

# EXECUTIVE SUMMARY

The United Nations' (UN) independent human rights experts – otherwise known as 'Special Procedures' – are considered by many to be, in the words of then UN Secretary-General Kofi Annan, the 'crown jewel' of the international human rights system. From their first appearance in 1967 when the Commission on Human Rights established an Ad Hoc Working Group on human rights in southern Africa, Special Procedures have grown into one of the international community's most important tools for promoting and protecting human rights. Today, the UN human rights system boasts almost fifty separate Special Procedures mandates covering a wide-range of thematic and country-specific issues – with more in the pipeline. Their unique place in the international human rights architecture is almost universally assumed.

But as the fiftieth active Special Procedure is appointed in March 2014, it is important to stand back and objectively evaluate the strengths and weaknesses of the Special Procedures system, and to question whether it can continue to grow and evolve organically as it has done since 1967. In short, it is important to ask the questions: what makes Special Procedures so special anyway, how do they seek to influence human rights policy and practice, and, looking to the future, what should be done to preserve their 'specialness'?

The Special Procedures mechanism emerged in the late 1960s when a group of newly-independent countries from Africa, the Middle East and Asia joined the UN and rejected the status quo position that the international community has 'no power to act' to address violations of human rights. Thanks to their efforts, the UN began to authorize missions to examine human rights abuses in apartheid-era South Africa and military-ruled Argentina. By the early 1990s, following the rapid quantitative and qualitative expansion of both country-specific and thematic mandates, the international community began to perceive of Special Procedures as a distinct and coherent system, and states, concerned at the largely ad hoc nature of the mechanism's evolution, began a series of intergovernmental reform exercises.

The most recent reform efforts have come in the context of the establishment of the Human Rights Council in 2006, and the new body's five-year review in 2011. While these negotiations led to some changes, their most notable achievement was to further crystallise opposing state visions of what the Special Procedures mechanism is and what it is there to do.

Today's Special Procedures mechanism is heir to these momentous events, and to the efforts of generations of state

representatives, mandate-holders, NGO leaders and victims who refused to accept that the UN had 'no power to act' and built a system, brick by brick, that could shine a light on human rights violations and work with all stakeholders to promote and protect the enjoyment of human rights 'in all countries.'

Despite (or perhaps because of) the failure of the various systemic reform exercises of the past fifteen years, the mechanism remains remarkably robust and continues to exert a major influence over global efforts to strengthen the enjoyment of human rights. Their effectiveness is the product of six main structural determinants of influence:

- Independence and accountability
- Expertise and standing
- Flexibility, reach and accessibility
- Cooperation
- Implementation and follow-up
- The availability of resources and support

In order to guide future steps to improve the mechanism's on the ground effectiveness, it is necessary for policy-makers to fully understand the complex and interconnected nature of these structural determinants of influence, as well as the various tools that mandate-holders use to exert that influence at a practical level (e.g. country missions, norm-setting and communication with governments).

The continued growth of the mechanism calls for action by states, mandate-holders, the Office of the High Commissioner for Human Rights (OHCHR) and others. Today there are forty-nine fully operational Special Procedure mandates (and seventy-two mandate-holders), an increase of around 25% since 2006. In March 2014, the Council will appoint an individual to the UN's fiftieth active mandate (thirty-seven thematic mandates and thirteen country mandates). At current growth rates, the number of mandates will reach one hundred by 2030. Once established, mandates are notoriously difficult to discontinue.

The debate over whether this growth is a good or a bad thing has become one of the defining issues in the recent history of Special Procedures, with some arguing it widens the system's coverage and fills 'protection gaps', while others believe that such inflation dilutes and devalues that importance of the mechanism. Nevertheless, what seems clear is that in the absence of a significant increase in the human resources deployed in support of Special Procedures, longer Human Rights Council sessions (to allow genuinely interactive dialogues with mandate-holders), better follow-up on the implementation of

recommendations, and significant increases in the financial resources deployed in support of Special Procedures,<sup>1</sup> adding new mandates risks diluting the system's effectiveness.

The importance of strengthening the structural determinants of influence of Special Procedures and of increasing the level of resources and support they receive can be clearly seen through an analysis of the impact of the main tools leveraged by mandate-holders to promote and protect human rights. For example, our in-depth analysis of the Special Procedures communications system shows that only a small proportion of all submissions by victims are actively taken up by mandate-holders. Of those that are taken up, governments respond to only around half, and of those, just 8% result in and/or reflect substantive steps to address the alleged violation.

Research conducted for this report, including dozens of interviews with stakeholders, has revealed a deep unease about further system-wide efforts to review, rationalise and improve the Special Procedures system. This caution is partly informed by the experience of the previous three reform exercises and partly by the contemporary (unpromising) political climate of the Human Rights Council.

Such trepidation is entirely understandable. However, if this report demonstrates one thing, it is that more focused attention should be paid to improving the efficiency and effectiveness of the Special Procedures mechanism, and that careful, targeted steps can and should be taken to better support the system. It is clear from this and earlier analyses that the Special Procedures are a remarkably strong and flexible mechanism that has had, and continues to have, a significant positive impact on the enjoyment of human rights around the world. However, there is a clear risk of it becoming a victim of its own success unless its rapid horizontal expansion is matched by changes in how it operates, how it interacts with states, how it is managed, resourced and overseen. In short, for the mechanism to remain sustainable, relevant and effective, it should be modernised to face the challenges of the 21st Century.

The good news is that significant and tangible improvements to the system's efficiency and effectiveness can be secured without recourse to a further intergovernmental process of system-wide reform through a series of relatively straightforward individual steps that support each of the six determinants of influence. These steps, and the ideas that underpin them, are not new

or revolutionary, but have been debated for many years. The problem is that, for various reasons, they have not so far been implemented.

With this in mind, the authors of this report recommend that many of these sensible and practicable ideas be brought back to the table for review and implementation.

In particular, the report proposes a series of recommendations that, if adopted, would significantly strengthen the long-term effectiveness of the Special Procedures mechanism. These include:

- The establishment of a Group of Friends of the Special Procedures to help support the mechanism through cross-regional statements and resolutions, and through leading by example;
- The maintenance and strengthening of the self-regulatory functions of the Special Procedures Coordinating Committee, including through updating the Manual to reflect social media trends;
- In order to reduce reliance on the Special Procedures mechanism, policymakers should be creative and consider new tools to promote and protect human rights, such as a rapid deployment mechanism based a standing roster of experts to work with states that seek assistance;
- The provision of objective information on state cooperation with Special Procedures and the development of regular reporting on follow-up and the implementation of recommendations, and the better utilisation of Council agenda item 5 to debate these matters;
- The expansion of regular UN budget support to Special Procedures allowing for a reduction in earmarked voluntary contributions, and improved transparency for both UN and non-UN financing;
- The deployment of new technology to make the Special Procedures communications system relevant, credible and user-friendly to human rights defenders and states.

All stakeholders share a common responsibility to actively consider these and other recommendations and to build on the legacy of those who have gradually built the Special Procedures mechanism over the past fifty years.

1. The UN's human rights pillar receives less than 3% of the UN regular budget, and within that, Special Procedures less than 0.5%.