POLICY REPORT

HUMAN RIGHTS SPECIAL PROCEDURES: DETERMINANTS OF INFLUENCE

Understanding and strengthening the effectiveness of the UN's independent human rights experts

by Marc Limon & Ted Piccone

UNIVERSAL RIGHTS GROUP

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PREFACE

This report on the United Nations system of independent human
led by Marc Limon of the Universal Rights Group and Ted Piccone of the Brookir
and secondary research, two policy dialogues (in Geneva and in New York) and nea
makers, including United Nations Special Procedures mandate-holders, staff of the
for Human Rights, diplomats and human rights NGOs. The project builds upon
Piccone – the book Catalysts for Change: How the UN's Independent Experts Pr
Institution Press, 2012) and the Brookings Foreign Policy report Catalysts for Ri
the UN's Independent Experts for Human Rights (October 2010). It analyses the
Special Procedures mechanism, assesses the current activities and impact of the mandate-holders, and makes recommendations for strengthening this core component of the United Nations human rights system and its long-term efficacy.

The conclusions reached in the report are entirely the authors' responsibility and do not necessarily reflect the views of their respective institutions, donors or partners. The authors wish to acknowledge the invaluable contribution to this report of Hilary Power of the Universal Rights Group and Ashley Miller of the Brookings Institution.

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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 had 'no power to act' to address violations of human rights. Thanks to their efforts, the UN began to authorise 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 came 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,[1] 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%.

SPECIAL PROCEDURES: DETERMINANTS OF INFLUENCE

INTRODUCTION

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'[1] of the international human rights system. From their first appearance in 1967 when the UN Commission on Human Rights established an Ad Hoc Working Group to inquire into the situation of 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 Procedure 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 and their status as the 'crown jewel' of the human rights system is almost universally accepted or even assumed.

But with the appointment of the UN system's fiftieth active Special Procedure in March 2014, it is important to stand back and objectively evaluate the strengths and weaknesses of the Special Procedures system, and to question the assumption that 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'?

Sensible and considered analysis of the Special Procedures system is often lost amongst political rhetoric. A cursory review of UN speeches finds Special Procedures variously described as a 'powerful tool for the powerless,'[2] 'the frontline troops to whom we look to protect human rights,'[3] 'the most precious acquis' of the Commission of Human Rights,[4] and as a 'cornerstone'[5] or 'one of the main pillars'[6] of the human rights system. Corporal analogies seem particularly popular: Special Procedures have been variously described as the 'eyes and ears' of the Human Rights Council,[7] the 'public face of the UN human rights system'[8] or a 'voice for the voiceless.'[9]

While well meaning and often justified, this rhetorical admiration of Special Procedures can act as a barrier to objective and reasoned reflection of what they are, what they do, and the challenges to their future sustainability and effectiveness. This report aims to provide an opportunity and a basis for such reflection, and in this regard it is instructive to begin by understanding the origins of, and the political dynamics and rationale behind, this crucial human rights mechanism.

PART I

SPECIAL PROCEDURES: ORIGINS, EVOLUTION AND REFORM

To understand Special Procedures, it is instructive to look back in time at the conditions and imperatives that guided their emergence and evolution.

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 organisation. Participants in the first meetings of the Commission on Human Rights ('the Commission') 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 creation of 'measures of implementation'[10] – i.e. the international institutions, mechanisms and processes needed to realise those norms.

The second part of this new human rights architecture 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.

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.'[11] 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.'[12] So it was that the Charter stated that the UN would seek to 'achieve international cooperation... in promoting and encouraging respect for human rights'[13] and mandated the Economic and Social Council (ECOSOC) to 'set up commissions in economic and social fields and for the promotion of human rights...'[14]

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.'[15]

This 'no power to act' doctrine[16] 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.

With some notable and often-overlooked exceptions, such as the General Assembly's decision in 1963 to dispatch a mission, headed by the Chair of the Commission, to investigate the "Violation of Human Rights in South Viet-Nam."[17], the post-war 'no power to act' doctrine 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 resolutions 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.

Immediately after establishing these first-ever Special Procedure mandates, member states adopted resolution 8 (XXIII), which decided to 'give annual consideration to the item entitled question of violations of human rights.'[23]

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.[24] This request was significant because it led to ECOSOC resolution 1235 (XLII) which constituted the legal basis for the establishment of future Special Procedures.

Although it was focused primarily on the question of human rights violations in the context of racial discrimination and apartheid, resolution 1235 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.

THE VIOLATION OF HUMAN RIGHTS... IN ALL COUNTRIES

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.[25] Thirteen countries voted in favour of the resolution, one against (Israel) and sixteen abstained (mainly Western and Latin American states).[26]

Until this point, the Commission's work had been focused solely on racial discrimination and colonialism, especially in the context of Africa. However, between 1975 and 1980 the Commission's focus shifted to political developments in Latin America, a shift that would have two deep and lasting consequences for the Special Procedure 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. And 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, 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 and was adopted without a vote. One of the principal human rights concerns leading to the establishment of the new mandate – the disappearance of persons – was not, however, exclusively (or even principally) a problem in Chile. In the second half of the 1970s, the phenomenon of disappearances was particularly associated with Argentina.

Taking note of UN action against Chile, and fearful of being placed on the 'blacklist of gross violators,'[27] Argentina launched a diplomatic offensive to 'avoid the condemnation and institutionalization of the case of Argentina' in the United Nations.[28] When the Commission finally moved to take action during the 1980 session, Argentina's argument that the creation of a country-specific mechanism would be discriminatory succeeded in channelling states 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. As Miko Lempeinen has noted: 'the establishment of the thematic mechanisms dealing with specific human rights issues where ever they may occur can be seen as 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. It is believed that governments may not have fully realized the impact of establishing the thematic approach.'[29]

The Working Group on disappearances was soon followed by new thematic mandates: a Special Rapporteur on extrajudicial, summary and arbitrary executions (1982); a Special Rapporteur on torture, and other cruel, inhuman or degrading treatment (1985); a Special Rapporteur on religious intolerance[30] (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, following the Vienna Conference on Human Rights in 1993, Special Procedures were increasingly established to deal with economic, social and cultural rights.

Mirroring this evolution, the number of country mandates also continued to grow. Between 1981 and 2000, the Commission established, *inter alia*, Special Procedures on 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), Nigeria (1997), Liberia (2003), and Belarus, the Democratic People's Republic of Korea and Chad (all 2004).

The Vienna Conference was also the first time that Special Procedures gathered together, encouraging enhanced cooperation among mandate-holders. The Vienna Declaration encouraged Special Procedures to 'harmonize and rationalize their work through periodic meetings.'[31] Accordingly, in 1993, Special Procedures began convening annual meetings. At their sixth gathering in 1999, they adopted a Manual of Operations that aimed 'to provide guidance to mandate-holders...(and) to facilitate a better understanding of their work by other stakeholders.'[32] At their 12th annual meeting in 2005, mandate-holders made further efforts to coordinate their work by founding a five person Coordination Committee.[33]

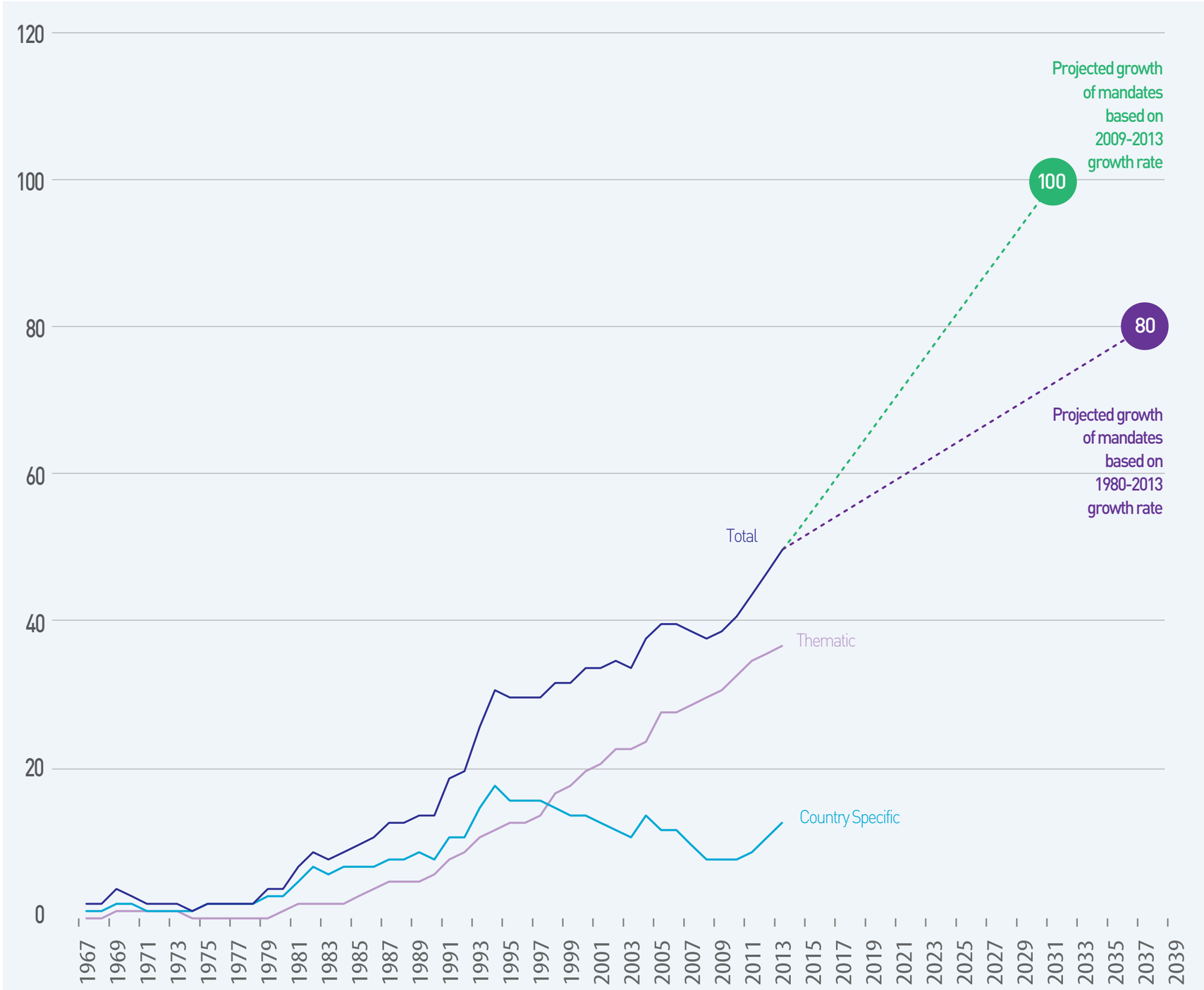
SPECIAL PROCEDURE REFORM: AN ELUSIVE GOAL

If one lesson, above all else, can be gleaned from the early history of Special Procedures, it is that the system has 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 Procedure 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 which states attached to 'preserving and strengthening the system of special procedures'[34] in the Vienna Declaration further codified and legitimised this 'systemisation' of the mechanism.

With the realisation that Special Procedures now represented a distinct and increasingly important human rights mechanism came the impetus to conduct systemic reviews. There have been three serious efforts to undertake a systemic and comprehensive review and reform of the Special Procedure system: the first by the Commission between 1998 and 2000, the second in the context of broader UN reforms between 2002 and 2004, and the third at the time of the establishment of the Human Rights Council in 2006 and in the context of the Council's five-year review in 2011. In general, these reform exercises have embodied the law of diminishing returns. In addition, in 2004, the Commission adopted far-sighted resolution 2004/76 on 'Human rights and Special Procedures', which provided clear and implementable requests to governments, mandate-holders, civil society, the High Commissioner and the Secretary-General

FIGURE 1: GROWTH OF MANDATES



Data source: Commission on Human Rights Session Reports 1966-2005; HRC Extranet; OHCHR website.
Note: Primary research conducted by Hilary Power, Universal Rights Group. For a full interactive timeline see www.universal-rights.org/research/special-procedures-timeline
Projected growth rates based on growth rates of mandates over time (1980-2013; 2009-2013).

and provided the basis for a number of concrete steps that have been taken since to strengthen the mechanism.

The most recent reform efforts have come in the context of the establishment of the new Human Rights Council[35] in 2006, and the new body's five-year review in 2011.

General Assembly resolution 60/251, which established the 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.'[36] On 30th June 2006, the newly formed Council established[37] an open-ended intergovernmental working group to formulate recommendations on the review, rationalisation and improvement of all mandates.

Interventions during the subsequent negotiations 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 final outcome of the 2006 negotiations, encapsulated in Human Rights Council resolutions 5/1 and 5/2, were small but important modifications to the Special Procedure appointment process, a vague statement that the review, rationalisation and improvement 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 a state-imposed Code of Conduct for mandate-holders. 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 Council remained silent. Notwithstanding these modest outcomes, Ambassador Tomas Husak of the Czech Republic, Facilitator on the review of mandates, later identified the 'major achievement' of the process to be 'the retention of country resolutions (i.e. country mandates) as an instrument.'[38]

General Assembly resolution 60/251 establishing the Council also stipulated that the new body should 'review its work and functioning five years after its establishment.'[39] 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 of situations which reveal a consistent pattern of violations of human rights'. However, in practice the 2011 review achieved little more than a further crystallisation of opposing state visions of what the mechanism is and what it is there to do.[40] 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, and 74 (17%) centred on secretariat support and the management of resources.[41] Unsurprisingly, the negotiations failed to agree on significant changes to the *status quo* and, moreover, left many states wary of any further attempts at system-wide reform.

PART II

SPECIAL PROCEDURES: DETERMINANTS OF INFLUENCE

At the end of March 2014, the fiftieth active Special Procedure mandate will come into being with the appointment of a new Independent Expert on the enjoyment of human rights by older persons.[42] At that moment, the system of Special Procedures will comprise fifty active mandates and seventy-four mandate-holders: including twenty-five thematic Special Rapporteurs, six thematic Independent Experts, six thematic Working Groups, seven country Special Rapporteurs, and six country Independent Experts.

The achievement of this milestone reflects the success of the Special Procedures system and its pre-eminent status as the only human rights mechanism designed and mandated to promote and protect the human rights of every individual everywhere. However, the appointment of the fiftieth mandate also provides an important opportunity to stand back and try to understand the character of today's Special Procedures system, the structural determinants of its influence and effectiveness, and the tools at its disposal to influence the on-the-ground enjoyment of human rights. This is important for one simple reason: only by taking a dispassionate look at how and to what degree the system works can policy-makers take the decisions necessary to safeguard its future sustainability and effectiveness.

STRUCTURAL DETERMINANTS OF INFLUENCE

There are six inter-connected structural determinants of Special Procedure influence: independence and accountability; expertise and standing; flexibility, reach and accessibility; cooperation; implementation and follow-up; and availability of resources and secretariat support.

1
INDEPENDENCE AND ACCOUNTABILITY

The independence of Special Procedures is crucial to their utility and influence. In a rare example of institutional liberalism in a neo-realist world, states created a mechanism that in theory would be autonomous of their control even to the extent that it might encroach on state sovereignty and address sensitive issues of domestic prerogative.

The important point here of course is that they initially did so upon the assumption that it would be the domestic affairs and the sovereignty of *other* states, not themselves, that would be the focus of attention. When it became clear that this independent human rights protection mechanism could potentially address human rights 'in any country', some states began to push back against its independence. This has led, through various twists and turns, to a situation today wherein countries are often divided, in commentaries on Special Procedures, into those 'for' or 'against' the mechanism's independence. For example, Ambassador Tomas Husak , reflected, after the 2006 review, that only 'a minority of states' during the review wished to improve the mechanism, while 'other states, a majority in fact, questioned the independence of Special Procedures.'[43]

Such statements, however, offer an over-simplified and misleading view of the crucial debates surrounding the independence of Special Procedures. To fully understand this point it is necessary to understand the nature and the contours of Special Procedures independence.

The independence of Special Procedures mandate-holders is not unlimited. Their substantive independence in terms of where they go and what they say is balanced by their 'multidimensional and multidirectional' accountability.[44]

In practice, this means that while states (as well as other actors such as the Office of the High Commissioner for Human Rights (OHCHR) and NGOs) have, in principle, no control over the substantive content of the work of Special Procedures, there is nonetheless a requirement (formalised in the Code of Conduct) that mandate-holders, in a procedural sense, will not overstep their mandate (for example, by addressing issues that lie beyond the scope of their founding resolution) and will conduct themselves according to a set of professional standards. This distinction was clearly drawn in the first draft of the Code of Conduct, submitted by Algeria on behalf of the African Group in 2007: 'one should distinguish between, on the one hand, the independence of mandate-holders, which is absolute in nature, and on the other hand, their prerogatives, as circumscribed by their mandate, the mandate of the Human Rights Council, and the provisions of the United Nations Charter.'[45]

In this sense, debates and disagreements over Special Procedures independence occur not over whether mandate-holders are or should be substantively independent, but over the exact nature of the relationship between independence and accountability. This may seem like an academic point, yet its implications could not be more important. Get it right and the integrity and independence of the whole system stands to gain. Get it wrong and either (on the one hand) the substantive independence of Special Procedures will be constrained or (on the other) states will lose trust in the system and refuse to cooperate. Put simply: the independence and effectiveness of Special Procedures is dependent to a large degree on the political latitude provided to them by states, and the degree to which states are willing to cooperate with them.

