

**UNITED NATIONS  
SPECIAL  
PROCEDURES –  
EARLY WARNING AND  
EMERGING ISSUES**

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# UNITED NATIONS SPECIAL PROCEDURES - EARLY WARNING AND EMERGING ISSUES

ROUNDTABLE EVENT ORGANIZED BY THE OFFICE OF THE HIGH COMMISSIONER  
FOR HUMAN RIGHTS AT THE UNITED NATIONS HEADQUARTERS, NEW YORK, ON 23  
OCTOBER 2009

REMARKS BY AMNESTY INTERNATIONAL MADE BY YVONNE TERLINGEN,  
REPRESENTATIVE TO THE UNITED NATIONS

High Commissioner for Human Rights, ladies and gentlemen,

I would like to begin by expressing our thanks to the Office of the High Commissioner for Human Rights (OHCHR) for convening this roundtable on the Special Procedures and early warning/emerging issues.

It is 10 years since an important study on strengthening the Special Procedures system was prepared by Mona Rishmawi and Thomas Hammarberg, who were at that time mandate-holders themselves. The topic of responding to emergencies was one component of their paper.<sup>1</sup> It is indicative of the apparent complexities of this subject that the Rishmawi/Hammarberg study's recommendation on developing an effective approach by the Special Procedures to emergencies has not been taken forward. If our discussion today helps us to peel away some of the layers of political lethargy and apparent sensitivities that have so far frustrated attempts by the Special Procedures to engage effectively in the identification of human rights crises, then we could see some much overdue progress in this area.

To understand the unique and potential contribution of these mechanisms, we need to remember that the Special Procedures are only one tool in the early warning "kit". In Geneva alone, for example, the High Commissioner for Human Rights also plays a critical role in identifying emerging crises and stimulating action by the international community, as can her field offices. The Human Rights Council is also specifically mandated by resolution 60/251 "to

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<sup>1</sup> *Capacity-building to strengthen the Special Procedures system of the UN Human Rights Programme*, Mona Rishmawi and Thomas Hammarberg, 1999.

respond promptly to human rights emergencies”.<sup>2</sup> Unlike these other entities, however, the Special Procedures are *independent experts*, and so they are – or should be – particularly well-placed within the system to raise the alarm promptly.

Covering both civil and political, as well as economic, social and cultural rights, the Special Procedures can and do alert the international community to a range of crises. We saw recently the Human Rights Council convene in Special Session to address the world food crisis – an initiative which was in the first instance stimulated by the Special Rapporteur on the right to food, who we are pleased to see on the panel of this roundtable.<sup>3</sup> This was an important development in the relationship between the Council and the Special Procedures.

It highlights a key element in our discussion today: that, notwithstanding the imposition of a Code of Conduct, the Special Procedures are equipped with the ways, and sometimes the means, to provide for rapid and responsive action, in this case, through a public statement. Indeed, we heard only last week the ominous warning of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Professor Philip Alston, that the “Alarm bells are ringing loudly in the Democratic Republic of Congo”, as he called on the government and international community to take immediate preventative measures to avert further killings.<sup>4</sup> It would be interesting to consider what responses there have been, or should be, both here in New York and in Geneva to this call. Given the interest in gender of this meeting, we also highlight the attention given to violence perpetrated against women and girls by this Special Rapporteur.

The public statement issued by Professor Alston on the Democratic Republic of Congo came at the end of a fact-finding mission which is another important way in which the Special Procedures can examine first-hand the situation on the ground, although their efforts are often frustrated by a lack of means. Resource constraints mean that the Special Procedures are limited in the number of missions they can undertake. In addition, their fact-finding missions are conditional on the member state allowing the visit to take place. In the absence of a state willingly cooperating with the mandate-holders – or being pressured by other governments to cooperate with them – the Special Procedures have no means of gaining access. Even in response to human rights crises, for example in relation to the Occupied Territories and Myanmar, the Human Rights Council has been impotent to insist on access for its Special Procedures. An additional bonus of the Special Procedures’ missions is their impact on domestic constituents, in particular NGOs, who may feel more inclined to document carefully the situation

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<sup>2</sup> A/RES/60/251, paragraph 5(f)

<sup>3</sup> UN Press Release: *New UN Special Rapporteur on right to food calls for a Special Session of the Human Rights Council*, 2 May 2009

<sup>4</sup> UN Press Release: *Human Rights Expert calls joint UN-Congolese army action “catastrophic”*, 15 October 2009

on the ground and share that information with the mandate-holder, including in times of crises.

