

Research and Right to Development Branch's contribution to the work of the special procedures

Introduction

Taking stock of the strength and weaknesses of the support of OHCHR to the special procedures, as well as the impact of the work of the Rapporteurs at the country level, the OHCHR Strategic Management Plan calls for the reinforcement and strengthening of the support of the work of special procedures. This strengthening should not be seen and is not intended to be limited to the strengthening the Special Procedures Branch (SPB) itself but rather as the strengthening of the overall office capacity to support this Branch and the work of the special procedures. With a foreseen increase of capacity related to a number of thematic issues, the Research and Right to Development Branch (RRDB) is exploring ways to contribute to the support to the special procedures in the future.

The present paper aims at stimulating the discussion between special procedures and RRDB on the implications for their respective work of the significant structural changes taking place not only in RRDB but in the whole Office, as well as of the forthcoming increase of resources. The paper also aim at highlighting how RRDB has been supporting special procedures and how such assistance could be improved, especially in light of the move of almost all the special procedures mandates currently directly supported by RRDB to SPB in July 2006.

It is worth recalling at this stage that RRDB is composed of various units mainly focusing on the Office's thematic work on specific issues, such as the Indigenous and Minorities Unit, the Development Unit Anti-Discrimination Unit, the Economic and Social Issues Unit and the Rule of Law Unit, to cite a few. This work is of particular relevance to a number of mandates already supported by SPB, such as the Independent Expert on Minorities Issues, the Special Rapporteur on human rights and counter-terrorism or the Special Rapporteur on contemporary forms of racism.

I. Current situation

a- Special Procedures currently supported by RRDB

RRDB currently provides direct assistance and support to ten thematic experts of the Commission on Human Rights, to the Working Group of Experts on People of African Descent –which is a Special procedure that will not move to SPB-, as well as to the Independent Eminent Experts established by the General Assembly. With the Intergovernmental Working Group, these two are mandated to make recommendations with a view to the effective implementation of the Durban Declaration and Programme of Action. The Special Rapporteurs currently supported by RRDB are:

- The Special Rapporteur on the right to food;
- The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standards of physical and mental health;
- The Special Rapporteur on the right to education;

- The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living;
- The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people,
- The Special Rapporteur on the effects of economic reform policies and foreign debt;
- The Independent Expert on the question of human rights and extreme poverty;
- The Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights;
- The Independent Expert on human rights and international solidarity; and
- The Special Representative of the Secretary-General on human rights and transnational corporations and other business enterprises.

Except for last two mandates, which are, unlike the others, established for one to two-years term and with strictly study mandates as apposed to monitoring mandates, as of 1 July 2006, support to the others will move to the Special Procedures Branch.

This transfer, which should lead to a more unified and coherent structure of support to special procedures will bring together civil and political mandates and economic, social and cultural mandates under one umbrella structure. The question arising from this move relates to the way in which such an important change in RRDB's activities will affect the work of the Branch and how to ensure the continuation of substantive assistance to the special procedures by RRDB.

b- Examples of cooperation between RRDB and special procedures

RRDB already has experience in cooperating and interacting with special rapporteurs supported by SPB, but where RRDB carries out related thematic work for the Office, as illustrated by the following examples.

Racism

This is particularly - although not exclusively- the case for the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia and the Anti-Discrimination Unit. Through its support to the Intergovernmental Working Group, the Working Group of Experts on People of African Descent, and the Independent Eminent Experts the Anti-Discrimination Unit has been working closely with the Special Rapporteur. Indeed, the two Working Groups have consistently invited the Special Rapporteur to serve as panelist and speak on specific themes at several of their respective annual sessions. Other mandate-holders, such as the Special Rapporteurs on the right to education, the right to health and adequate housing, and the Independent Expert on human rights and extreme poverty have all participated in specific sessions of the Working Groups and in expert seminars and conferences organized by the Unit. Moreover, CERD has also been involved in the work of the Intergovernmental Working Group which is mandated to develop complementary international standards to combat racism. In August 2005, the Working Group on People of African Descent adopted its programme of work aimed at drawing on the expertise and benefiting from collaborative efforts with CERD and the Special Rapporteur. It is felt that the participation of special procedures, as well as members

of the Committee on the Elimination of Racial Discrimination in the sessions of bodies supported by RRDB-ADU offers to them the opportunity to:

- examine closely and make presentations on specific thematic areas falling under their mandates;
- relate and/or update the participants on their latest findings and conclusions;
- engage in discussion with States, panelists and other participants; and
- contribute to the formulation of recommendations adopted by the Working Groups.