Although the outcome of the 2011 review is often criticised as the diplomatic equivalent of treading water, resolution 16/21 on the review of the work and functioning of the Human Rights Council is in fact extremely useful in at least one respect: it presents a clear and nuanced understanding of the complex inter-relationship between independence, accountability and cooperation, as well as of the fact that all three are needed for the Special Procedure system to work effectively. Resolution 16/21 states that 'the integrity and independence of the special procedures and the principles of cooperation, transparency and accountability are integral to ensuring a robust system of the special procedures.'[46] 'States should,' it continues, 'cooperate with and assist special procedures in the performance of their tasks and it is incumbent on mandate-holders to exercise their functions in accordance with their mandates and in compliance with the code of conduct.'[47]

The net result of the 2006-2007 and 2011 reform processes is a situation in which states have adopted a Code of Conduct but have left mandate-holders themselves to oversee compliance with it (as well as with the Manual). So far, this self-regulatory 'Internal Advisory Procedure' (IAP), has only been formally invoked on one occasion (in 2013).[48]

It is vital for the future independence and effectiveness of the Special Procedure system that states and mandate-holders remain committed to this self-regulatory arrangement. The threat implicit in any move towards a quasi-judicial 'Ethics Committee' is clear: it would undermine the independence of the Special Procedures system by intimidating mandate-holders, promoting self-censorship and introducing an adversarial process. But this also places an important responsibility on mandate-holders themselves to ensure that their internal guidelines and self-regulatory arrangements are credible, robust and transparent.

2
EXPERTISE AND STANDING

There is broad agreement that the quality, expertise and the reputation of mandate-holders is one of, if not the, principal determinants of Special Procedure influence. A Western diplomat has noted that: 'The best mandate-holders are those who are sensible, stay within their mandate and who can command the respect of governments. In other words, those who have gravitas. Those who seemingly want to make a name for themselves and who 'follow the news' tend to have limited influence.'[49] Others note the paramount importance of 'political and diplomatic skills' that allow successful mandate-holders to influence governments and 'sell-in their findings.'[50] There is also a strong sense that the maintenance of diversity across the system (i.e. gender, region of origin, professional background) strengthens both effectiveness and legitimacy.

The Human Rights Council Institution Building Package(IBP)[51] identified expertise, experience in the field of the mandate, independence, impartiality, personal integrity and objectivity as being of paramount importance when nominating, selecting and appointing mandate-holders.[52] Resolution 5/1 also calls for 'due consideration [to] be given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems.'[53]

'The best mandate-holders are those who are sensible, stay within their mandate and who can command the respect of governments. In other words, those who have gravitas.'

The IBP maintained the Commission practice of giving the President (or Chair as he/she was then called) the principal role in selecting mandate-holders, but in a break with past practice, the President would now be supported in this task by a Consultative Group made up of one representative (usually an ambassador) nominated by each regional group (but serving in a personal capacity). The Consultative Group scrutinises applications and then presents a short-list of the best candidates to the President along with guidance on who to choose. Based on this advice, and following wide consultations with regional groups, the President makes his/her choice and proposes this to the Council for appointment. This procedure was further strengthened during the 2011 review, for example by requiring the Consultative Group to interview shortlisted candidates.

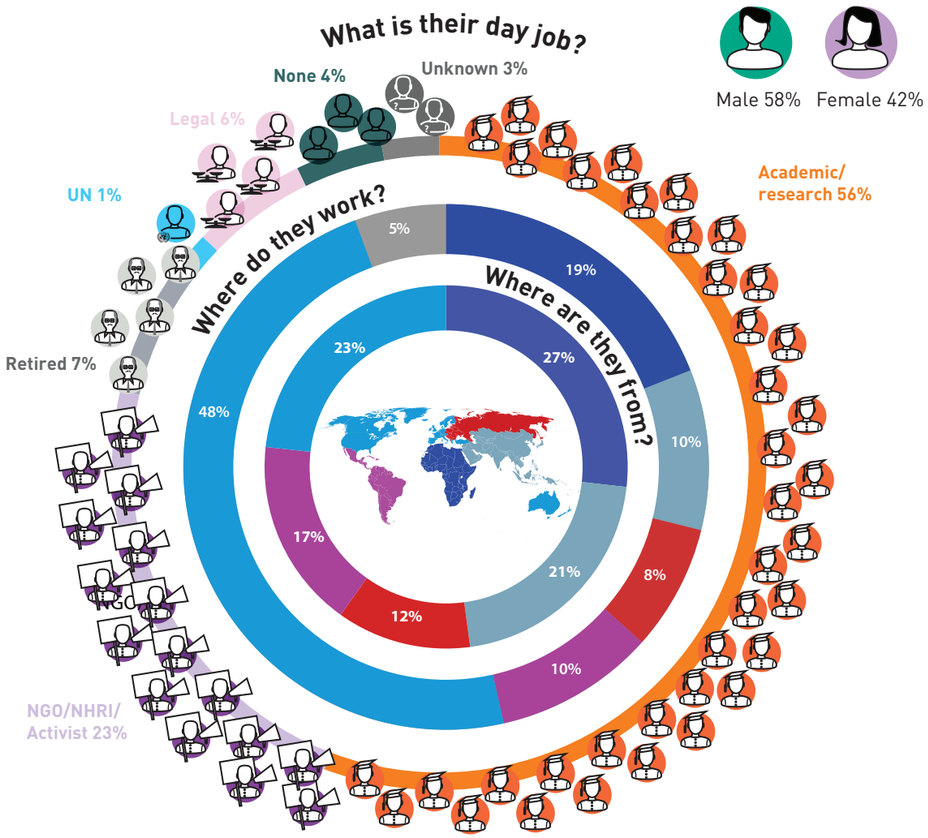
The reformed appointment procedure has generally worked well, although it of course remains open to state influence and lobbying. Views on whether it succeeds in selecting and appointing the best candidates vary and are in any case subjective, although there is a widely-held view that the enhanced procedure gives greater weight to a candidate's experience and expertise and is more transparent than was the case under the Commission.

The question of whether or not the new procedure has succeeded in meeting the requirement to promote gender balance and equitable geographic representation is more complex than it might at first appear. While there is certainly more that can be done to promote female representation in the system (currently 42%), it would appear, at first glance, that the appointment process is succeeding in promoting regional balance (see Figure 2, overleaf). This generally positive picture is, however, somewhat diminished when one looks at the professional location of mandate-holders. Nearly half (48%) of all mandate-holders are based (i.e. hold their current professional post) in Western countries, a figure which contrasts starkly with the comparatively few individuals who have professional careers based in Asia (10%) and Latin America (10%). What is more, this skewed geographic picture is matched by imbalances in terms of the professional background of mandate-holders. While most observers agree that mandate-holders require a range of skills to be effective, (e.g. diplomatic, political, academic), the reality is that 56% of current posts are held by academics (see Figure 2) – the only people with the time and research support necessary to undertake such highly demanding yet unpaid work.

In short, the Special Procedures system is increasingly becoming the exclusive domain 'of Western-based academics'.[54] a trend more than one mandate-holder interviewed for this report labelled 'highly discriminatory'.[55]

This is not to criticise, in any way, those mandate-holders from developing countries who have chosen to pursue academic careers in Western universities, but rather to highlight the systemic dynamics that create such a situation. Many believe that the only way to genuinely improve diversity would be to give renewed thought to offering remuneration to Special Procedure mandate-holders. A majority of those interviewed for this report agreed that the current situation, in which the experts are not paid yet are required to dedicate large parts of their time to the mandate (many experts now treat their mandates as a 'full time job'[56]), serves to exclude many people, especially from developing countries, who would otherwise be interested in applying.[57] It is also worth noting however, that none of the interviewees believed that being a Special Procedure mandate-holder should be a full-time paid position. Rather, ways should be found to make remuneration more commensurate with the work and time dedicated to the mandate, for example by providing limited monthly *honoraria* or by introducing a compensation structure similar to that enjoyed by special envoys, representatives, advisors and deputies of the Secretary-General.

FIGURE 2: PROFILE OF CURRENT MANDATE HOLDERS



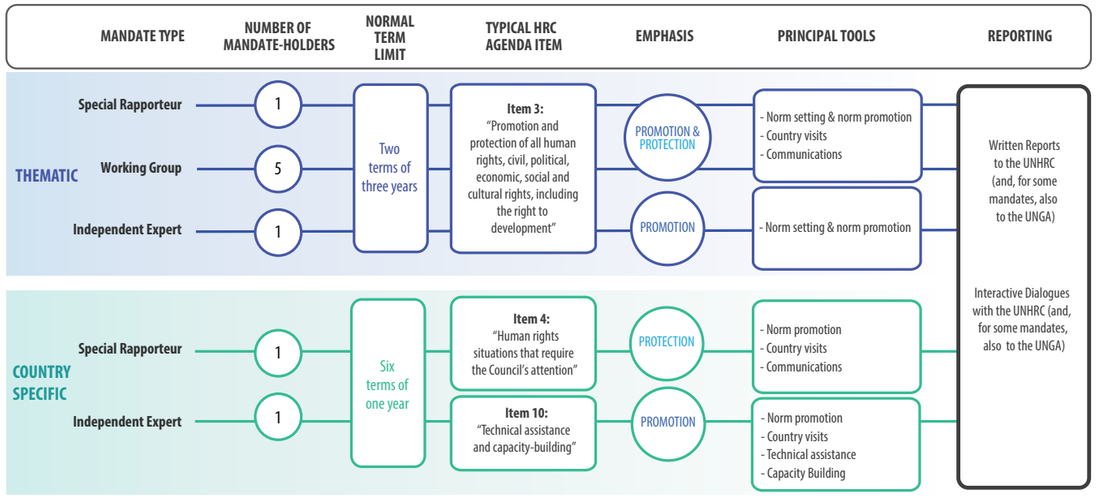
Note: Data as at 17th January 2014
Data source: OHCHR Website; URG primary research and interviews.

3 FLEXIBILITY, REACH AND ACCESSIBILITY

Special Procedures play a uniquely flexible and independent role in a system otherwise dominated by states. This flexibility exists at two levels: systemic flexibility (different types of mandate and range of issues covered), and operational flexibility (enjoyed by individual mandate-holders).

Regarding the former, the various mechanisms together known as 'Special Procedures' are often presented as broadly uniform or homogenous, with all of them performing 'similar roles.'[58] This is, however, misleading. In reality there are five distinct types of Special Procedure (earlier there were many more), and each is very different in terms of both form and function. Figure 3 shows the different types of Special Procedures according to their composition, objective and tools used.

FIGURE 3: MANDATE TYPES



As shown in Figure 3, the five types of Special Procedure are thematic Special Rapporteurs, thematic Independent Experts, thematic Working Groups, country Special Rapporteurs and country Independent Experts. The type of mandate used in a particular case is dependent on the nature of the issue at hand and what the international community wants to achieve. For example, for thematic issues, when an issue is relatively new and perhaps poorly understood or defined, it is likely that an Independent Expert will be established with the objective of clarifying the extent and nature of relevant human rights obligations. In such cases the tools placed at the mandate-holder's disposal will emphasise norm-setting over receiving petitions and issuing communications. As the issue (and with it the mandate) matures, the Independent Expert may be replaced with a Special Rapporteur or a Working Group, which normally place a greater emphasis on implementing the right(s) in question through targeted country missions and a greater use of communications with governments. In the context of country mandates, Independent Experts tend to be appointed with the consent of the concerned state and focus on capacity-building and technical assistance, whereas Special Rapporteurs are generally established without the consent of the concerned state and focus more on violations (for example by receiving petitions and collecting information on the human rights situation in the country).

Special Procedures have become the 'mechanism of choice.'

In addition to the strength it derives from this functional flexibility, the Special Procedure system is also unique in terms of the sheer range of human rights issues it is able to address. Because they are not limited to any particular treaty (nor, necessarily, to any particular internationally-recognised right) Special Procedures have become the 'mechanism of choice' when states wish to highlight and/or take forward a new human rights concern (or, as is often the case, merely wish to 'boost their profile in the Human Rights Council and be seen to be active'[59]). This, together with the associated lack of alternative mechanisms,[60] has led to the rapid expansion of the Special Procedure mechanism over recent decades.

Today there are forty-nine fully operational Special Procedure mandates (and seventy-one mandate-holders[61]), an increase of around 25% since 2006. In March 2014, the Council will appoint an individual to the UN's fiftieth active mandate: an 'Independent Expert on the enjoyment of all human rights by older persons'.[62] At that time there will be thirty-seven active thematic mandates and thirteen active country mandates. At current rates, the number of mandates will reach one hundred by 2030 (see figure 1).[63]

Broken down by country, Cuba has been responsible for the creation of six current mandates[64] (the same number as the whole of the African Group), three times as many as the next most prolific countries (France, Mexico, Norway and Sweden, with two mandates each[65]). Notwithstanding, it is important to note that new mandates are increasingly established by 'core groups' of states working together rather than by individual countries, and if participation in such groups is included then Mexico's contribution jumps to five mandates and Germany's to four.[66] Broken down by region (not including cross-regional core groups), Latin America and the Western Group retain the greatest responsibility for the growth in mandates (having established 13 and 16 mandates respectively). The Western Group, perhaps surprisingly, is responsible for almost half of the mandates focused on economic, social and cultural rights (five) while, even more surprisingly, the African Group has created only one economic, social and cultural rights mandate, but the most country mandates (five).[67]

The debate over whether the exponential growth in the number of mandates is a good or a bad thing has become one of the defining issues in the recent history of Special Procedures and has been a key part of all reform debates since 1998.[68] (see "The Quantitative Expansion of the Special Procedures System" box overleaf).

THE QUANTITATIVE EXPANSION OF THE SPECIAL PROCEDURES SYSTEM

Some argue that the growth in the number of mandates (shown in Figure 1, p.9) is to be welcomed as it widens the scope ('coverage') of the human rights protection system and fills 'protection gaps'. Others believe that this inflation dilutes and devalues the importance of Special Procedures, with the end result that states no longer have the capacity nor the political will to engage with them in a meaningful way. And still more believe that the growth is increasingly leading to duplication and overlap. One African diplomat has suggested that 'a sensible process of mergers could reduce the number of mandates by half: for example, a new mandate on an adequate standard of living could absorb the existing mandates on housing, health, water and sanitation, and environment,'[69] while a thematic mandate-holder has argued that an objective rationalisation exercise could easily see two-thirds of mandates merged or discontinued (with the current number of different mandates focusing on women's rights and children's rights worthy of particular attention).[70]

Mandate proliferation is a difficult and delicate question to address. Nevertheless, what does seem clear is that in the absence of a significant increase in the financial and human resources deployed in support of Special Procedures, without an expansion in the length of Human Rights Council sessions (to allow a more substantive interactive dialogue with Special Procedures) and without a significant improvement in the capacity of existing mandates to follow-up on the implementation of recommendations, continuing to add new mandates risks diluting the system's effectiveness.

Both states and NGOs must assume responsibility on this issue by reconsidering 'their zeal for more and more mandates'[71] and 'the practice of constantly pressing for new Special Procedures.'[72] It is perhaps worrying then that the enthusiasm for ever-more mandates appears undimmed. While the UN has established 79 mandates since 1967 (42 thematic, 34 country specific and 3 'mixed'[73]), only once in the 46 year history of the mechanism have thematic mandates ever been discontinued: with the merger of the Independent Expert on structural adjustment policies and the Special Rapporteur on the effects of foreign debt (in 2000). Even then, it is notable that the mandates were not dropped but combined. All other efforts at rationalisation have been a failure, and the contemporary politics of the Council hardly presents a promising environment for further attempts. And while political enthusiasm for mandate termination remains almost non-existent (with NGOs and states both afraid that any rationalisation exercise would fall hardest on what they consider to be 'the important mandates'[74]), support for new mandates remains high, with a number of new ones reportedly in the pipeline. Together, these dynamics have led to a situation whereby, in the words of one UN official: 'we appear to be walking slowly towards a brick wall – with our eyes wide open.'[75]

Turning to the flexibility of individual mandate-holders, while in principle the nature of each Special Procedure mandate is laid down in the Council resolution establishing (or renewing) that Special Procedure, in practice mandate-holders enjoy a remarkable degree of functional flexibility. This flexibility extends to the legal foundations of their work,[76] their ability to focus on a human rights issue in a country that may not even be party to the relevant human rights convention(s), the absence of any prerequisite to have exhausted domestic remedy, and their wide strategic freedom on how to approach an issue and which tools to use.

Partly because of this operational flexibility, as well their standing and visibility, Special Procedures are a uniquely accessible focal point for government officials, NGOs, the media and, most importantly, the victims of human rights violations. As OHCHR has noted, Special Procedures are 'the most directly accessible mechanism of the international human rights machinery.'[77]

4
COOPERATION

The ability of a mandate-holder to secure cooperation and the concurrent willingness of a state to work with a given Special Procedure, are among the most important structural determinants of the mechanism's influence and impact. Such notions may well offend the sensitivities of those who see Special Procedures as 'front-line troops' or international special investigators, however the reality of the contemporary human rights system is that Special Procedures, in common with other mechanisms, cannot force states to give them access or implement their recommendations. The Council may well have urged 'all States to cooperate with, and assist, the special procedures in the performance of their tasks,'[78] but there is no legal obligation for states to do so, and no legal sanction available when they do not. Securing, cultivating and working within a cooperative relationship is therefore key - and crucially this must work both ways.

