for Human Rights of the Secretary-General's reforms], UN Doc E/CN.4/2004/12/Add.1 (24 February 2004).
- 80 The Human Rights Council replaced the Commission on Human Rights.
- 81 Which led to the Report of the open-ended seminar on enhancing and strengthening the effectiveness of the special procedures of the Commission on Human Rights (Geneva, 12-13 October 2005); UNCHR, Note by the United Nations High Commissioner for Human Rights [Rationalization of the work of the Commission: Enhancing and Strengthening the Effectiveness of the Special Procedures of the Commission on Human Rights] (report of the open-ended seminar on this subject convened pursuant to Commission on Human Rights decision 2005/113), UN Doc. E/CN.4/2006/116 (8th December 2005)..
- 82 UNGA Resolution 60/251 [Human Rights Council], UN Doc. A/RES/60/251 (3rd April 2006), operative para 6.
- 83 UNHRC Decision 1/102 [Extension by the Human Rights Council of all mandates, mechanisms, functions and responsibilities of the Commission on Human Rights], 30 June 2006.
- 84 This included: five country Independent Experts, five country Special Rapporteurs, 1 country Personal Representative of the High Commissioner for Human Rights; and seventeen thematic Special Rapporteurs, four thematic Independent Experts, three thematic Special Representatives of the Secretary-General, one thematic Representative of the Secretary-General, and four thematic Working Groups.
- 85 UNHRC decision 1/104 [Implementation of paragraph 6 of General Assembly resolution 60/251], 30th June 2006.
- 86 Tomas Husak, 'In Defence of the United Nations Special Procedures' in Lars Muller ed., *The First 365 Days of the United Nations Human Rights Council*, 2007, p.88.
- 87 UNHRC Resolution 2/1 [Working Group on the Review of Mandates], UN Doc. A/HRC/RES/2/1 (27 November 2006).
- 88 Voting Process: Intergovernmental Working Group on the Review of Mandates, (UN Doc. A/HRC/2/L.2/Rev.1), 27th November 2006.
- 89 At least those established without the consent of the country concerned.
- 90 Husak, P. 94.
- 91 UNGA Resolution 60/251, op. cit., operative para 16.
- 92 With the exception of further refinements to the appointment process - candidates must now submit a motivational letter as part of the nomination process. The OHCHR will maintain separate lists for each public candidacy, and if the President of the Human Rights Council decides to deviate from the recommendation of the consultative group in the appointment process, he or she must justify this decision; UNHRC Resolution 16/21 [Review of the work and functioning of the Human Rights Council], UN Doc. A/HRC/RES/16/21 (12 April 2011) Annex: Part II, paras 28 & 22.
- 93 Report of the open-ended intergovernmental working group on the review of the work and functioning of the Human Rights Council (UN Doc. A/HRC/WG.8/2/1).



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