The main product from a mission is a report which is presented to the Human Rights Council, and which documents the expert's findings and recommendations. These are mainly directed to the government concerned, but in some cases, also to the international community. After a period of 2 to 3 years, some of the mandate-holders also prepare a follow-up report to measure the extent to which their recommendations have been implemented. Although debated by the Human Rights Council, the full potential of the mission reports of the Special Procedures is not realized unless the government concerned is willing to act on the recommendations. The Human Rights Council has yet to muster sufficient will to ensure systematically that member states are implementing the recommendations. An example is the Human Rights Council's response to the final report of the Group of Experts on Darfur (who were Special Procedures) and the subsequent report of the Special Rapporteur on Sudan in the status of implementation of the Group's recommendations.<sup>5</sup>.

The final way in which the Special Procedures identify early warning and emerging crises is through their urgent appeals procedure. This procedure is largely geared towards intervention in individual communications, but can nevertheless be indicative of patterns of violations as well as the nature and scale of violations. The Special Procedures have announced that, from next year, they will present information on urgent appeals and communications by state rather than mandate, in a single document. We welcome this initiative as we believe this will make for a useful tool, including in the area of emerging crises.

There is no doubt that the Special Procedures have the necessary expertise, independence and working methods to be able to identify emerging crises and to give early warning of such situations. Perhaps a greater challenge is identifying how they can most effectively stimulate a response from the international community. What institutional arrangements can and should be put in place when Special Procedures draw attention to an emerging crisis?

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<sup>5</sup> UN Doc A/HRC/6/19, 28 November 2007, Final report on the situation in Darfur, prepared by the United Nations Experts Group on Sudan, presided by the Special Rapporteur on the situation of human rights in Sudan and composed of the Special Representative of the Secretary-General for children and armed conflict, the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Representative of the Secretary-General on human rights defenders, the Representative of the Secretary-General on the human rights of internally displaced persons, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and the Special Rapporteur on violence against women, its causes and consequences, and UN Doc. A/HRC/9/13/Add.1, Report of the Special Rapporteur on the situation of human rights in the Sudan, on the status of implementation of recommendations compiled by the Group of Experts on Darfur.

Clearly, the Special Procedures have a role to play in contributing to the Human Rights Council fulfilling its mandate under resolution 60/251. We could go further and suggest that the early warning function of the Special Procedures need to be integrated into a fuller early warning, prevention, emergency response function of the Human Rights Council that would include other trigger mechanisms, such as the High Commissioner and possibly the President of the Council. The Human Rights Council could establish a tool to monitor “crisis indicators” so that information from the Special Procedures and others could be analysed and potential crises identified and prevented.

In addition, in order to be able to respond more effectively to emergencies the Special Procedures require:

- resources, to be able to undertake fact-finding in addition to their 2 missions per year for the necessary period of time and staff who have requisite expertise (eg on gender-based violence);
- immediate access to the Human Rights Council, in order to present their mission reports in a timely fashion, so that the Council can consider their findings and recommendations and take action as appropriate (which may include the Council referring a potential situation which threatens peace and security to the Security Council);
- the willingness of other relevant bodies within the UN system to be open to receiving their information – for example, the Security Council on the thematic and country items which are already on its agenda. This will require some coordination among mandate-holders in order to draw on the wealth of experiences from a broad range of mandates – for example, input to discussions on women in armed conflict would benefit from the work of the Special Rapporteur on violence against women, as well as Special Rapporteur on extrajudicial, summary or arbitrary executions as already noted;
- a large dose of political will and support from member states and the political bodies to be alert to the warnings, findings and recommendations of the Special Procedures so that they do not remain a dead letter. This includes compelling states to cooperate fully with the Special Procedures, and taking action if they do not.

The story of the Special Rapporteur’s warning of the Rwanda genocide was a scar on the Commission on Human Rights. The lesson must be learned: the Special Procedures are the eyes and ears of the Human Rights Council and have an important role to play in helping the international community to avert further human rights disasters. It is time for the international community to summon the interest, the will and the courage to use these expert mechanisms to their full potential.