For mandate-holders this means (where possible) establishing a strong, even cordial relationship with state representatives, and developing a high degree of mutual trust and confidence. There is no secret recipe for achieving this, and much depends on the personalities of those involved. However, at its most basic level it means that mandate-holders should implement their mandate upon the assumption that 'states are partners, not adversaries,'[79] and should establish and maintain a cooperative and constructive dialogue on that basis. The importance of this point could not be greater. Nearly all the best practices and success stories revealed during the preparation of this report were built upon a close cooperative relationship between mandate-holders and governments.

For states, the responsibility to cooperate with Special Procedures is equally clear and is spelt out in the founding documents of the Council, especially resolutions 5/2 and 16/21 which urge states to cooperate with special procedures by

responding, in a timely manner, to requests for information and visits. When states take this responsibility seriously, the mechanism can have a powerful influence upon domestic human rights policy and the on-the-ground enjoyment of human rights. Problems arise, of course, when they do not do so.

This problem has long been recognised by the international community but has never fully been grasped and attempts to find workable solutions have been, at best, half-hearted. For example, the 1998-2000 reform exercise noted that lack of cooperation 'must be a cause of serious concern' and that 'in such cases, steps to encourage a more cooperative response are critically important and should be carefully considered.'[80]

If states are serious about improving the effectiveness of the Special Procedures system, it is important that these ideas are brought back to the table, and that transparency and public accountability are enhanced.

The vagueness of this suggestion is striking, and therein lies the challenge: how can a mechanism that has no enforcement powers compel a government to cooperate? The answer, of course, is that it cannot. Nevertheless, there are a wide-range of steps that can be taken to make it extremely uncomfortable for states *not* to cooperate. At the heart of those steps are the principles of transparency and public accountability. In other words, the best way to strengthen state cooperation with Special Procedures is to shine a clear spotlight on those states that are cooperating - and those that are not.

Since the first systemic reforms began in 1998, there have been many useful proposals designed to do just this – the problem is they have never been fully implemented.

The proposals have generally focused on identifying criteria to measure cooperation, and then leveraging information on a state's compliance with those criteria. Suggested criteria include: whether a state has extended a standing invitation for country visits, whether states are responding in a timely and favourable manner to visit requests, and whether they are responding to requests for information from Special Procedures (for example, in response to urgent appeals).

The challenge then is how to leverage this information. Some Western and Latin American states have suggested (for example in 2011) that the level of a given country's cooperation as measured against the above criteria be used as a condition for Council membership. This proposal is unworkable however, as all states have an equal right to stand for election.[81] Another (French) proposal in 2011 was to establish a 'Code of Conduct' for state cooperation; however this was mainly a (clever) diplomatic manoeuvre to counter calls for an Ethics Committee, rather than a serious proposal in its own right.

Another more practical proposal has been made (in different formulations) during almost every reform process since 1999 and is based on two steps. First, to 'compile and make available objective information on the cooperation...between states and UN human rights mechanisms, giving effect to paragraph 9 of resolution 60/251.'[82] This could be achieved for example, through a document on 'cooperation' compiled by OHCHR,[83] the inclusion of a 'cooperation' section in the High Commissioner's annual report,[84] or through an easily searchable online database.[85] The goal would be to provide a robust, objective at-a-glance analysis of the level of cooperation of states. The second step is to then

use Council sessions (specifically under agenda item 5[86]) as a 'forum for open, constructive and transparent discussion on cooperation between States and special procedures.'[87] For example, during the 2011 review, Poland called for an annual discussion of this topic 'under agenda item 5,'[88] while the UK called for a 'greater emphasis' to be placed on cooperation during Council sessions.[89]

Today, however, these proposals remain largely unimplemented (with a few exceptions: for example, the OHCHR does now publish a regular report on state responsiveness to Special Procedure communications, although this is organised chronologically rather than by state[90]). If states are serious about improving the effectiveness of the Special Procedures system, it is important that these ideas are brought back to the table, and that transparency and public accountability are enhanced.

It is important to make two final points on the issue of cooperation. The first relates to the particular case of country-specific Special Rapporteurs. These individuals often struggle to secure the cooperation of the concerned state for the simple reason that the state in question was normally opposed to the establishment of the mandate in the first place. The most visible implication of this is that such mandates often find it difficult to secure permission to visit the country in question. This has led many states, especially from the OIC and the NAM, to question the value of retaining 'imposed' country mandates.[91] The key point here is equally applicable to all other Special Procedures – namely that while securing state cooperation is important and should be a priority for mandate-holders, a lack of state cooperation should not be used as a reason to question the value of mandates or as an excuse to discontinue them. On the contrary, in cases of non-cooperation, it is vital that the wider international community, in the form of the Council, works to defend the dignity and value of all mandates (including country mandates) and to press recalcitrant states to improve levels of cooperation.

The second point concerns instances where state non-cooperation is taken to an extreme, ending in 'derogatory remarks and personal attacks' being made against mandate-holders and/or 'intimidation or reprisals' against victims, human rights defenders and others who engage with the mechanism.[92] It is clear that such behaviour is completely unacceptable and that the Council should take the lead in requiring states to uphold the dignity of mandate-holders and in protecting the rights of those who cooperate with the international human rights system.

5 IMPLEMENTATION AND FOLLOW-UP

Academic literature and UN reports on Special Procedures often present 'cooperation' and 'implementation and follow-up' as separate issues. This is wrong: to understand and eventually strengthen Special Procedures influence and effectiveness, it is important to see cooperation, implementation and follow-up as mutually reinforcing aspects of the same continuum.

Special Procedures are, in the end, just that – procedures, i.e. 'a series of steps taken to accomplish an end.'[93] Their work and influence, especially in the context of engaging with states to secure improvements in human rights, must likewise be seen as a 'series of steps' – as a process. As has been noted, the Special Procedures mechanism is at its most effective when mandate-holders and states cooperate. However, that cooperation should not end upon the presentation of a report to the Human Rights Council. Rather it must continue within a framework of long-term engagement and dialogue if recommendations are to be implemented and if progress is to be made. This entails 'a real commitment from the States to take into account the recommendations and views expressed by mandate-holders and inform them of the steps taken towards implementation,'[94] and a regularised and systemic programme of follow-up on the part of mandate-holders with governments, local NGOs and other actors. This centrality is reflected in General Assembly resolution 60/251 which emphasised that the body's methods of work must 'allow for subsequent follow-up discussions to recommendations and their implementation'.[95]

Where states and mandate-holders do continue to work together to follow-up on the implementation of recommendations, the Special Procedures mechanism has time and again demonstrated its capacity to generate real improvements in the on-the-ground enjoyment of human rights. For example, of the six case studies chosen for the United Nations Development Group's 2013 report on best practices in mainstreaming the implementation of human rights recommendations, three (Uruguay, Moldova and Vietnam) focused on the work (and impact) of Special Procedures.[96]

Unfortunately, it is impossible at present to determine the extent to which such 'implementation success stories' are being replicated across the system as a whole. This is because while there are examples of individual mandate-holders taking steps to regularise follow-up to their country reports and recommendations through, for instance, follow-up visits (including the current Special Rapporteurs on extreme poverty, freedom of expression, housing, and food, and the Working Group on mercenaries[97]) and follow-up reports (for example, the Special Rapporteur on torture and the Special Rapporteur on summary executions[98]), systematic follow-up by Special Procedures remains 'at present, negligible.'[99] Even mandate-holders themselves concede that 'follow-up on implementation is our weakest link,'[100] while an assistant likened the current situation as akin to 'having UPR without a second cycle.'[101]

As with cooperation, this lack of follow-up has long been recognised as a problem. For example, the 1998-2000 review 'revealed particular concern about the discrepancy between the energy and resources invested in establishing and maintaining special procedure mechanisms and the limited and inconsistent manner in which much of their work is addressed by the Commission,' and drew attention to the 'lack of any procedure for on-going follow-up to the recommendations of the special procedures.'[102]

...the current situation is akin to 'having UPR without a second cycle.'

Because follow-up is part of a continuous process of cooperation, the ways to strengthen it in many ways reflect ideas to improve cooperation; namely, to put in place a regular, transparent process, a process that encourages and even impels mandate-holders, governments and NGOs to maintain their focus, continue their dialogue, and sustain their efforts to engender change. The availability of resources to conduct follow-up research and outreach is also critical.

Again, many of these ideas are already in the public domain, having been put forward during the various review exercises of the past fifteen years. Two particular lines of thought have been prevalent. The first focuses on the means of gathering information on what has been done to implement recommendations and the constraints thereon. Here there are two main (mutually inclusive) options: the organisation of 'follow-up visits as appropriate in order to help to contribute to the effective implementation of recommendations'[103] (some diplomats believe mandate-holders should conduct one follow-up visit per year[104]), and the dispatch of written requests such as 'questionnaires designed to elicit relevant information from Governments.'[105]

The second line of thought focuses on how to then present this information so as to leverage the power of transparency and public accountability. For example, in 2004 the Commission urged Special Procedures 'to include in their reports information provided by Governments on follow-up action, as well as their own observations thereon, including in regard to both problems and improvements, as appropriate.'[106] Similar ideas were presented in 2011 by Argentina, Chile, the UK, Peru, the US, Sweden and the Maldives. These ideas emphasised the importance of mandate-holders institutionalising and regularising follow-up reporting, including by 'sending reminders to States that have not replied on progress made in the implementation of recommendations.'[107] These would seem remarkably simple and sensible steps to take and yet, ten years after the ideas were first floated, they are still not happening at a systemic and systematic level - a fact recognised by mandate-holders themselves. At their 19th annual meeting, Special Procedures discussed a range of proposals (including those mentioned above) 'aimed at creating more institutionalized and systematic follow-up,' including the establishment of a dedicated follow-up unit in Special Procedures Branch.[108] Mandate-holders, however, identified 'a lack of time and resources' as a barrier to progress.

Another proposal, first floated in 1998-2000 and subsequently set-down in Commission resolution 2004/76 on 'Human rights and Special Procedures', was for OHCHR to 'prepare a comprehensive and regularly updated electronic compilation of special procedure recommendations by country, where such does not yet exist, including the relevant comments of States thereto as published within the United Nations system.'[109] From 2004 to 2009, OHCHR used the mandate provided by resolution 2004/76 to compile summary reports of conclusions and recommendations (organised by country) from thematic and country-specific Special Procedures.[110] More recently, since 2006, OHCHR has compiled a 'Universal Human Rights Index', an online searchable database that compiles recommendations from Special Procedures, Treaty Bodies and the Universal Periodic Review.[111] In place of the previous (2004-2009) summary reports, OHCHR now submits simple one-page notes to the Human Rights Council which draw attention to the on-line compilation and direct states to OHCHR's website.[112] Notwithstanding, the database does not include any information on the status of implementation of recommendations (mainly because such information does not generally exist). And, crucially, it seems the information in the database is not widely used by delegates, partly because it does not include data on implementation and partly because there is no forum to consider and debate the information.

Since 1999 states have made a number of useful proposals to establish such a forum or mechanism for discussing information on implementation and follow-up. The 1998-2000 review recommended that the Commission Bureau should hold a special review meeting to consider information 'on implementation and follow-up' and should thereafter 'conduct dialogues with concerned governments' and a public briefing for all Commission members.[113] During the 2011 review, many states emphasised the importance of creating a forum in the Council in which states and mandate-holders can discuss implementation and follow-up. The UK, for example, called for 'a dedicated discussion of follow-up to previous reports and country visits carried out by special procedures,'[114] while the US asked for follow-up to be built into the Council's programme of work.[115]

6
AVAILABILITY OF RESOURCES AND SECRETARIAT SUPPORT

Availability of Resources

It has long been recognised that the availability of resources and the quantity and quality of secretariat support are crucial determinants of Special Procedures influence. Each year, state delegations at the UN in Geneva demand more and more of the Human Rights Council and its mechanisms (as well as of the secretariat, OHCHR): convening more panels, requesting more meetings and reports, and establishing more new mandates. These activities do not come cheap.[116] For example, a 3-year Special Procedure mandate usually costs around US$1.5 million, and can be much more. Yet the same states that place increasingly high demands on the Council in Geneva consistently fail to allocate sufficient financial and human resources to match these demands during negotiations in the General Assembly's 5th Committee in New York.

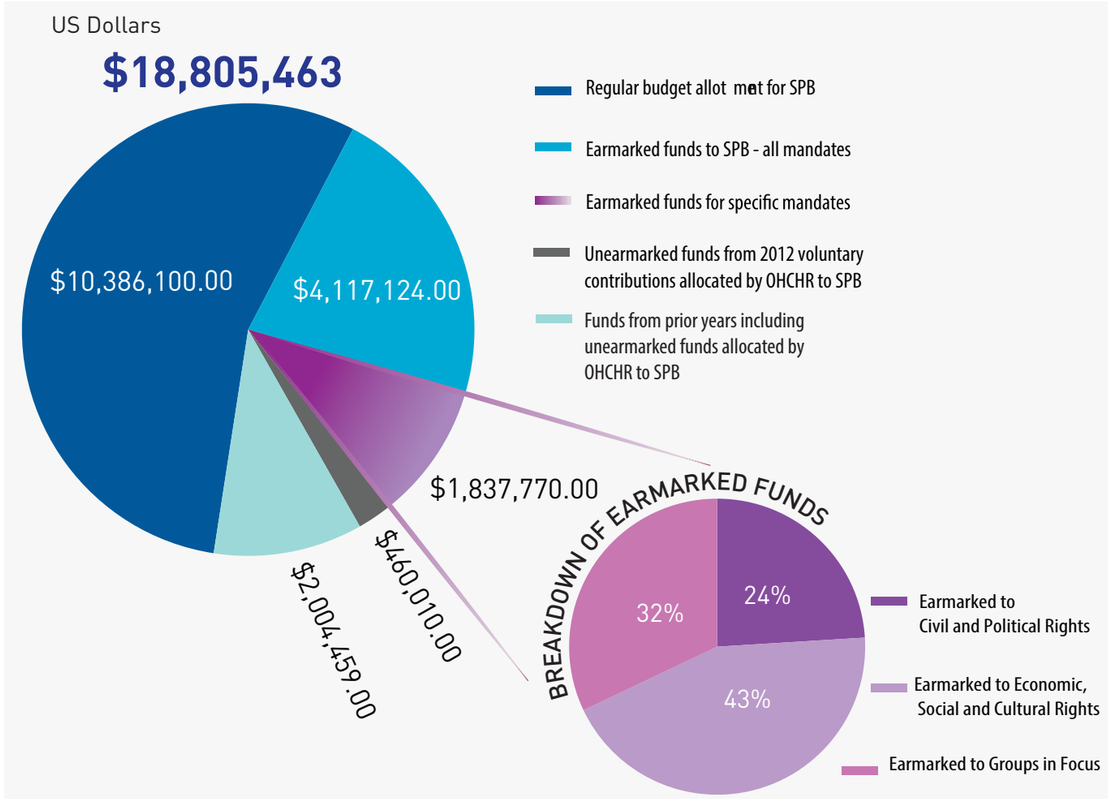
The 'jewel in the crown' of the UN system receives less than half a percent of the organisation's regular budget.

In this regard, critical financial imbalances which see human rights - one of the three pillars of the UN system - receive less than 3% of the regular budget, immediately place Special Procedures in a precarious position. With the exception of a doubling of the budget for human rights at the time of the creation of the Human Rights Council in 2006, human rights financing has failed to evolve in a manner reflective of the growing importance and profile of the human rights system. Moreover, matters are unlikely to improve in the short-term: the biennium 2014-2015 will actually see the annual human rights budget reduced by $4.5 million.[117]

Resources allocated to Special Procedures must be seen within this broader context. For example, in 2012 human rights (OHCHR) received only $82 million (around 3%) of the total UN budget of $2.58 billion.[118] Of that, Special Procedures (Special Procedure Branch[119]) received only around $10 million (12.6% of human rights regular funding). This means that the 'jewel in the crown' of the UN system receives less than half a percent of the organisation's regular budget[120] - only slightly more than the proportion allocated to the UN library in Geneva[121] and for the 'peaceful use of outer space.' [122]

Understandably, this has significant implications for the effectiveness of the system. As the Commission repeatedly noted: 'the level of support available to the mechanisms is not commensurate with their activities and the importance of their responsibilities,'[123] and 'key to the effectiveness of the Special Procedures will be to address the critical inadequacy of resources for the United Nations human rights programme.'[124] This view was repeated in 2011 when the Human Rights Council 'recognized the importance of ensuring the provision of adequate and equitable funding' and requested the UN Secretary-General 'to ensure the availability of adequate resources within the regular budget.'[125] If the Secretary-General and member states are serious about human rights, and about the impact and effectiveness of the international human rights mechanisms, they must address these systematic financial imbalances as a matter of priority.

