

## Communications of special procedures

### Discussion note by the Secretariat

A. Introduction .....	1
B. The purpose of communications .....	1
C. Issues for discussion.....	2
D. A common report .....	3

#### A. Introduction

This note takes stock of achievements in the area of communications while pointing to some substantial and methodological questions that could be addressed and decided upon to improve the consistency and effectiveness of this important area of work of special procedures.

#### B. The purpose of communications

In recent years, considerable efforts have been made to increase consistency and coordination among and across mandates in the area of communications. Some of the achievements include:

- The creation and use of a common database for all communications of special procedures
- The high number of joint communications (49% in 2007)
- A common e-mail address to receive information
- An established procedure to process cases
- A leaflet on the communications mechanism and on how to use it
- Information on communications available on the Internet. A set of presentations on communications and training material that can be used in training sessions
- A set of documents that provide guidance on this aspect of the work of special procedures:
  - The code of conduct
  - The manual of special procedures
  - Web pages of mandates and relevant reports that provide mandate-specific guidance on communications

Despite these achievements, differences in handling communications are still common. In some cases, inconsistencies are due to coordination gaps. In some other instances, differences are due to the specificities of each mandate and the purpose pursued with communications.

Some examples of purposes pursued by different mandates include:

- Protection
- Closing protection gaps (some mandates intervene if no other mandate or human rights mechanism addresses a situation)
- Capturing trends or general human rights concerns that can then be reported upon
- Preventing human rights violations

- Advocacy

Mandates whose main purpose is to protect individuals tend to send as many cases as possible to ensure the maximum level of protection. These mandates rely on a stable and reliable network of sources who continuously feed the mandates with information presented in a format that can be acted upon with little drafting work. Sources attach great value to the communications of special procedures and have organized their own structures and programmes to make full use of the mechanism.

Mandates whose main purpose is to capture trends and human rights phenomena to have a basis to report on them are more selective and deal with broader situations rather than individual cases. Communications are more heavily based on research and legal analysis.

This illustrates how the different purposes that guide the communications process of each mandate may result in different working methods, which are not necessarily the symptom of inconsistencies.

### **C. Issues for discussion**

1. Protection gaps: Not all human rights violations are covered by existing thematic mandates. In some cases, if the circumstances of a situation do not fall within the scope of a mandate or cannot be covered by its existing working methods, another mandate can intervene. However, in some other cases, protection gaps cannot be covered at all. Some examples are political activists and opposition leaders; violence against children; discrimination on the basis of sexual orientation or gender identity; and environmental concerns that cannot be linked to the rights to health, food, housing or the mandate on toxic waste (or the new mandate on water and sanitation).

Mandate holders could undertake an analysis of protection gaps as emerging through the communications mechanism with a view to

- bringing protection gaps to the attention of the Human Rights Council for its consideration and action;
- developing and adapting their working methods bearing in mind the protection deficits (this would apply especially to those whose mandates are closely related to the thematic area of the protection gap.)

2. Differences in working methods: While some differences in working methods are the results of valid and well reasoned approaches adopted by each mandate / mandate-holder, some differing practices might deserve discussion. These are some examples of areas where a common understanding would result in more consistent practices across mandates:

- a. Feedback to sources on action taken (or not taken) on the cases they have submitted is provided by only a few mandate holders. Few mandates regularly inform their sources. More commonly, such information is given upon request. In some cases, even when requested, this feedback is not provided justifying such course of action with the confidential character of communication.

The lack of feedback on the information submitted to special procedures generates frustration among sources, especially those who are less familiar with the procedure and have more difficulties in accessing the communications report. Conversely, being aware of the action taken by special procedures is a motivating factor to follow up on the case and keep mandate-holders informed.

The code of conduct, resolutions or other documents are silent on this issue. The proposed revised Manual of special procedures notes in paragraph 25 that mandate holders may share information on communications with sources, but clarifies in paragraph 37 that “the text of communications is confidential” until published in the communications report. Paragraph 95 encourages mandate-holders to inform their sources of developments related to their cases.

Mandate holders should regularly keep sources informed of the action taken, while reminding them of the need for victim protection and the confidential character of pending communications.

b. Different practices in naming perpetrators in communications. Some mandates name them, some others do not. Some mandates indicate that the name(s) of the perpetrator(s) is/are known to the mandate-holder(s) but do not include it in the communication. The rationale is to avoid accusing individuals, or contributing to accusations on the basis of allegations.

Mandate holders could come to an understanding on a common practice.

c. Article 9.c of the Code of conduct states that “The language in the communication should not be abusive”.

Mandate holders could come to a common understanding on how to interpret this provision, in particular for quotations containing abusive language against alleged victims of human rights violations?

d. The relationship between communications and press releases: Paragraph 50 of the proposed revised Manual notes that in general, mandate holders should engage in a dialogue with Governments before through the communications procedure before resorting to a press release.

Mandate-holders could come to a common understanding on cases in which they may issue or co-sign a press statement without previous communications on the subject.

#### **D. A common report<sup>1</sup>**

On average, some 50 percent of communications are sent jointly by two or more mandate-holders. However, so far mandate holders have been compiling their own communications reports separately. This has resulted in the same information being reported twice or more times in the different reports of mandate-holders. It also happens that information on the same cases is reflected differently from one

communications reports to the other. The staff time used in the preparation of these reports amounts to several months every year for each communications report.

The advantages of a common report compiling all communications on a country basis are the following:

- All communications, or all joint communications only, in one report
- Profiles of countries based on communications would emerge more clearly
- Greater accessibility from the outside
- Potential to provide more consistent inputs into processes like the UPR or treaty bodies' examinations of country reports
- More efficient use of staff time and no duplication
- More scope for dissemination and outreach strategies. Momentum could be created around the release of communications reports, accompanied, for instance, by a comprehensive statistical analysis. A CD-ROM of the communications report could be produced and disseminated.

#### Questions

- Presentation and discussion at the Human Rights Council: should the reports be presented by a member of the Coordination Committee or by mandate holders, possibly on a rotation basis?
- More visibility of country concerns, therefore possible resistance of some stakeholders to this type of reporting

Mandate holders might agree on the principle of a common communications report submitted to each session of the Human Rights Council (i.e. three times a year), which could provide information on all communications. Should mandate holders prefer a report only on joint communications, each mandate would still have the possibility of submitting a separate report on its communications, which could focus on the analysis of trends and patterns in the communications sent by the mandate; more mandate-specific, detailed observations specific on governments' replies, and conclusions and recommendations specific to the mandate.

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<sup>1</sup> Note:

More details on the possible format of a common report:

- Communications are compiled on a country by country basis in chronological order
- Government responses are annexed
- Each communication is preceded by a line or table indicating
  - The type of communication (urgent appeal or allegation letter, joint or single)
  - The mandate(s) sending it
  - The date in which it was sent
- The report could have sets of indexes per:
  - Country
  - Mandates. The index of mandates could be a matrix giving information like:
    - Country
    - Date in which the communication was sent
    - Type of communication (allegations letter or urgent appeal, joint or single)
    - One or two lines allowing the identification of the case (e.g. names of the individuals concerned)
    - Types of violations alleged as they pertain to the mandate
    - Government's reply (yes/no) and assessment of its quality (optional)

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- The summary tables per mandate would allow capturing trends on a mandate by mandate basis avoiding the dilution of thematic issues that one common report may trigger
  - Names of individuals contained in the report
- The report might be published as a web-based document only due to its length.