

Cooperation with the Special Procedures of the UN Human Rights Council

Joint written statement to the 19th session of the UN Human Rights Council (27 February – 23 March 2012)

In this statement Friends World Committee for Consultation (Quakers) and Amnesty International address and make recommendations on cooperation with UN Special Procedures in the context of country visits, urgent appeals and communications.

COUNTRY VISITS

Country visits are one of the most effective means by which the Special Procedures can assess the protection of human rights at the national and local level and articulate clear, measurable and relevant recommendations. Standing Invitations constitute announcements by States that they will always accept requests to visit from all Special Procedures. Friends World Committee for Consultation (Quakers) and Amnesty International welcome the increasing number of Standing Invitations being issued by States to the Special Procedures of the Human Rights Council. As of 15 September 2011, 89 States from all regions had issued such Standing Invitations. In this way they have stated their willingness to cooperate with these mechanisms and their commitment to the promotion and protection of human rights through the United Nations system.

We call on all States that have not yet done so to issue such a Standing Invitation, in particular, those current members of the Human Rights Council that have yet to do so: Angola, Bangladesh, Benin, Botswana, Burkina Faso, Cameroon, China, Congo, Cuba, Djibouti, Indonesia, Kyrgyzstan, Libya, Malaysia, Mauritania, Mauritius, Nigeria, Philippines, Russian Federation, Saudi Arabia, Senegal, Thailand, Uganda and the USA.

Many States seeking election to the Council pledge that they will issue such an invitation as suggested in the Office of the UN High Commissioner for Human Rights (OHCHR) elements for voluntary election pledges. If they have not already issued a Standing Invitation, States should do so when seeking membership of the Human Rights Council. Other States should take account of this when assessing a country's candidacy.

The OHCHR compilations that are prepared for the Universal Periodic Review (UPR) contain information about whether the State under Review has issued a standing invitation, and recommendations that they should do so occur regularly in the UPR process. The number of countries that issued a standing invitation increased by eleven in 2010 and by ten in 2011, which suggests that the UPR and the pledges for elections on the Council may have contributed significantly to raising awareness about the system and of the mechanics of the standing invitation. Our organisations welcome these developments.

Standing Invitations are indicative of a state's willingness to cooperate with the Special Procedures, but they are not an end in themselves. We call on *all* States, whether or not they have issued a Standing Invitation, to cooperate with the Special Procedures' requests by:

- responding promptly to requests for visits by providing one or more sets of specific possible dates within two months of the request;
- facilitating their visits in accordance with the Terms of Reference on Fact-finding Missions;
- ensuring the widest distribution of the recommendations made following a Special Procedure's country visit, including to their own Parliament, National Human Rights Institution and civil society actors, the incorporation of these recommendations into national plans of action and their reflection in national protection systems where appropriate;

- periodically providing information to the Special Procedures and to the Human Rights Council on how the recommendations arising from country visits have been implemented, and identifying any obstacles to implementation; and
- protecting those who provide information to or meet with the Special Procedures from reprisals, investigating and prosecuting those alleged to be responsible for any such reprisals, and reporting publicly, including through updates to the Human Rights Council President, on these developments.

While the growing number of Standing Invitations is indeed a welcome development, it is important to highlight that it is not a simple case of seeing the full picture through the lens of the standing invitation: there are States that accept and facilitate visits, regardless of whether they have a standing invitation. A more complete and accurate way of presenting information on States' cooperation with regards to country visits would be for the OHCHR to keep, in addition to the list of countries that have issued a standing invitation that is currently available on its website, a list of countries that have no outstanding visit requests. A country should aspire to appear on both lists; on the standing invitation list as a way of signalling that Special Procedures are welcome; on the 'all-visit-requests-fulfilled' list as the concrete indication that the country is giving effect to its standing invitation. In addition, the OHCHR should highlight the list of States that, despite a standing invitation, do not facilitate country visits within a reasonable period. All mandate-holders should ensure they provide information about outstanding visit requests in their reports to the Council for its consideration and action.

However, country visits are only one measure of cooperation.

URGENT APPEALS AND COMMUNICATIONS

States should also respond fully and promptly to communications from the Special Procedures, including urgent appeals and letters of general allegation. Even though the reports of the Special Procedures that are presented to the Council at each regular session identify States that have yet to respond substantively, and in most cases – respond at all – to allegations of human rights violations sent to them, these reports (now compiled into a single communications report) receive little attention. Given the nature of urgent appeals, it is not unreasonable to expect States to respond to them within five days and to provide a substantive response to letters of allegation by Special Procedures within two months. Mandate-holders should be explicit on this point. If a State is unable to provide a response, it should explain to the mandate-holders and to the Council the reason for this.

We call on all States to cooperate with the Special Procedures' requests with regard to urgent appeals and communications by:

- responding to urgent appeals by Special Procedures within five days. If no response is received, the mandate-holder can send an appeal directly to the foreign ministry and any other concerned ministries, which should respond within five days. In cases where a response to an urgent appeal is still not forthcoming, the Special Procedures can forward the case to the President of the Council for his or her attention.
- providing a substantive response to letters of allegation by the Special Procedures within two months;
- protecting those who provide information to or meet with the Special Procedures from reprisals, investigating and prosecuting those alleged to be responsible for any such reprisals, and reporting publicly, including through updates to the Human Rights Council President, on these developments.

A practical way of ensuring that cooperation in relation to communications and urgent appeals receives more attention, would be for the compilation of UN information for the UPR to systematically include information about which mandate-holders have sent communications, and the relevant report indices. The UN compilation for the UPR does include a section on "Responses to letters of allegations and urgent appeals" but the level of detail provided under that heading is of uneven quality and varies from one UPR compilation to another. The OHCHR should ensure that all UPR compilations do provide

quantitative and qualitative information on responses to urgent appeals and communications that can help facilitate follow-up on them.

GENERAL

More generally, States should cooperate with the Special Procedures by:

- reviewing and acting on recommendations concerning the protection of human rights generally elaborated by the Special Procedures; and
- demonstrating respect for the mechanisms and the mandate-holders, including by refraining from attacks on individual mandate-holders casting doubt on their integrity.

THE COUNCIL'S ROLE IN ASSESSING AND PROMOTING COOPERATION

The General Assembly decided that (GA Res. 60/251, 15 March 2006, operative paragraph 12) “the methods of work of the Council shall ... allow for subsequent follow-up discussions to recommendations and their implementation and also allow for substantive interaction with special procedures and mechanisms”. Furthermore, the Council itself (HRC Res. 5/2, 8 June 2007, operative paragraph 1) urged “all States to cooperate with, and assist, the Special Procedures in the performance of their tasks and to provide all information in a timely manner, as well as respond to communications transmitted to them by the Special Procedures without undue delay”.

The Council should exercise its own responsibility in this regard by holding a regular (e.g. annual) debate devoted to reviewing cooperation with the Special Procedures, specifically:

- States' responsiveness to letters of allegations and urgent appeals and assess qualitatively the responses;
- the status of visit requests, including accepted requests where there have been long delays in setting dates;
- States' willingness to take into consideration recommendations of the Special Procedures following country visits, and the outcome of their consideration.