FIGURE 4: SPECIAL PROCEDURES BRANCH (SPB) BUDGET 2012



Data source : OHCHR Report 2012, p.145

In an attempt to bridge the funding shortfall, some states have expanded the scope of their voluntary contributions to the Special Procedures. Since the Council was established in 2006, OHCHR has relied heavily on these extra-budgetary funds to compensate for the low levels of regular budget resources. For example, in 2012 it received $82 million from the UN's regular budget and $114.5 million from voluntary contributions.[126] Of these extra-budgetary funds, Special Procedure Branch[127] received $8.4 million: $1.8 million (22%) was 'earmarked' by states to support specific mandates and $4.1 million (49%) was earmarked to support Special Procedure Branch as a whole. The remaining 29% was allocated to Special Procedure Branch by OHCHR from un-earmarked voluntary contributions[128] (see figure 4).

While necessary to ensure the on-going viability of the Special Procedures system, the reliance on voluntary contributions leads to less financial predictability and, crucially, to questions being raised about the independence of the Special Procedures and imbalances between mandates.

For example, a regular criticism levelled at Special Procedures by some developing states is that the reliance of a given mandate on earmarked funds from certain donor countries[129] gives those countries undue influence over the conduct of the mandate. Another (unfounded) allegation is that, contrary to the principle of the indivisibility of human rights, earmarking creates a hierarchy of mandates with, for example, those dealing with civil and political rights (CPR) receiving more resources than those focused on economic, social and cultural rights (ESCR).[130] Indeed, unease at the possible political strings attached to voluntary contributions also extends to mandate-holders themselves, with at least one expressing unease at the source of earmarked funds allocated to his mandate via OHCHR.[131]

But this does not tell the whole story. Even with voluntary contributions to the OHCHR, many mandate-holders still feel that they lack the financial and human resources to effectively carry out their UN mandate. Many therefore have 'outsourcing' arrangements whereby donor funds are channelled through non-UN organisations (typically universities and NGOs), which then support the mandate-holder (for example, by providing human resource and research support). Even more than with voluntary state contributions, this practice raises concerns as to transparency, equality between mandates, and its implications for the independence of Special Procedures. The UN Board of Auditors, in a 2011 report, noted with concern that mandate-holders 'are not required to disclose support received from other sources,' including support from unspecified governments

and other institutions, and noted that 'the absence of clear disclosure could put in doubt the perceived independence of mandate-holders.'[132]

So long as the human rights system continues to receive such low levels of support from the UN's regular budget, the Special Procedures will continue to rely heavily on voluntary contributions and non-UN outsourcing arrangements. This is unavoidable. The only solution to the inter-linked challenges of resource availability, independence and non-discrimination, therefore lies with improving levels of transparency.

Although transparency has improved markedly in recent years in response to the Council's call for 'full transparency in the funding of the special procedures,'[133] many states continue to express concern. To help deal with this, OHCHR and states should work together to address residual uncertainties. Importantly, there is considerable political scope to do so, because financial disclosure seems to be one of the few areas upon which all states agree. During the 2011 review, countries from all regions called for 'increased transparency'[134] in 'funding for Special Procedures,'[135] as well as for all voluntary contributions to be 'consolidated into a single fund'[136] which 'equitably supports all special procedures'[137] in order 'to guarantee their independence.'[138] Indeed, matters do seem to be moving in this direction. There is now a general fund for all Special Procedures (in practice, extra-budgetary resources placed here are only used for thematic mandates – unless the donor makes clear they can also be used for country mandates) and, in 2013 consideration was given to establishing a general fund for country mandates.[139]

Disclosure and transparency are equally important in terms of non-UN outsourcing arrangements. Here there is a clear onus on mandate-holders to publicly disclose the sources of their (non-UN) funding and in-kind support (e.g. human resource support) and, at the very least, to issue a disclaimer stating that such contributions will not be allowed to affect their independence. This point has been recognised by mandate-holders themselves who, at their 20th annual meeting (June 2013), decided to take steps to respond to 'concerns related to external funding.'[140]

Secretariat support

The financial constraints faced by the human rights system in general and Special Procedures in particular have clear implications for the level of secretariat support available to mandate-holders. In common with other international human rights mechanisms, secretariat services for Special Procedures are provided by OHCHR. Mandate-holders, to greater or lesser degrees, rely on their assistants (OHCHR staff) to, *inter alia*, organise country missions, receive and process petitions, help draft reports and take care of the administrative issues associated with the mandate.

Special Procedures interviewed for this report expressed almost universal admiration for the dedication of their assistants, and considerable praise for the quality of their work. It was pointed out by one senior OHCHR official that considering the expectations-resource gap described above, the only thing that prevents the Special Procedure system from collapsing is that OHCHR is 'a building full of activists'[141] and a related belief among assistants that the work of Special Procedures is indeed 'special'.

Notwithstanding, it is also clear that there are a number of resource issues with important implications for the independence and effectiveness of Special Procedures.

To understand these issues it is necessary to know how secretariat support for Special Procedures is managed. Before 1st January 2014, the (nearly) fifty Special Procedure mandates were spread across three of the four main Divisions of OHCHR. Most thematic mandates were housed within the Human Rights Council and Special Procedures Division (and specifically the Special Procedures Branch (SPB)). However, some (such as the Independent Expert on international solidarity and the Working Group on human rights and transnational corporations) sat within the Research and Right to Development Division (RRDD). Meanwhile, country mandates fell under the relevant geographic branch of the Field Operations and Technical Assistance Division (FOTAD). As of 1st January 2014, almost all mandates from RRDD were moved to SPB.[142]

One implication of spreading the mandates across more than one OHCHR Division is that it makes resource management and transparency more difficult. For example, the centralisation of mandates and resources in one place would allow greater levels of accountability in terms of secretariat support. Many mandate-holders interviewed for this report identified 'insufficient and volatile staffing levels'[143] and 'very high staff turnover'[144] as key obstacles to the successful fulfilment of their mandate. Some noted that instead of having one or two full-time assistants attached to their mandate, they had only a single assistant who also covered other mandates (in the case of staff in SPB) or who had other geographical responsibilities (in the case of staff from FOTAD). In the latter case, it does not seem uncommon for country mandate-holders to share their one assistant with five or six field desk responsibilities (i.e. country desks in FOTAD).

Finally, the practice of managing Special Procedures across two or three different Divisions can create difficulties in terms of ensuring the independence of Special Procedures from extraneous influence. Without a clear delineation and (to some extent) ring-fencing of the Special Procedures secretariat function, there is a risk of other parts of the Office exerting undue influence over decisions of individual Special Procedures (for example, by pressing them to visit a country which might be a priority for the OHCHR or by exerting undue influence over the content of reports). Some Special Procedures concede that 'OHCHR has a lot of influence, even control, over which countries to visit and which not'[145] and also, for example, 'over whether and when to issue press releases.'[146] Others, however, point out that the Special Procedures mechanism relies on OHCHR's field knowledge in order to understand local contexts and to generate impact. Like much else in this report, this issue raises difficult and sensitive questions about the nature of the Special Procedures mechanism, and its relationship with OHCHR, states and NGOs. Some diplomats believe the only solution is to split OHCHR between its secretariat and UN agency functions.[147] Others suggest that the answer lies in creating clearer and stronger lines of demarcation between different parts of OHCHR, while at the same time giving 'greater legal standing'[148] to the Coordination Committee of Special Procedures.

MODES OF INFLUENCE – THE SPECIAL PROCEDURES TOOLBOX

The influence of Special Procedures, as derived from the inter-related structural determinants discussed above, is exerted, at a practical level, through a variety of tools. The most important of these are: country visits, norm setting, petitions and communications, interactive dialogues and media relations.

COUNTRY VISITS

The ability of Special Procedures to conduct independent missions in order to review, understand and (where possible) work with governments to improve the on-the-ground enjoyment of human rights remains one of their most important means of generating impact. From the very beginning of the mechanism in the 1960s, its capacity to go beyond the meeting halls of the UN and travel to countries to meet victims and talk to people 'at the coal-face' of human rights has set it apart from other mechanisms (such as Treaty Bodies).

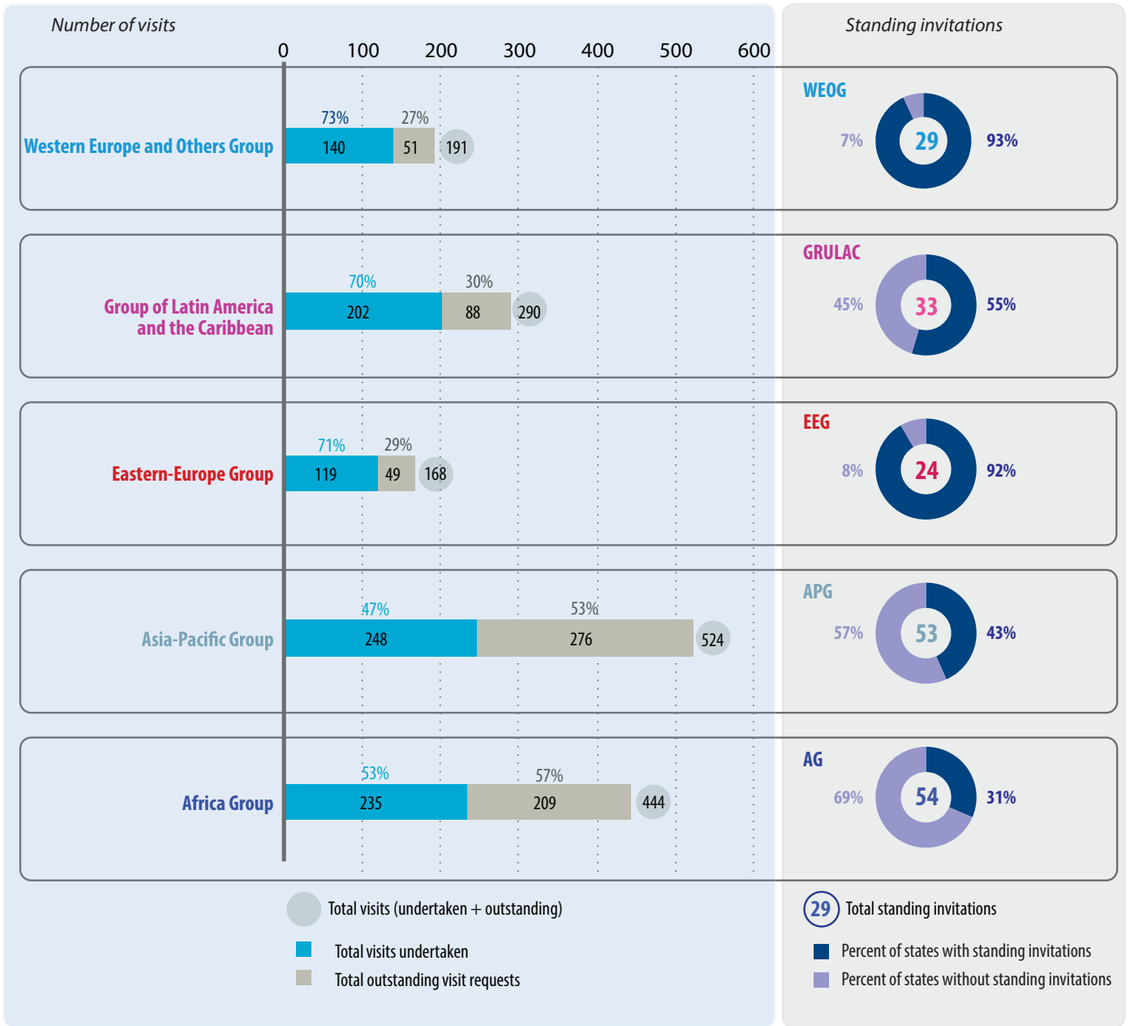
...the rapid growth in the number of Special Procedure mandates over recent years has coincided with a significant increase in the number of country missions...

The impact of missions is evident in both the immediate- and the medium-term. In the immediate-term, the very fact that a mission is taking place tends to have a salutary impact on the human rights situation in a given country. Nearly all of the diplomats interviewed for this report noted that their governments 'take country missions very seriously.'[149] Such visits tend to elevate human rights on the national agenda, bring public attention and debate through the media, validate allegations of human rights violations in a credible way, and allow human rights concerns to be raised and discussed at the highest levels of government. Perhaps their most important immediate effect is to provide direct support to victims and human rights defenders - a very visible means of demonstrating the international community's interest in and concern about the human rights situation in a country. In the medium- to long-term, the effectiveness of country missions stems from the degree to which they provide an accurate snapshot of the human rights situation in a country and a platform for further dialogue and engagement designed to improve that situation.

It is therefore encouraging that the rapid growth in the number of Special Procedure mandates over recent years has coincided with a significant increase in the number of country missions, both in absolute terms and in terms of the average number of visits per mandate. For example, in 2000, 32 mandates undertook a total of 36 missions, at an average of 1.1 visits per mandate. Similar (low) ratios were also seen in 1998, 2001, 2003 and 2004. By contrast, in 2011, 41 mandates undertook 86 missions, at an average of 2.1 visits per mandate. Similar (high) ratios were seen in 2009, 2010 and 2012.[150]The net result of this is that, as of December 2013, more than 160 states had, at one time or another, been visited by a Special Procedure mandate.[151]

Notwithstanding, this overall increase in the number of country missions masks significant variations in terms of which states are cooperating with the mechanism. These variations are evident both in the degree to which states are willing to extend so-called standing invitations to Special Procedures, and in the degree to which they facilitate the actual conduct of a mission once a mandate-holder has asked to come.

FIGURE 5: COOPERATION WITH COUNTRY VISIT REQUEST BY REGIONAL GROUP & STANDING INVITATIONS



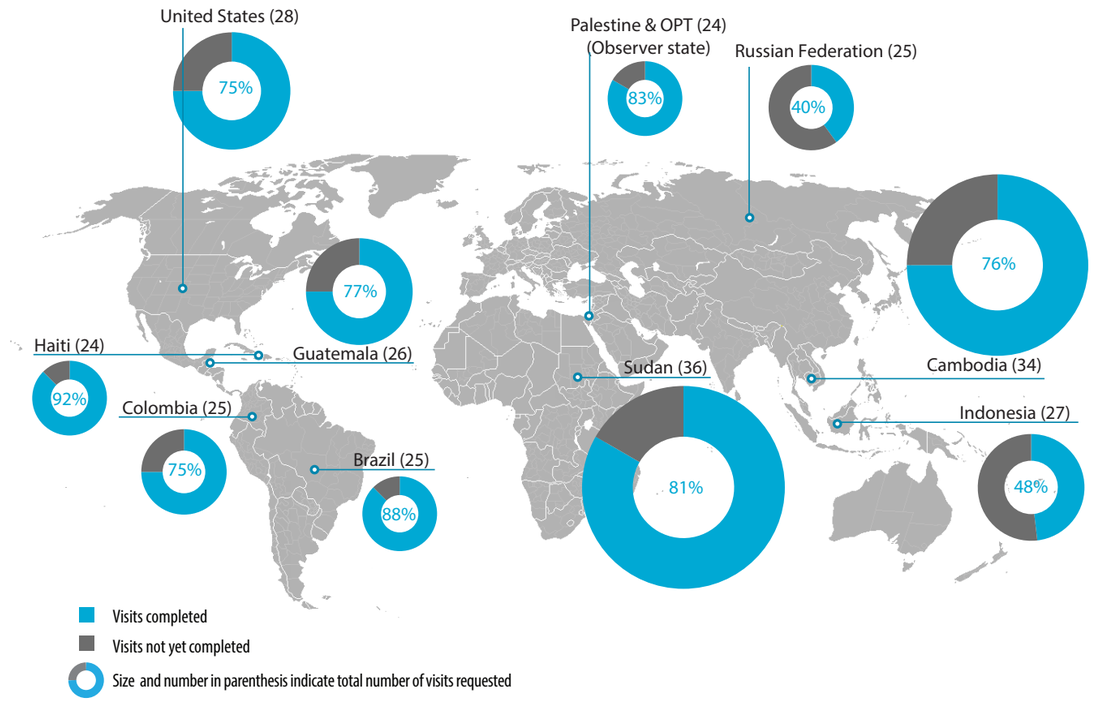
Data source: OHCHR Website; Country and other visits by Special Procedures Mandate Holders since 1998 (updated 31 December 2013)

Notes:
Figures account for separate requests (not including where requests re-issued several times).
The "outstanding visit requests" total includes all visit requests which have not yet resulted in a visit (including those where dates have been agreed, or the request has been agreed to in principle).

A standing invitation is an open invitation extended by a government to all Special Procedures to undertake country missions. By extending such an invitation, states announce that they will always accept requests to visit from all thematic mandates. As of 1st December 2013, 106 states had extended standing invitations. Such invitations are a useful voluntary indicator of state cooperation with Special Procedures. It is important to note, however, that they are not binding and nor is it an official mechanism. States merely make a declaration that they have decided to extend a standing invitation, and OHCHR then puts them on an unofficial list.

While some diplomats and NGOs question the real-world value of standing invitations, noting that certain countries on the list rarely, if ever, actually allow missions to take place (states cannot be struck off the list as it is voluntary), Figure 5 shows a broad correlation between standing invitations and the actual conduct of country missions. For instance, nearly all Western and Eastern European states have extended standing invitations, and these two groups also have the highest rates of compliance with visit requests. Conversely, less than half of all countries from Africa (31%) and the Asia Pacific (43%) have extended standing invitations, and these two regions also have the highest proportion of outstanding visit requests.

FIGURE 6: STATES WITH THE MOST VISIT REQUESTS



Data source: OHCHR Website; Country and other visits by Special Procedures Mandate Holders since 1998 (updated 31 December 2013)

Notes
Figures account for separate requests (not including where requests re-issued several times).
The "Outstanding visit requests" total includes all visit requests which have not yet resulted in a visit (including those where dates have been agreed, or the request has been agreed to in principle).

Going beyond the declaratory and moral value of standing invitations, it is the willingness of states to actually receive and follow-up on country missions that offers the best measurement of their commitment to human rights. Here it is worth noting that while African and Asia-Pacific states receive both the most visit requests and the most visits (though when weighted to take account of the larger size of the African and Asian Groups, the number of visits per region is fairly evenly balanced), these two regions also have by far the highest number (and proportion) of outstanding requests.

A final interesting point to consider is the state practice of inviting mandate-holders selectively based on national priorities. For some states this means inviting Special Procedures that can help advise on issues that the government considers important for national development – for example, on housing, or water and sanitation. As one Asian diplomat notes: 'where we see a real chance for a given mandate to contribute to an important domestic policy, we invite them.'[152] For others, it means inviting mandates to address those issues where the government is conscious there is a problem or where they are falling short of their international obligations.

Some would argue that such exercises risk turning the Special Procedures into an international human rights consultancy. Certainly, Special Procedures *à la carte* is not what the system was originally designed to provide. However, if governments are willing to concede that they have a problem or need, if they

are willing to work with the Special Procedures mechanism to address that need, and if the resulting intervention does indeed contribute to the strengthening of human rights, then it is difficult to find fault; at least, so long as this is accompanied by a willingness on the part of the country to also receive other mandates (upon their request) with which it might be less comfortable.

NORM-SETTING

As well as holding states accountable against existing human rights norms, Special Procedures have made and continue to make a significant contribution to the elaboration, interpretation, acceptance and internationalisation of those norms. They do so through their regular reports to the Human Rights Council and (in some cases) to the General Assembly, the contents of which may then be reflected in Council and/or General Assembly resolutions, and through the elaboration of soft law instruments such as UN guidelines.

One regularly cited example of this influence is the demystification of economic, social and cultural rights over the past two decades, including the refutation of the idea that such rights suffer a 'lack of justiciability'.[153] On the one hand, Special Procedures have attempted to define the content of the different economic, social and cultural rights and the corresponding obligations of states. They have also 'sought to fill normative gaps by developing analytical frameworks or clarifying aspects of a certain human right, including the specific application to particular groups such as women, children, indigenous people, prisoners and people with disabilities.'[154] Examples include: the '4As scheme' of Katarina Tomasevski, the first Special Rapporteur on the right to education, according to which governments are obliged to make education available, accessible, acceptable and adaptable;[155] and the efforts of Catarina de Albuquerque, the Special Rapporteur on water and sanitation, to establish access to water and sanitation as an internationally-recognised human right, and to clarify the scope of state obligations.[156]

In addition to norm-setting and norm-shaping, Special Procedures have also contributed to the development of international standards and other soft law instruments to help promote the implementation of those norms. Examples include the UN Guiding Principles on internal displacement and the UN Guiding Principles of transnational corporations and human rights. Key to the success of having norms implemented domestically is to make those norms accessible and understandable at a practical level, which one mandate-holder has termed 'the practicalisation of human rights.'[157] This practicalisation and implementation of new norms can be significantly strengthened where Special Procedures interact with other human rights mechanisms (e.g. Treaty Bodies) and other international organisations (e.g. the World Bank, UNDP, WHO, UNICEF), a process that can lead to 'a spill-over effect' and the 'legitimisation' of norms among governments.[158]

Notwithstanding these achievements, some policy-makers in Geneva worry that the combination of a quantitative increase in the number of thematic Special Procedures reports (due to the growth in the number of mandates) together with what they perceive to be a qualitative decline in the overall standard of reports, has led to a situation in which the norm-setting work of Special Procedures has been reduced. For example, most diplomats interviewed for this report admitted that their delegation does not have the capacity to read any but a handful of the (more important) Special Procedures reports, and only sends a small selection of them to their capital.[159] Furthermore, many of these diplomats expressed serious doubt that the reports are read by either foreign ministries (which often have only one or two officials focused on human rights) or (even less so) line ministries.[160] Others disagree, stating that thematic reports are regularly fed into their national decision-making processes and do influence policy (though they were not able to give specific examples).[161]

PETITIONS

The capacity of some Special Procedures mandates to receive petitions from the victims of human rights violations (or their representatives) and to communicate with relevant governments to verify the complaint and to press for remedy and redress[162] is among the mechanism's most important tools, not least because it represents a direct interface between individuals ('the peoples' identified by the UN Charter as the basic constituency of the organisation) and the UN itself.

Sadly, considering the centrality of the petition system to the history and contemporary effectiveness of Special Procedures, over time (and despite the efforts of many mandate-holders and OHCHR officials), the communication procedure has become devalued.

The gap between the potential of the human rights petition system to provide relief to victims and its actual delivery has been brought into stark relief by an in-depth analysis of the procedure conducted by the Universal Rights Group and the Brookings Institution.

Before presenting the results of that analysis into *whether* the system works, it is important to recall *how* the system is supposed to work, not least because the modalities of the procedure remains poorly understood, even among state and NGO experts.

Figure 7 presents a simplified schematic overview of the procedure. Put simply, the victim(s) of an alleged human rights violation (or their representatives) can send an individual submission (petition) to Special Procedures either directly to the relevant mandate-holder (for example to the Special Rapporteur on torture in the case of allegations involving torture), or indirectly via OHCHR's Quick Response Desk (QRD). If a victim chooses the latter option, those OHCHR officials staffing the QRD will forward submissions to relevant mandate-holders (or rather to their assistants). Upon receipt of a submission (either directly or via the QRD), the mandate-holder will review it and transmit a communication (either a Letter of Allegation (AL) if it concerns a past violation or an Urgent Appeal (UA) if it concerns time-sensitive, on-going or imminent grave violations[163]) to the concerned state.[164] Mandate-holders increasingly send these communications in conjunction with other concerned mandates: these are known as joint communications (either JUAs or JALs). The communication will ask the concerned government to clarify the facts of the case. In theory, if the mandate-holder(s) is satisfied with the government's response (where he/she receives one) then he/she will discontinue the case (for example, if the mandate-holder deems there has not been a violation or if the matter has already been resolved). If not, he/she will revert to the government with a view to securing remedy/redress.

Like the Special Procedures mechanism more broadly, the communications procedure has developed over time in a largely *ad hoc* manner. But unlike the mechanism as a whole, it has never undergone a system-wide review (either in its own right or in terms of its interaction with the other human rights communications procedures such as those overseen by the Council and the Treaty Bodies).

Such a review is very much needed. Measured against criteria such as visibility, accessibility, responsiveness and remedy, the communications procedure falls far behind what should be deemed acceptable – especially from the perspective of victims.

In terms of visibility, knowledge of the existence of the procedure and how best to access it appears to be very low among the actual victims of human rights violations. Like so much else, awareness of this problem is not new. The Bureau of the Commission reflected on it in 1999 and acknowledged the 'need for grassroots awareness of the existence, purposes, and basic workings of special procedures.'[165] The key to whether an individual knows of and is able to make use of the communications procedure seems to be whether or not the victim has access to a wider support network including NGOs that are aware of the possibility of submitting petitions.

For those who are aware of the communications procedure and who seek to petition relevant Special Procedures, the next step is to make a submission,[166] which generally means recourse to the OHCHR's webpage on Special Procedures communications.[167] Here the victim or his/her representative is offered guidance on 'how to submit information,' namely what information to include and where to send it. As the main 'gateway' for petitioners, the OHCHR webpage is central to the accessibility (or otherwise) of the system. It is important to acknowledge, in this regard, that the system has established a single point of contact, a single interface and a single email address, all of which are to be welcomed. However, according to human rights defenders interviewed for this report, the interface can still be somewhat confusing and there is room for improvement in terms of user-friendliness, especially from the perspective of victims who do not necessarily know (in legal terms) which of their rights have been violated.

FIGURE 7: PETITIONS FLOW CHART

Data source: Special Procedures Communications Reports of the 19th-24th Session; URG primary research and interviews.
* Data for reporting period 1 June 2008-31 May 2013; Communications report of Special Procedures, 24th Session September 2013, 22 August 2013 (UN Doc A/HRC/24/21), p.7-8
** The vast majority of communications are sent to governments. Mandate holders can also send communications to non-state actors however, such as corporations and inter-governmental organisations (in the form of an "Other Letter"). These communications are included in the overall figures above, but are very few in number.
Note: The number of individual submissions received by OHCHR and the mandate holders is unknown.
***This figure includes a small umber of responses from non-state actors, as explained above.
****Qualitative assessment of responses from a geographically representative sample of 15 states conducted by URG and Brookings Institution on the basis of communications sent between 1 June 2011 and 31 May 2013, and replies received between 1 August 2011 and 31 July 2013. For full results and methodology see Special Procedures Communications Analysis research document at www.universal-rights.org/research/special-procedures.

Turning to responsiveness, a number of points should be made. First, at the time of submission, the petitioner does not receive any acknowledgement of receipt nor information on what happens next (not even an automated reply). Indeed, the first a victim will know about whether his/her submission has been taken-up or not is when and if the case appears in the thrice-yearly 'Communications Report' presented to the Human Rights Council.

Again, this problem is not new: in 1999 the Bureau of the Commission urged the OHCHR 'to put in place procedures to ensure that the initiators of all communications directed to the special procedures receive an appropriate acknowledgment and indication of how their communications are being addressed.'[168] Second, the QRD only has the capacity to review submissions made in English, Spanish and French, [169]a fact that excludes large parts of the world from this key human rights protection mechanism. Third, those (genuine) submissions that are in English, French or Spanish are then sent to the assistants of all relevant mandates – often to as many as thirty people across numerous different offices.

While this practice reflects the often-complex nature of human rights violations, according to people familiar with the system it tends to create significant confusion with each (already overwhelmed) assistant uncertain whether they or another mandate should 'deal with it' (with the result that often 'no-one does'[170]). Fourth, only at this point – i.e. when a submission is deemed admissible[171] and actively taken up by one or more mandate(s) – is the case logged on the Office's submission management system (and thus receives a reference number). This means, by extension, that there is no record, anywhere, of all the petitions that failed to make it this far (a number, excluding hoax mails and spam, that some NGOs estimate to be as high as 80%). For those submissions that are taken-up, the next stage (as noted above) is for the mandate-holder(s) to send a communication to the relevant government seeking information on the allegation(s) made.

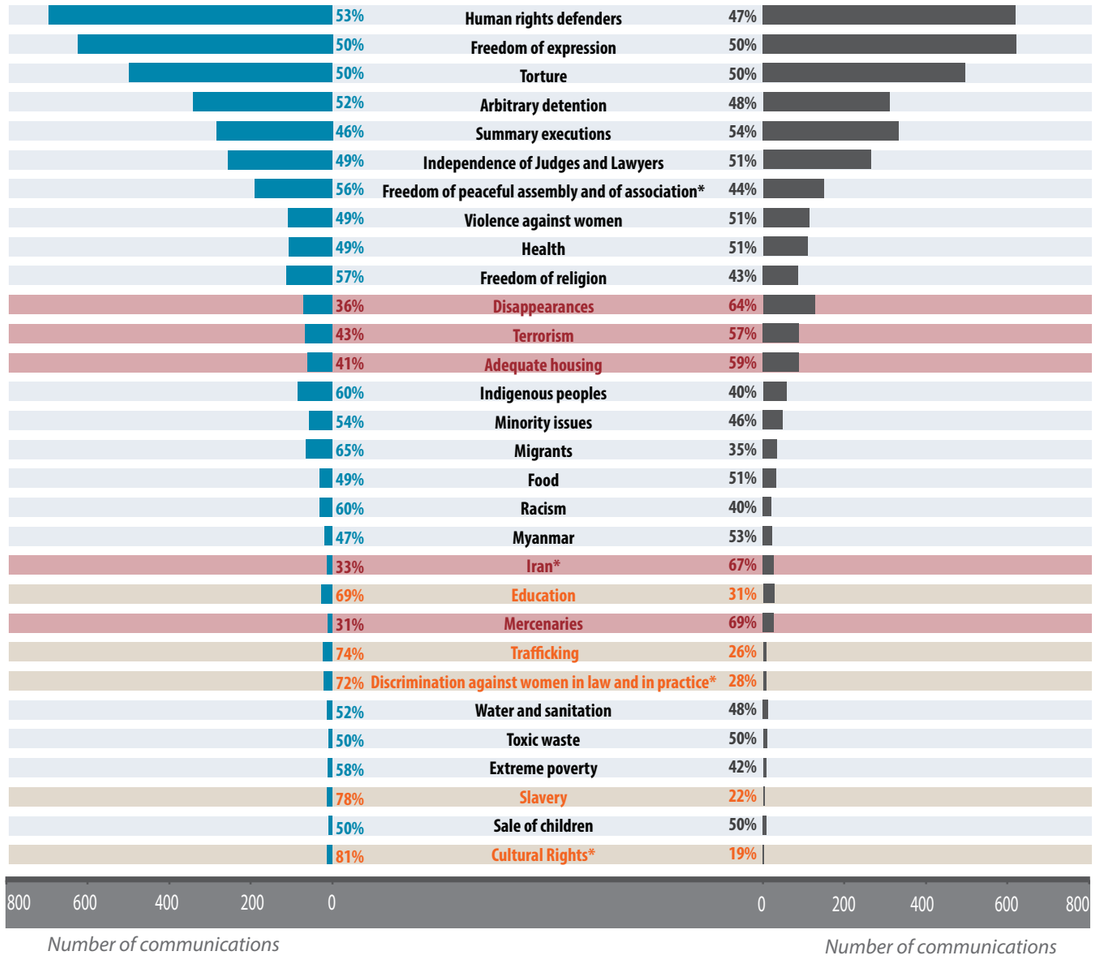
Today, the majority of these communications (74% of the total in 2012, up from 53% in 2005[172]) are sent jointly as either Joint Letters of Allegation or Joint Urgent Appeals. This is despite the fact that there is no empirical evidence of joint communications being more effective in terms of soliciting government responses or securing remedy.

The responsiveness of the system does not, however, depend only on OHCHR and the Special Procedures. It is also heavily reliant on the willingness of the state concerned to respond to the communication and respond in a substantively meaningful way. Between 1st June 2008 and 31st May 2013, the overall government response rate to communications was around 50%.[173] While masking some important variations (for example, governments tend to respond to very few communications sent by country mandates) this 50% response rate remains remarkably consistent across mandates (for example, the six most prolific mandates in terms of communications sent[174] all saw response rates of between 46% and 53% (see Figure 8)).[175] Nor does responsiveness seem to vary significantly between single mandate communications (of which 48% were not responded to across our sample) and joint communications (of which 53% were not responded to).[176]

Notwithstanding, it is important to recall that response rates alone do not tell the whole story. A given state may respond to every single communication, yet if those responses serve only to deny (without substantiation) the existence of a violation, or

FIGURE 8: RATE OF REPLY

Reporting Period: 1 June 2008-31 May 2013



* Mandate established during the reporting period.

Data source: Data for reporting period 1 June 2008-31 May 2013; Communications report of Special Procedures, 24th Session September 2013, 22 August 2013 (UN Doc A/HRC/24/21), p.7-8.

Notes:
These figures do not include communications on standard cases sent to Governments by the Working Group on arbitrary detention and the Working Group on enforced or involuntary disappearances .
Totals are higher than the actual number of communications sent or replies received in the given period, as many communications are sent jointly by two or more mandate holders.

present irrelevant information, they clearly do not help to secure remedy for the alleged violations.

For this reason, the Universal Rights Group and Brookings Institution have conducted a detailed assessment of the quality and timeliness of a sample of state responses to communications. The analysis focused on communications to and from fifteen countries (a weighted representative sample from all regional groups)[177] and scored each against a framework made up of four categories:[178]

1. Steps taken to address violation (ST)
2. Responsive but incomplete (RI)
3. Violation rejected without substantiation (VR)
4. Immaterial response (IM)

For the purpose of this analysis, ST and RI responses can be considered 'substantive' in that they meaningfully address the alleged violation contained in the initial communication, while VR and IM responses can be considered 'non-substantive' in that they fail to do so. It is important to note that these categories of response do not correspond to whether a state accepts or rejects the allegations, but the manner in which they do so, i.e. their level of cooperation with the system. For example, the category indicative of the highest level of cooperation – ST – includes cases where the concerned government undertook an adequate investigation and concluded that a violation had not occurred.

This qualitative analysis (see Figure 7) revealed that in only 8% of assessed[179] responses did sample states present substantive information on steps taken to address an alleged violation (ST). A further 42% provided information that can be described as substantively responsive but incomplete (RI). Exactly half of all government responses either simply rejected the allegation(s) of violation without substantive evidence to back-up the rejection (VR - 26%), or presented information that was not directly relevant to the alleged violation (IM - 24%).

By country, the highest proportion of substantive responses (ST + RI) came from Nepal, Tunisia and Guatemala, which all scored 100%. But while Tunisia and Guatemala's overall response rates were also considerably above average (63% and 64% respectively compared to a 48% average response rate for the study), Nepal's was considerably lower at just 18%. Colombia and Mexico had the next highest proportion of substantive responses (85% and 84% respectively) and both had near-average response rates (50% and 46% respectively). Meanwhile, the Russian Federation had the highest overall response rate (82%) but only 38% of its responses were substantive, while India had the next best response rate (67%), yet just 8% of its responses were substantive.

What does all this mean in the context of the capacity of the Special Procedures communications procedure to respond to the needs of victims and to deliver substantive remedy? While it is impossible to provide exact overall numbers (because there is simply no data on the number of submissions received by the QRD, the number passed to mandate-holders, the number received directly by mandate-holders, and the number deemed inadmissible), it seems clear that only a small proportion of all submissions are actively taken-up and acted upon. Of those that are taken-up (and which are therefore logged and feature in the Special Procedure Communication Reports), governments respond to only around half. And of those, just 8% (i.e. 4% of all logged submissions) result in and/or reflect on substantive steps to address the alleged violation.[180] Finally, once a reply has been received from a government, no matter how unsatisfactory it might be, in a majority of cases 'the reply is simply filed with no further follow-up.'[181]

There is no doubt as to the scale of the challenges inherent in establishing an efficient and effective international-level petition system that is capable of delivering on-the-ground improvements in human rights. However, it is equally clear that, despite a number of positive developments such as the submission of Special Procedures Communications Reports to the Human Rights Council, the current system is falling far short of the needs and expectations of victims. If the Special Procedures communications procedure is to remain relevant and credible and represent more than a mere 'information exchange,'[182] it seems difficult to avoid the conclusion that systemic reform is necessary.

OTHER TOOLS: INTERACTIVE DIALOGUES AND THE MEDIA

Beyond these three main tools (country missions, norm-setting and petitions), Special Procedures also use a variety of other means to influence human rights policy. Prominent among these are interactive dialogues with states and media relations.

Interactive dialogues between Special Procedures and states both in the Human Rights Council and (where applicable) in the Third Committee of the General Assembly, are a highly visible means through which mandate-holders pursue their norm-setting (e.g. debates on regular thematic reports) and norm-implementation (e.g. debates on country mission reports) functions. However, the growth in the number of Special Procedures mandates and associated pressures placed on the Council's agenda has led to a situation whereby individual interactive dialogues with thematic mandate-holders have been replaced by so-called 'clustered' dialogues. These see a number of mandate-holders present their reports together, with states thereafter addressing their comments and questions to the 'cluster'. Council member states have only 3 minutes each to make their statements (observer states and NGOs have 2 minutes) and mandate-holders generally do not have enough time to respond to all questions and comments. This situation has led many diplomats and mandate-holders to question the usefulness of the exercise, noting that interactive dialogues are now 'neither interactive nor really a dialogue.'[183]

A further issue is 'dual reporting' by Special Procedures to both the Council and the Third Committee in New York. While some observers (including many mandate-holders) see this as a useful means of mainstreaming Special Procedures analyses and recommendations into the wider work of the UN, others see it as an unnecessary duplication and suboptimal use of resources. Is it sensible, for example, for mandate-holders to

use their limited time drafting two sets of reports every year, one to the Council and one to the General Assembly (GA), especially when the Council itself reports to the GA? Or should the 'default setting' of reporting to the Third Committee be replaced or supplemented by more targeted mainstreaming interventions such as briefings to the Security Council, or regular interactions with relevant international organisations like UN Women or the World Health Organisation?

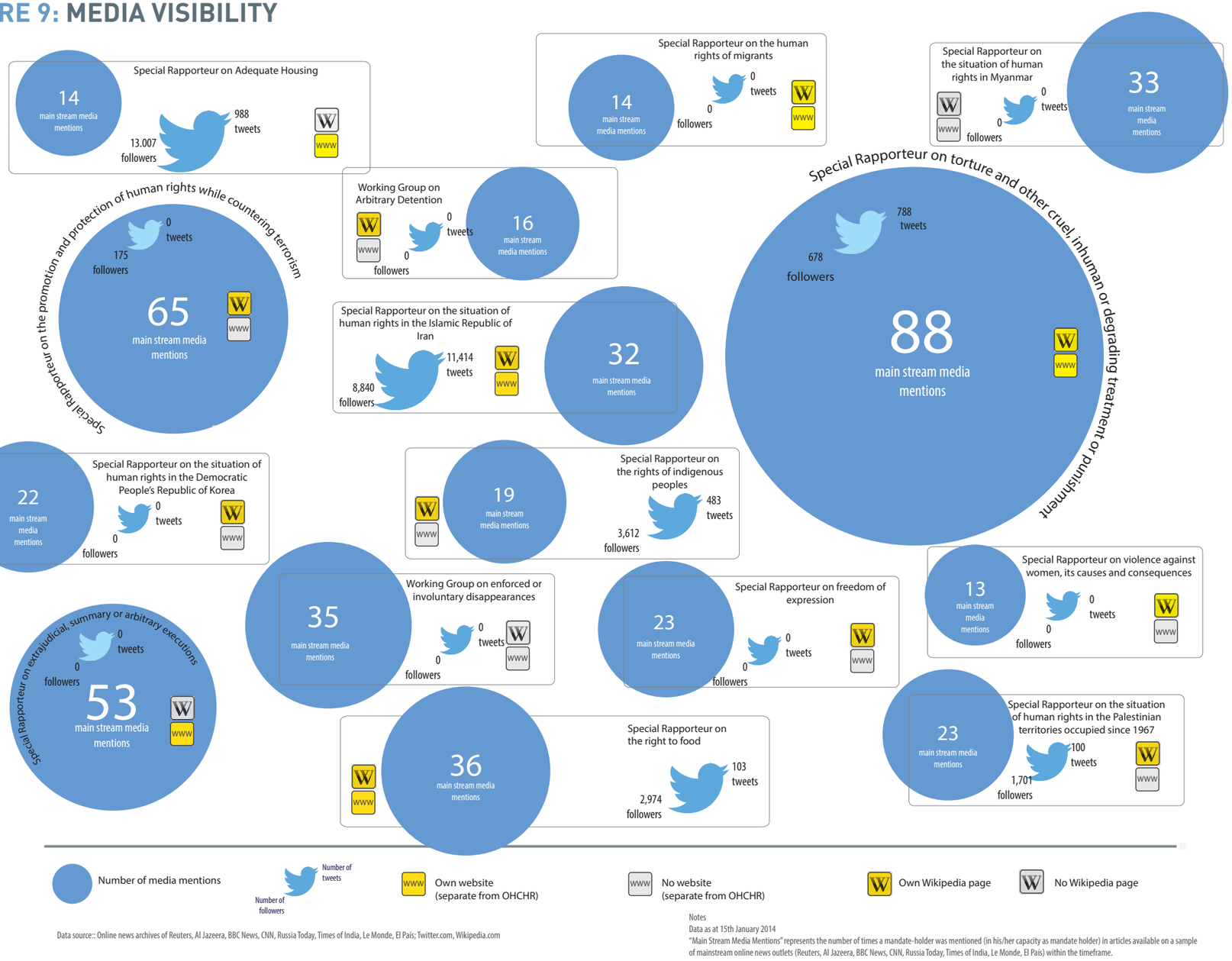
The **media** is a powerful channel through which many Special Procedures seek to exert influence. For example, mandate-holders will usually issue press releases before a country mission and will hold a press conference at its conclusion. They have also regularly used press releases to raise awareness and mobilise public opinion around a particular concern where they have been unable to secure a substantive response from a government.

The work of Special Procedures, especially in the context of their country missions, has the potential to generate considerable media attention and public debate. An analysis of Special Procedures visibility across eight key online media (representing different regions and languages) between 2011 and 2013, conducted by the Universal Rights Group,[184] shows that the Special Procedures mechanism generated a total of 564 articles.[185] This overall figure however masks considerable divergences between mandates. The six most visible mandates together generated more articles than all other mandates combined. These tend to be high-profile civil and political rights mandates and high-interest country Special Rapporteurs. The most visible mandates between 2011 and 2013 were the Special Rapporteur on torture (with 88 articles commenting on what the mandate-holder had said or done[186]), the Special Rapporteur on human rights while countering terrorism (65), the Special Rapporteur on arbitrary executions (53), the Special Rapporteur on the right to food (36), the Working Group on enforced disappearances (35), the Special Rapporteur on Myanmar (33) and the Special Rapporteur on Iran (32). The least visible tended to be newly created economic, social and cultural rights mandates and country Independent Experts.

The growing power of social media has created new and dynamic channels for Special Procedures influence by allowing them to mobilise public interest in and public support behind a given issue. Despite this, only fourteen of the forty-nine Special Procedures are currently active on Twitter.[187] These tend to be the same mandate-holders who are most visible in traditional media. Some of these mandates-holders have significant followings (the Special Rapporteur on adequate housing, for example, has over 13,000 Twitter followers) and produce prodigious numbers of Tweets (the Special Rapporteur on Iran, for example, has offered up over 11,400). Eight Special Procedures have also created distinct websites for their mandates (i.e. separate from their official webpages on the OHCHR website).

However, use of the media (including social media) is also a particularly sensitive matter. Indeed, interviews conducted for this report reveal that almost all of the most acute examples of Special Procedures-state tension today, including the first formal invocation of the Internal Advisory Procedure in 2013, centre on disagreements over the use of the media. As one diplomat noted: 'more than any other issue, press releases and comment have the potential to spoil relations'[188] between mandate-holders and states.

FIGURE 9: MEDIA VISIBILITY



Data source:: Online news archives of Reuters, Al Jazeera, BBC News, CNN, Russia Today, Times of India, Le Monde, El País; Twitter.com, Wikipedia.com

Notes
Data as at 15th January 2014
"Main Stream Media Mentions" represents the number of times a mandate-holder was mentioned (in his/her capacity as mandate holder) in articles available on a sample of mainstream online news outlets (Reuters, Al Jazeera, BBC News, CNN, Russia Today, Times of India, Le Monde, El País) within the timeframe.

The Manual of the Special Procedures does provide guidance to mandate-holders on their interactions with the media. As with other aspects of Special Procedures work, the Manual's advice attempts to balance the independence of mandate-holders and their right to use the media, especially where 'a government has repeatedly failed to provide a substantive response to communications,'[189] with procedural guidance designed to ensure predictability for governments and to build trust. For example, the Manual notes that 'standard practice is that press releases are shared with the Permanent Mission sufficiently in advance.'[190]

Indeed, there appears to be broad consensus on the basic parameters of Special Procedure interaction with the media, including giving sufficient time for a government to respond to a communication before issuing a related press release, and sharing a draft of any press release with governments before issuing it. Problems arise when mandate-holders do not follow such protocols or where there are differences of opinion over what, for example, constitutes 'sufficiently in advance' (is it six hours, twelve hours, twenty-four hours? does it include weekends?) or what is the relationship (and time-lag) between an urgent appeal and the issuing of a related press statement?

In order to provide greater clarity on these points and to take into account the growing importance of social media, and conscious of the fact that concerns over the use of the media have laid at the heart of so many recent Special Procedure 'flash-points', there is a clear case to be made for revisiting the Manual and strengthening the guidance it offers on media (and social media) interaction.

RECOMMENDATIONS

Research conducted for this report 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, and 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. 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 that regard, all stakeholders share a common responsibility to build on the legacy of those who have gradually built the mechanism over the past fifty years.

SUPPORTING SPECIAL PROCEDURES

While Special Procedures are an independent mechanism, their mandates are established (and revised) by states and they rely, in order to have impact, on securing and leveraging the cooperation of states. It is therefore important for states to show genuine and visible support for the work of the mechanism.

RECOMMENDATION 1 (STATES):

States that support the work of Special Procedures should coordinate their efforts and visibly demonstrate their commitment by establishing a Group of Friends of the Special Procedures in both Geneva and New York.

RECOMMENDATION 2 (STATES):

The Group of Friends should consider concrete steps to help strengthen the Special Procedures mechanism, such as delivering regular cross-regional statements under item 5 of the Council's agenda and/or tabling a bi-annual or tri-annual resolution on Special Procedures (similar to resolution 2004/76 on 'Human rights and Special Procedures' adopted by the Commission). They should also 'lead by example,'for instance by strengthening those mandates they sponsor or engage with in line with the cooperation, follow-up and implementation recommendations of this report.

INDEPENDENCE AND ACCOUNTABILITY

The independence, impartiality and integrity of Special Procedures has always been, and must always remain, a central element of their success and of their ability to secure improvements in the on-the-ground enjoyment of human rights. However, as we have seen, substantive independence does not mean that mandate-holders can do as they like – rather, there are clear behavioural and procedural norms with which they must comply.

With the exception of one or two states, there does appear to be general agreement that the current situation – in which a state-imposed Code of Conduct is complemented by the Manual of Operations (produced by mandate-holders themselves) and overseen by an essentially self-regulatory mechanism – is broadly correct. Certainly, it is difficult for anyone to argue that the Internal Advisory Procedure (IAP) is inherently dysfunctional or should be replaced by a state-led mechanism to enforce compliance with the Code, when it has only ever actually been invoked on one occasion.

That said, there remains an important onus on mandate-holders to ensure that the Manual and the IAP are as robust as possible. There is a strong case for revising the Manual, especially in terms of the guidance it offers on media relations and social media activity, and for examining experiences garnered from the 2013 invocation of the IAP to see if lessons can be learnt and improvements made. There is also a case to be made for improving awareness and transparency around the more informal complaint procedure and, where concerns are raised that appear justified, for the Coordination Committee to deal robustly and transparently with instances of unacceptable behaviour or conduct.[191]

In all of this it would be useful to consider strengthening the legal foundations of the Coordination Committee, although any steps to do so should be guided and led by the Special Procedures and not imposed. Such a strengthening could have the additional benefit of improving the system's independence vis-à-vis the OHCHR.

RECOMMENDATION 3 (STATES):

Maintain the current self-regulatory procedure for dealing with alleged violations of the Code of Conduct.

RECOMMENDATION 4 (MANDATE-HOLDERS):

Review and, where necessary, strengthen the Manual of Operations, including as it relates to the use of the media, social media and new technology. Mandate-holders should guide and lead this exercise.

RECOMMENDATION 5 (STATES, COORDINATION COMMITTEE):

As far as possible, states should continue to make use of the informal procedure for bringing complaints or concerns about mandate-holder conduct to the attention of the Coordination Committee. At the same time, the Committee should strengthen its outreach with states and NGOs, so as to familiarise them with the informal procedure (and receive views on its operation).

RECOMMENDATION 6 (COORDINATION COMMITTEE):

The Coordination Committee must deal robustly and transparently with those complaints or concerns - lodged informally or formally - that prove to be justified, in order to protect the integrity of the system as a whole.

RECOMMENDATION 7 (COORDINATION COMMITTEE):

In addition to the existing dialogues with states and NGOs during the Annual Meeting of Special Procedures, the Coordination Committee should have regularly scheduled meetings with the Bureau of the Human Rights Council to discuss concerns and attempt to resolve them at an early stage.

RECOMMENDATION 8 (MANDATE-HOLDERS AND STATES):

Give consideration to strengthening the legal base of the Coordination Committee, for example through a Human Rights Council resolution (i.e., the same as that proposed in recommendation 2) which could recognise the important role of the Committee and invite the Chair to present annual reports to the Council under agenda item 5 on cooperation, and on implementation and follow-up.

EXPERTISE AND STANDING

This report has revealed significant challenges in terms of complying with the Institution Building Package's[192] call for gender balance and equitable geographic representation, as well as for an appropriate representation of different legal systems.[193]

Many believe that the only way to genuinely improve diversity would be to give renewed thought to offering remuneration to Special Procedures mandate-holders, for example by providing limited monthly *honoraria* or by introducing a compensation structure similar to that enjoyed by special envoys or representatives of the Secretary-General.

RECOMMENDATION 9 (CONSULTATIVE GROUP OF THE HUMAN RIGHTS COUNCIL):
At the close of the 8th cycle of the Council, the Consultative Group should undertake an analysis of the degree to which the Special Procedures appointment process is delivering on paragraphs 39 and 40 of resolution 5/1 (e.g. on securing gender and geographic balance). This should be forwarded to the President of the Council for consideration by the Bureau and possible wider consultations.

FLEXIBILITY, REACH, ACCESSIBILITY

Much of the power and influence of the Special Procedures system stems from its functional flexibility and its reach, i.e. the range of issues and situations it is able to address and the breadth of people with whom it is able to connect. This flexibility and reach is the result, to a large degree, of the organic evolution of the system – as new challenges have arisen the system has expanded and adapted in response. Notwithstanding, faced with this ad hoc growth, states and others have often asked the question of whether it can continue indefinitely, or whether some form of system-wide review, rationalisation and improvement (RRI) 'should be conducted periodically.'[194] These and related questions about the balance between widening and deepening the system, and about the resource implications thereof, are once again becoming pertinent in the context of the expected appointment of the fiftieth active mandate in March 2014.

Considering the low levels of success of previous reform exercises and the current politicised nature of the Human Rights Council, it would seem unwise to conduct a further system-wide reform effort at present. Nevertheless, building on lessons learned from previous attempts, a number of small incremental steps might be envisaged.

RECOMMENDATION 10 (STATES, NGOs):
While the rationale behind recent moves to harmonise the nomenclature of Special Procedures was perhaps admirable (i.e., improve clarity), it should not be taken any further, as the current diversity of mandate types (e.g. thematic Special Rapporteurs, thematic Independent Experts, thematic Working Groups,[195] country Special Rapporteurs, country Independent Experts) is an important strength of the system.

When establishing or renewing mandates, states should carefully consider which type of Special Procedure best fits with the relevant policy objectives. The current default recourse to Working Groups for any issue considered politically contentious risks undermining the integrity of the system and should be reconsidered.

RECOMMENDATION 11 (STATES, NGOs):
Rather than further reductions in the different types of Special Procedures, states should consider further differentiation. For example, all new thematic Independent Expert mandates could have a sunset clause (one or two terms) ensuring that the mandate will complete the prescribed norm-setting task and then be automatically discontinued (or converted into a Special Rapporteur where this is justified).

RECOMMENDATION 12 (BUREAU OF THE HUMAN RIGHTS COUNCIL):
The Bureau of the Council, with the support of the Council secretariat, should consult with delegations, NGOs and other stakeholders to explore the scope, in the context of normal mandate renewals, for merging, broadening, transforming, terminating and creating mandates.

RECOMMENDATION 13 (STATES):
States should give active consideration, in consultation with mandate-holders, OHCHR and NGOs, to new types of Council mechanism that might reduce the international human rights community's dependence on and recourse to Special Procedures. This has already happened, to some extent, in the context of country situations, with fact-finding missions and commissions of inquiry having become an alternative rapid-deployment mechanism. For thematic issues, consideration could be given to establishing a roster system of (UN certified) human rights experts (from every region of the world) to be deployed, at the request of a government, to support domestic efforts to strengthen human rights. This would be based on a stand-by roster, similar to that set up by the intergovernmental 'Justice Rapid Response' facility. In response to a government request, relevant (unpaid) experts from the roster (e.g. judicial experts to support justice sector reform) would be deployed, with their transport and subsistence costs covered by the concerned country, the UN country team or a development partner. A request for such support could be made in writing to the President of the Human Rights Council and announced under agenda item 5.

COOPERATION, IMPLEMENTATION AND FOLLOW-UP

Both cooperation between states and mandate-holders, and ensuring follow-up on the implementation of recommendations are vital determinants of Special Procedures influence. And yet regular acknowledgement of this fact by policy-makers has so far not been matched by any discernible improvement in the situation. That is despite many positive ideas and proposals having been put forward over the past two decades. It is important for the effectiveness and credibility of the system that these ideas and proposals are revisited and, this time, fully implemented.

RECOMMENDATION 14 (MANDATE HOLDERS, STATES):
As far as possible, mandate-holders should focus on establishing a strong, constructive and cooperative relationship with states, with the goal of developing a high degree of mutual trust and confidence. This should include establishing regular informal lines of communication with delegations in Geneva and New York; making sure all recommendations are specific, measurable, attainable, realistic and time-bound; and focusing on the 'practicalisation' of human rights norms to make those norms accessible and understandable to those at national and local levels who have to apply and implement them.

Similarly, states should strengthen cooperation by, *inter alia*, responding, in a timely and substantive manner, to requests for information, by allowing country visits, by establishing clear national procedures for implementing recommendations, and by regularly updating mandate-holders and the Council on progress.

RECOMMENDATIONS 15 (OHCHR):
To give full effect to paragraph four of General Assembly resolution 60/251,[196] OHCHR should 'compile and make available objective information on the cooperation... between states and the UN human rights mechanisms,'[197] preferably in a stand-alone report on cooperation (building on the current Communications Report) tabled, *inter alia*, under agenda item 5. The report should include information on standing invitations, visit requests and visits undertaken, and responses to communications. To aid transparency and accountability, the information should be organised by country. If necessary, states (e.g. the Group of Friends) should request such a report via a cross-regional statement or resolution.

RECOMMENDATION 16 (STATES):
Use each Council session, in particular the item 5 General Debate, as 'a forum for open, constructive and transparent discussion on cooperation between states and special procedures.'[198] The Debate, which would consider the report on cooperation mentioned above, would be a forum for all stakeholders – mandate-holders, states and NGOs – to present ideas on strengthening cooperation and improving impact. (The Debate would also allow for an exchange of views on the implementation of recommendations and challenges thereto – see below).

RECOMMENDATION 17 (MANDATE-HOLDERS, STATES):
All mandate-holders should, as a matter of course, undertake systematic follow-up actions to assess the level of implementation of their recommendations. Ideally, this would be done through short 'follow-up visits, as appropriate, in order to help to contribute to the effective implementation of recommendations'[199] together with annualised 'questionnaires designed to elicit relevant information from governments.'[200] It would be important to gather information on achievements as well as continued challenges, and from both governments and non-state actors (e.g. NGOs, UN Country Teams). Some of those interviewed for this report have questioned whether governments would respond to such questionnaires. A possible solution to this would be for mandate-holders and their assistants to compile information on implementation through desk research and contacts with NGOs on the ground, and then send a draft summary to governments for their comment or further input.

RECOMMENDATION 18 (MANDATE-HOLDERS):
In accordance with Commission resolution 2004/76, all mandate-holder should systematically prepare a dedicated follow-up and implementation report annexed to their annual report. This follow-up and implementation report should reflect achievements and best practices as well as continued challenges and areas for improvement, and also include the mandate-holder's observations on ways and means of strengthening implementation (including by responding to state requests for capacity-building and technical support). These reports should be submitted under the normal agenda item for the mandate and under item 5 (see below).

RECOMMENDATIONS 19 (OHCHR):
Where follow-up and implementation reports identify a need for capacity-building and technical assistance, OHCHR should coordinate with other relevant UN offices and agencies to ensure that such requests are mainstreamed and acted upon.

RECOMMENDATION 20 (STATES):
Almost every reform exercise, stretching back to 1998-2000, has emphasised the importance of having a forum for dialogue with governments on implementation and follow-up. Fortunately, the Human Rights Council has a ready-made space for such dialogue: agenda item 5. Item 5 and its General Debate are currently perceived as a 'dead' agenda item, noteworthy only for the empty seats it generates in the Council chamber. If the international community is serious about strengthening the implementation of international human rights norms, this situation must be reversed. Thus, in addition to debating the aforementioned report on cooperation under the item 5 General Debate, states and NGOs should also consider the various follow-up and implementation reports submitted by mandate-holders (in annex to their main reports) at that particular session.

RECOMMENDATION 21 (STATES, MANDATE-HOLDERS):
Also under item 5, supportive states (e.g. the Group of Friends) should convene an annual panel debate focusing on 'best practice' in implementing Special Procedure recommendations. This would feature selected state representatives, relevant mandate-holders and other stakeholders familiar with two or three positive case studies.

RECOMMENDATION 22 (OHCHR):
A number of those interviewed for this report emphasised the importance of having 'a comprehensive and regularly updated electronic compilation of Special Procedure recommendations by country.'[201] Others noted that this should be part of a wider publicly accessible database of recommendations made by all the human rights mechanisms, including Treaty Bodies and the Universal Periodic Review. OHCHR has clearly made significant progress in responding to this suggestion with the 'Universal Human Rights Index'. The Index should be further strengthened in the future by including information on follow-up and implementation (for this to happen, all mandate-holders will need to systematically produce annual follow-up and implementation reports).

AVAILABILITY OF RESOURCES AND SECRETARIAT SUPPORT

It has long been recognised that the availability of resources and the quantity and quality of secretariat support are crucial determinants of Special Procedures influence.

RECOMMENDATION 23 (SECRETARY-GENERAL, STATES):
As this report has shown, if the UN Secretary-General and member states are serious about human rights, and about the impact and effectiveness of the international human rights mechanisms, they must address the current imbalances which see the human rights pillar receive less than three per cent and Special Procedures less than half a per cent of the UN's regular budget. Nearly all those interviewed for this report agreed that mandated activities, including Special Procedures, should be fully financed by the regular budget. In the context of the preparation of, and negotiations on, the regular budget for the 2016-2017 biennium, the Secretary-General must respond to this consensus position.

RECOMMENDATION 24 (STATES, OHCHR):
Given the on-going and serious gap between mandated activities and regular budget allocations, voluntary contributions will continue to be an important source of financing for many UN human rights activities. Where voluntary contributions are used to bridge the funding gap for Special Procedures, states should provide un-earmarked funds or earmark their contributions to the general fund for all Special Procedures (in practice, extra-budgetary resources placed here are only used for thematic mandates, unless the donor makes clear they can also be used for country mandates). OHCHR should in turn guarantee a minimum threshold of financial disclosure and transparency for each individual mandate: the level and sources of funding and how is it used.

RECOMMENDATION 25 (MANDATE-HOLDERS):
Disclosure and transparency are equally important in terms of non-UN outsourcing arrangements. Here, as recognised by Special Procedures themselves, there is a clear onus on mandate-holders to publicly disclose the sources of their (non-UN) funding and in-kind support (e.g. human resource support) or, at the very least, to issue a disclaimer stating that such contributions will not affect their independence.

RECOMMENDATION 26 (OHCHR):
Further steps should be taken to bring all Special Procedures mandates, including country mandates, under the Special Procedures Branch. At present, the benefits (such as sharing geographic expertise) of dividing the mechanism between two parts of the Office (as of 1st January 2014) are outweighed by the problems it causes in terms of transparency, inadequate staffing levels and Special Procedures independence.

RECOMMENDATION 27 (OHCHR):
Notwithstanding the very real difficulties caused when states (in the General Assembly's Fifth Committee) do not approve budget allocations for some mandates, immediate steps should be taken to ensure that all existing mandates enjoy the correct level of secretariat support as per the relevant Programme Budget Implication (PBI) documents (meaning, broadly-speaking, one and a half assistants), that they can conduct all mandated activities (e.g. two country missions, or regional consultations) and that, where they wish to conduct further activities (e.g. further missions including follow-up missions), there are clear and transparent procedures in place for them to access available funds. Linked with these points, PBIs should precisely reflect the type of Special Procedure and the activities laid down in the resolution establishing or renewing the mandate.

STRENGTHENING THE SPECIAL PROCEDURE TOOL-KIT

RECOMMENDATION 28 (ALL STAKEHOLDERS):
It is clear that the current **communication system** is falling far short of the needs and expectations of victims. If the Special Procedure communications system (and the Special Procedures mechanism more broadly) is to remain relevant and credible, it is difficult to avoid the conclusion that systemic reform is necessary. Notwithstanding, like all other recommendations in this report, such reform does not necessarily require a further round of intergovernmental negotiations, but rather can be achieved through incremental improvements driven and guided by mandate-holders and founded upon dialogue between all stakeholders. For example, there is enormous potential to deploy new technology both to make the petition system more visible and accessible to victims, and to manage case files and information flows. There is also a strong case to be made for acting on the then High Commissioner's 2000 call to centralise and streamline the communications procedure. As a starting point, this would mean significantly strengthening the Quick Response Desk to enable it to respond to, and collect data on, all petitions in all UN languages, make an assessment on admissibility and, in consultation with the most relevant mandate-holder(s), send an initial communication (requesting further information) to the relevant government.

RECOMMENDATION 29 (STATES):
Short of adding more time to regular sessions of the Human Rights Council (or reducing the number of mandates), it will be difficult to secure improvements in the current – unsatisfactory – nature of **interactive dialogues** with Special Procedures. Nevertheless, as discussed above, far better use could and should be made of agenda item 5.

Turning to the practice of dual reporting to both the Council and the General Assembly's Third Committee (including convening two sets of interactive dialogues), states should give serious thought to whether this represents an optimal use of resources or whether other options, such as regular dialogues with other relevant bodies and organisations (e.g. the Security Council, the World Health Assembly) might obtain better results.

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. Professor Paulo Sérgio Pinheiro, 'Further musings of a UN special rapporteur on human rights' in Report of the international workshop: "The Role of the Special Rapporteurs of the Human Rights Council in the development and promotion of international human rights norms", Centre for International Governance, Law School University of Leeds, 24-25 June, 2010, p.3.
3. UN Secretary-General, Kofi Annan, The Secretary-General's address to the 1st session of the Human Rights Council, 19 June 2006.
4. Olivier De Frouville, Strengthening the Rule of Law: The Right to an Effective Remedy for Victims of Human Rights Violations in Julia Kozma, Manfred Nowak, Anna Müller-Funk (eds.), Vienna +20: Advancing the Protection of Human Rights Achievements, Challenges and Perspectives 20 Years After the World Conference, Ludwig Boltzmann Institute of Human Rights, Studies Series, vol. 31, Vienna, Austria: Neuer Wissenschaftlicher Verlag, January 2014, p.131.
5. UNGA, Report of the United Nations High Commissioner for Human Rights (to the 51st session), UN Doc A/51/36 (18th October 1996), para 111.
6. Mary Robinson, then High Commissioner for Human Rights, Address to the 8th Meeting of Special Rapporteurs, June 18, 2001; Felice D. Gaer, The High Commissioners and the Special Procedures: Colleagues and Competitors, p.133 in The United Nations High Commissioner for Human Rights: Conscience for the World, Edited by Felice D. Gaer, Christen L. Broecker, (Brill|Nijhoff, Nottingham Studies on Human Rights 3, 2013).
7. e.g. Statement by H.E. Mr Gerard CORR (Ambassador, Permanent Representative of Ireland on behalf of the European Union), Item 4, UNHRC 22nd session, 12th March 2013; T. Piccone, "The Future of the United Nations Special Procedures" in the Routledge Handbook of International Human Rights Law, Scott Sheeran and Sir Nigel Rodley eds. (Routledge, 2013).
8. OHCHR.
9. UN Secretary-General, Kofi Annan, The Secretary-General's address to the 1st session of the Human Rights Council, 19 June 2006.
10. Bertrand G. Ramcharan, Evolution of Human Rights Norms and Machinery, Markkula Center for Applied Ethics, Santa Clara University (date published: unknown).
11. 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.
12. Ibid, p.77.
13. United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, Article 1.3.
14. Ibid, Article 68.
15. 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.
16. Ingrid Nifosi, The UN Special Procedures in the Field of Human Rights (Intersentia, Antwerpen/Oxford, 2005), p.12.
17. 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).
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 8 (XXIII) [Study and investigation of situations which reveal a consistent pattern of violation of human rights], 16th March 1967.
24. 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).
25. UNCHR Resolution 6 (XXV) [Question of human rights in the territories occupied as a result of hostilities in the Middle East], 4 March 1969.
26. 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 materialize.
27. Gutter, op. cit., p.83.
28. Ibid.
29. 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.
30. 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.
31. Vienna Declaration and Programme of Action, Adopted by the World Conference on Human Rights in Vienna on 25 June 1993, para 95.
32. Revised Manual of Operations of the Special Procedures of the Human Rights Council (August 2008).
33. UNCHR, Note by the United Nations High Commissioner for Human Rights [], UN Doc. E/CN.4/2006/4 (3 August 2005).
34. Vienna Declaration and Programme of Action, op. cit., para 95.
35. The Council replaced the Commission on Human Rights.
36. UNGA Resolution 60/251 [Human Rights Council], UN Doc. A/RES/60/251 (3rd April 2006), operative para 6.
37. UNHRC decision 1/104 [Implementation of paragraph 6 of General Assembly resolution 60/251], 30th June 2006.
38. Tomas Husak, "In Defence of the United Nations Special Procedures" in Lars Müller ed., The First 365 Days of the United Nations Human Rights Council (2007), P. 94.
39. UNGA Resolution 60/251, op. cit., operative para 16.
40. With three small but important exceptions. First, the negotiations led to a further refinement of 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 Council decides to deviate from the recommendation of the consultative group in the appointment process, he or she must justify this decision. Second, the outcome clearly delineated the relationship between independence, accountability and cooperation. Third, it provided a basis for OHCHR to continue to present information on state cooperation with the mechanism; 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 & 29.
41. 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).
42. A 51st is already in the pipeline - a Special Rapporteur on the situation of human rights in the Syrian Arab Republic 'will start once the mandate of the commission of inquiry ends' (a mandate-holder has already been appointed but will not actively take-up the mandate until the commission of inquiry is concluded); see UNHRC Resolution S-18/1

[The human rights situation in the Syrian Arab Republic], UN Doc. A/HRC/RES/S-18/1 (5th December 2011).
43. Husak, p.88.
44. Philip Alston, then Chair of the Special Procedures Coordination Committee, at 2005 open-ended seminar; quoted in 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] (E/CN.4/2006/116), op. cit, para 26.
45. Draft Resolution A/HRC/5/L.3/Rev.1 [Code of Conduct for Mandate Holders of the Special Procedures of the Human Rights Council], 5 June 2007; Note: This line made it into the final Code of Conduct.
46. UNHRC Resolution 16/21, op. cit., Annex, para 24.
47. Ibid, para 23.
48. Though it has often been used informally – for example, by mandate-holders asking the Coordination Committee for its views on a particular course of action and whether it is in line with the Code of Conduct. Note: As the procedure is confidential, information on this first use of the procedure is based on reports received from the authors.
49. Interview conducted for this project.
50. For example, interview with South Asian diplomat, and interview with South American diplomat.
51. UNHRC Resolution 5/1 [Institution-building of the United Nations Human Rights Council], 18 June 2007), Annex [United Nations Human Rights Council: Institution Building].
52. Ibid, para 39.
53. Ibid, para 40.
54. Interview with thematic mandate-holder.
55. Interview with thematic mandate-holder.
56. Interview with thematic mandate-holder.
57. Interview with thematic mandate-holder.
58. Meghna Abraham, A New Chapter for Human Rights: A handbook on issues of transition from the Commission on Human Rights to the Human Rights Council (International Service for Human Rights; Friedrich Ebert Stiftung, Geneva 2006), Footnote 2, p.33.
59. Interview with a North African diplomat.
60. Including a general lack of confidence in the 1503 procedure and its successor, the Confidential Complaints Procedure.
61. Working Groups have five mandate-holders each. The Working Group on laws which discrimination against women is missing one mandate-holder – a new one will be appointed in March.
62. An individual has already been appointed to be a new Special Rapporteur on the human rights situation in Syria but will not take up his post until the Commission of Inquiry on Syria ends; Supra Note 44.
63. Based on growth rates between 2009 and 2013. A projection based on average growth rates between 1980 and 2013 would see the hundredth mandate being established in around 2050.
64. The Independent Expert on human rights and international solidarity; Independent Expert on the 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 on the promotion of a democratic and equitable international order; Special Rapporteur in the field of cultural rights; Special Rapporteur on the right to food; 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.
65. France- Special Rapporteur on extreme poverty and human rights and Working Group on Arbitrary Detention; Mexico- Special Rapporteur on the human rights of migrants and Special Rapporteur on the promotion and protection of human rights while countering terrorism; Norway- Special Rapporteur on the situation of human rights defenders, Working Group on the issue of human rights and transnational corporations and other business enterprises; Sweden- Special Rapporteur on the situation of human rights in the Islamic Republic of Iran and Special Rapporteur on extrajudicial, summary or arbitrary executions.
66. To calculate this, we used the list of countries that submit resolutions establishing or renewing current mandates. This methodology is possibly imperfect as it supposes that all members of the core group are present at the time of tabling, however, it is as close as we can get to identifying members of the core group from official records.
67. Even though most of these are Independent Experts i.e. established with the consent of the country concerned to help with capacity-building, and thus somewhat less intrusive than Special Rapporteurs.
68. The Report of the Bureau reflected on "concern about the proliferation of special procedure mandates...and about the consequent strains this has placed on the secretariat support system as well as on Governments called upon to respond to the mechanisms"; 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., para 19.
69. Interview with African diplomat.
70. Interview with thematic Special Procedure mandate-holder (economic, social and cultural rights), conducted for this project.
71. Interview with Asian diplomat.
72. Interview with Asian diplomat.
73. The Special Rapporteur on Apartheid (established 1967), two experts on disappearances in Chile (established 1979) and the "special process dealing with the problem of missing persons in the territory of the former Yugoslavia" (established 1994) were "mixed" mandates in that they are both country-specific and thematic. For more on the historical evolution of mandates see www.universal-rights.org/research/special-procedures-timeline.
74. Comments during Policy Dialogue (17th January 2013).
75. Interview with OHCHR official.
76. Unlike Treaty Bodies, which are restricted to the text of a single convention, Special Procedures can apply a wide range of hard law and soft law instruments.
77. OHCHR, United Nations Special Procedures Facts and Figures 2012, February 2013, p.1.
78. UNHRC Resolution 5/2](op. cit., stic and time-bound. UN Doc. ial Guinea], 13 March ary responsibility for the the venue, participation in liaison w, para 1.
79. Interview with OHCHR official.
80. 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.
81. .membership in the Council shall be open to all States Members of the United Nations', UNGA Resolution 60/251, op. cit., para 8.
82. Proposal of Argentina and Chile; Report of the open-ended intergovernmental working group on the review of the work and functioning of the Human Rights Council (A/HRC/WG.8/2/1), op. cit., p.77.
83. Ibid, p.77.
84. Proposal of US; Ibid p.78.
85. There were many proposals for such a database during the 2011 review, including from Switzerland and the US; Ibid, p.75 & 78.
86. Agenda item 5: 'Human rights bodies and mechanisms'.
87. UNHRC Resolution 16/21, op. cit., para 27.
88. Report of the open-ended intergovernmental working group on the review of the work and functioning of the Human Rights Council (A/HRC/WG.8/2/1), op. cit., p.75.
89. Ibid, p.131.
90. OHCHR Communication Reports can be found at http://www.ohchr.org/EN/HRBodies/SP/Pages/CommunicationsreportsSP.aspx.
91. i.e. those mandates established under Item 4 of the Council agenda.
92. Statement of all special procedures on the occasion of Human Rights Day, 10 December 2013.
93. TheFreeDictionary.com. Retrieved 28th December, 2013.
94. Supra note 92.
95. General Assembly resolution 60/251, operative paragraph 12.
96. United Nations Development Group, Mainstreaming human rights in development: stories from the field, June 2013.
97. Best practice examples revealed in interviews with state delegations.
98. See, for example, Addendum to the Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions on 'Follow-up to country recommendations: Albania', Un Doc. A/HRC23/47/Add.4 (23 April 2013).

99. Ted Piccone, 'The Future of the United Nations Special Procedures' in Scott Sheeran and Sir Nigel Rodley eds., Routledge Handbook of International Human Rights Law (Routledge, Oxon: 2013).
100. Interview with thematic Special Procedure.
101. Interview with Special Procedure assistant.
102. 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., paras 48 & 49.
103. UNCHR Resolution 2004/76 [Human rights and special procedures], 21st April 2004, operative para 2(c)
104. Interview with African diplomat.
105. 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] (E/CN.4/2006/116), op.cit., para 49.
106. UNCHR Resolution 2004/76, op. cit., operative para 6g.
107. Recommendation by Argentina and Chile; Report of the open-ended intergovernmental working group on the review of the work and functioning of the Human Rights Council (A/HRC/WG.8/2/1), op. cit., p.77.
108. Report of the nineteenth annual meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Human Rights Council (Geneva, 11-15 June 2012), UN Doc. A/HRC/21/51 (9 July 2012), para 32.
109. UNCHR Resolution 2004/76, op. cit., operative para 10(c).
110. http://www2.ohchr.org/english/bodies/chr/special/visits.htm.
111. Searchable by topic, right, mandate, region and country. See: http://www.ohchr.org/EN/HRBodies/SP/Pages/Recommendations.aspx.
112. See, for example, UNHRC, 'Conclusions and recommendations of Special Procedures, Report of the Secretary-General', UN Doc. A/HRC/22/20 (13 December 2012).
113. 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, p.6.
114. Report of the open-ended intergovernmental working group on the review of the work and functioning of the Human Rights Council (A/HRC/WG.8/2/1), op. cit., p.76.
115. Ibid, p.78.
116. OHCHR, Financial Implications of Recent HRC resolutions by type of mandate.
117. UNGA, Proposed programme budget for the biennium 2014-2015 [Part VI. Human rights and humanitarian affairs; Section 24 Human rights], UN Doc. A/68/6(Sect. 24) (8th May 2013).
118. Figure represents half of the regular budget for the 2012-2013 biennium ($5.152 billion); UNGA Resolution 66/248 [Programme budget for the biennium 2012-2013], UN Doc A/RES/66/248 A–C (24 February 2012).
119. For the reporting period, not all Special Procedure mandates were managed by Special Procedure Branch but most were. Since January 2014, all thematic mandates except one have been brought under the management of Special Procedure Branch.
120. In 2012, SPB received $10,386,100 from the Regular Budget (OHCHR Report 2012 p.145), which is 0.4% of the $2,576,149,800 annualised UN Regular Budget for that year (UNGA Resolution 66/248 [Programme budget for the biennium 2012-2013] (A/RES/66/248 A–C)).
121. 'Library Services, Geneva' received 0.24% of the regular budget; Source: Programme budget for the biennium 2012-2013 (A/66/6/Add.1), p.82.
122. "Peaceful uses of outer space" received 0.16% of the regular budget; Ibid, p.25.
123. 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 8.
124. 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., Executive Summary, p. 3.
125. UNHRC Resolution 16/21, op. cit., paras 31 & 32.
126. OHCHR report 2012, p.129.
127. Supra note 119.
128. OHCHR report 2012, p.145.
129. UNGA, Financial Report and Audited Financial Statements for the Biennium Ended 31 December 2011 and Report of the Board of Auditors: Volume I, UN Doc. A/65/5 (Vol. I), (18th July 2012), p.23.
130. This is not the case; in 2012 almost 43% of the earmarked funds for Special Procedures went to ESCR mandates, while only 24% went to CPR mandates (see Figure 4, above). The rest went to mandates dealing with 'groups in focus' – i.e. vulnerable groups; OHCHR Report 2012, op. cit.
131. Interview with the authors.
132. Financial Report and Audited Financial Statements for the Biennium Ended 31 December 2011 and Report of the Board of Auditors: Volume I (A/65/5 (Vol. I)), op.cit., p.24.
133. UNHRC Resolution 16/21, op. cit., para 34.
134. Costa Rica on behalf of GRULAC; Report of the open-ended intergovernmental working group on the review of the work and functioning of the Human Rights Council (A/HRC/WG.8/2/1), op. cit., p.80.
135. Recommendation by Belgium on behalf of the EU & Costa Rica on behalf of GRULAC; Ibid, p.80.
136. Recommendation by Mexico; Ibid, p.81.
137. Recommendation by Switzerland; Ibid.
138. Recommendation by Morocco; Ibid, p.82.
139. Interview with OHCHR staff, conducted in the context of this report.
140. Report of the twentieth annual meeting of special rapporteurs/representatives, independent experts and chairpersons of working groups of the special procedures of the Human Rights Council (Vienna, 24-28 June 2013), UN Doc. A/HRC/24/55 (22 July 2013), para 35.
141. Private interview conducted with the authors.
142. With the one exception of the Working Group on peoples of African Descent.
143. Interview with thematic Independent Expert.
144. Interview with thematic Special Rapporteur.
145. Interview with Special Procedure assistant.
146. Interview with thematic Special Procedure mandate-holder.
147. Interviews conducted in the context of this project.
148. Discussion during policy dialogue (17th January 2014) organised in the context of this report.
149. Interview conducted for this project. Repeated during other interviews for this report.
150. See "Special Procedures Country Visits Data" research document, available at www.universal-rights.org/research.
151. Supra note 92.
152. Interview with an Asian diplomat.
153. e.g. Christophe Golay, Claire Mahon and Ioana Cismas, 'The Impact of the UN Special Procedures on the Development and Implementation of Economic, Social and Cultural Rights' in Report of the international workshop: "The role of the Special Rapporteurs...", op. cit., p.14-5.
154. Ibid.
155. Ibid.
156. Interview with Catarina de Albuquerque, Special Rapporteur on water and sanitation, October 2013.
157. Interview with country mandate-holder.
158. Golay, Mahon & Cismas, op. cit., p.15-16.
159. Other delegations, it should be noted, insist that they send all reports to their capital.
160. For example, interview with South Asian diplomat, conducted in the context of this project.
161. For example, interview with a South East Asian diplomat, conducted in the context of this project.
162. Around 27 mandates have communications procedures, allowing them the possibility of communicating with governments through urgent appeals and letters of allegation. The precise figure is hard to specify due to the vague wording of some resolutions and the fact that even those without official communications procedures can collaborate with other mandate-holders to submit joint communications.
163. UNHRC Resolution 5/2, op.cit., Annex, Article 9 & 10; Note: Alternatively, a communication may focus more broadly on domestic leg-

islation, policies, programs or other measures affecting individuals or groups in a particular country or territory – known as Other Letters (OL).
164. Or sometimes to non-State actors such as international organizations or multinational companies (as "Other Letters").
165. 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., Observation 17, para 39.
166. The term 'submission' is preferred to 'complaint' because communications can relate to broader issues as well as to individual alleged human rights violations. In this report, the term "submission" refers to communications from individuals to Special Procedures, while the term "communication" refers to communications from mandate-holders to Governments and "Government responses" refer to the replies to those "communications".
167. http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx.
168. 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., Observation 17, para 39.
169. This limitation is acknowledged on the OHCHR's web page.
170. Interview with OHCHR official, conducted in the context of this report.
171. Unlike other human rights communications systems, there is no strict formal admissibility criteria or a need for an alleged victim to have exhausted domestic remedy. Mandate-holders use their own discretion or independently developed criteria to assess admissibility.
172. OHCHR, United Nations Special Procedures Facts and Figures 2005, Date Published Unknown; OHCHR Facts & Figures 2012, op. cit.
173. See Special Procedures Communications Report Analysis Data research document at www.universal-rights.org/research/special-procedures; Analysis based on data in UNHRC, Communications report of Special Procedures, 24th session, UN Doc. A/HRC/24/21 (22nd August 2013).
174. Which were: Human rights defenders, freedom of expression, torture, arbitrary detention, summary execution and independence of judges and lawyers; Ibid.
175. Ibid.
176. URG/Brookings Institution, Analysis of Special Procedures Communications, available at www.universal-rights.org/research/special-procedures (see Special Procedures Communications Analysis research document).
177. Selected according to which ones received the highest number of communications in 2004-2008 (based on Ted Piccone's 2012 study, Catalysts for Change).
178. For detailed information on the categories, methodology and results of this study, see Special Procedures Communications Analysis research document at www.universal-rights.org/research/special-procedures.
179. A small number were not translated in time for the analysis (6 from China, 1 from the Russian Federation, Sudan and Tunisia).
180. Although this study of communications between 2011-2013 is based on a sample of fifteen countries from the five regional groups, a previous study by Ted Piccone was based on all member States. It is interesting to note that the findings from both were remarkably similar in some respects. From 2011-2013, 48.4% of communications received replies while 51.6% did not; in the 2004-2008 study, the split was 49% to 51%. However, some important differences are noted. For example, the number of "violations rejected" replies in the 2011-2013 study was nearly half the 2004-2008 figure and the number of "responsive but incomplete" replies increased by about 4%. Meanwhile, replies scored as "immaterial" or "steps taken" decreased slightly. With regard to response rates over time, in the 2011-2013 sample, 37% of countries replied to Special Procedures within two months of a communication being sent – exactly the same as the 2004-2008 study, while 83% responded within six months (up from 81% from 2004-2008).
181. This 'end-game' for the petitions system was recalled by two different thematic mandate-holders interviewed for this report.
182. Interview with a Western diplomat.
183. Ted Piccone, Catalysts for Change, op. cit., p.52.
184. Survey of Special Procedure media visibility between 1 January 2011 and 20 November 2013, conducted across Reuters, Al Jazeera, BBC News, CNN, Russia Today, Times of India, Le Monde and El Pais. Data available at www.universal-rights.org/research/special-procedures (see Special Procedures Media Analysis Data research document).
185. The analysis is based upon articles accessible online as at 20th November 2013. It is possible that other articles were generated but were later archived. Thus the analysis should be seen as indicative rather than comprehensive.
186. The analysis includes those articles which comment on what a given Special Procedure has said or done in a direct and substantive sense. It also includes articles written by the mandate-holder (e.g. op-eds) or press interviews with a mandate-holder). It does not include articles focused on what other groups are saying or doing (e.g. NGOs) that make a passing reference to the fact that, for example, they intend to bring their issue to the attention of a given Special Procedure. It will also miss, for example, live TV or radio interviews that were not subsequently written down as an article.
187. Analysis correct as of 29th December 2013.
188. Interview with Asian diplomat, conducted in the context of this project.
189. Revised Manual of Operations of the Special Procedures of the Human Rights Council, op. cit., para 49.
190. Ibid, para 51.
191. Including instances of mandate-holders behaving inappropriately towards their OHCHR assistants.
192. UNHRC Resolution 5/1 [Institution-building of the United Nations Human Rights Council], 18 June 2007); Annex [United National Human Rights Council: Institution Building].
193. Ibid, para 40.
194. 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), para 13.
195. Where appropriate. While there is a strong argument to be made for some mandates to be Working Groups, the current trend for all 'delicate' or potentially 'controversial' issues to be addressed by Working Groups may serve to undermine the independence of the system.
196. UNGA Resolution 60/251 [Human Rights Council], UN Doc. A/RES/60/251 (3rd April 2006), para 4.
197. Proposal of Argentina and Chile; 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 (4 May 2011), p.77.
198. Ibid, para 27.
199. UNCHR Resolution 2004/76, op. cit., operative para 2(c).
200. 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), para 49.
201. UNCHR Resolution 2004/76, op. cit., para 10(c).

working together to protect universal human rights

URG

Universal Rights Group
Ch. du Grand-Montfleury 48
CH-1290 Versoix
Switzerland

T +41 22 755 14 56

info@universal-rights.org
www.universal-rights.org