Bringing together experts from three separate mechanisms, serviced by three distinct OHCHR Branches, leads to:

- enhanced coordination;
- the strengthening of thematic expertise
- the increase of institutional memory; and
- the opportunity to build on lessons learned.

RRDB trafficking project

The trafficking project of the Human Rights and Development Unit of RRDB has worked closely with the mandates of the Special Rapporteur on violence against women, the Special Rapporteur on Trafficking in Persons and the Special Rapporteur on human rights of migrants. It has helped in the mapping of the on-going work on trafficking as well as in addressing the legal and conceptual links between trafficking and violence against women.

Human rights and counter-terrorism

The Rule of Law Unit provided direct support to the mandate of the Independent Expert on Human rights and counter-terrorism, a mandate established for one year and aimed at submitting a study on the issue. The mandate was not framed as a monitoring mandate but rather as a purely research mandate. This mandate was replaced by a monitoring mandate on the very same issue, which is supported by SPB. The Rule of Law Unit, through its human rights and counter-terrorism programme continues to work with the Special Rapporteur in developing concepts, identifying frameworks for action, holding consultations for the preparation of country visits, etc... The capacity of the Unit has also increased with regard to the specific issue of transitional justice which is particularly relevant to various experts supported by SPB.

Indicators

The work of RRDB's Development Unit on indicators and human rights assessment tools provides technical support to mandate holders, such as the Special Rapporteur on the right to health and the Special Rapporteur on the right to adequate housing – who are supported by a different RRDB Unit. Such work has also addressed the development of tables of illustrative indicators on the right to life, right to adequate food, right to judicial review of detention and right to health. In the context of the work on statistics and other indicators for monitoring compliance of States Parties with international human rights instruments – as requested by the Seventeenth Meeting of the Chairpersons of the Human Rights Treaty Bodies,(A/60/278) - the Branch organized in August 2005 and March 2006 two expert consultations that brought together experts working on indicators for human rights assessments,

including from the special procedures and treaty monitoring system. The consultations contributed to the outline of a conceptual and methodological approach for the development of indicators for supporting assessments of compliance with human rights norms. The consultations highlighted among other things the need for quantitative and qualitative human rights indicators based on information collected and processed by Special Rapporteurs. The development of future indicators will provide additional assessment tools to the Special Rapporteurs while the design of the tools would benefit from the feedback of the Rapporteurs themselves.

In addition, under the joint OHCHR/UN-Habitat UN Housing Rights Programme, an expert group meeting on the monitoring of housing rights was organized in November 2003. The meeting benefited both from RRDB knowledge on indicators and the participation of the Special Rapporteur on adequate housing.

Indigenous and minorities unit

The Indigenous and Minorities Unit has gained additional knowledge on the issues related to human rights of indigenous populations and minorities over the past years by providing support to all related mandates. The establishment of the mandate of the Independent Expert on Minority Issues supported by SPB has encouraged the Unit to identify innovative ways in which a special procedure located in a different Branch can benefit from the unit's existing thematic capacity. With the move of the Special rapporteur on indigenous people to SPB, the Unit's efforts should be focused on establishing an office wide programme that gives better protection to these groups working with the special procedures to move this programme forward.

The IMU has ensured that the SR on indigenous peoples benefits also from support of the wider UN system through the Inter-Agency Support group on Indigenous Issues, and has organized seminars to enhance the work of the SR, as well as carrying out research and analysis in support of his mandate. The Unit has also sought to ensure involvement of the SR in other activities: he has been included in the Sub-Commission working group, the elaboration of the draft declaration, the Office inputs into the Permanent Forum, follow up activities at the country level based on recommendations from SRs and TBs or other mechanisms.

Human Rights and Economic and Social Issues Unit

In 2002 and subsequent resolutions on women's equal ownership of access to and control over land and the equal rights to own property and to adequate housing, the Commission on Human Rights have entrusted the Special Rapporteur on adequate housing with the additional task of particularly presenting reports on women and adequate housing for its consideration. To collect testimonies and information, the Special Rapporteur has conducted regional consultations with grassroots and civil society groups, combined with capacity building training programmes.¹ The Special Rapporteur has benefited from RRDB's limited capacity on gender and women's rights.

¹ Nairobi, Kenya, October 2002; Delhi, India, October 2003; Mexico City, Mexico, December 2003; Alexandria, Egypt, July 2004; Nadi, Fiji, October 2004; Washington D.C., United States of America, October 2005; Budapest, Hungary, November 2005, and; Barcelona, Spain, March 2006.

The joint OHCHR/UN-Habitat UN Housing Rights Programme was developed in 2002 to support the efforts towards the full and progressive realization of the right to adequate housing as provided for in international human rights instruments and reaffirmed in the Habitat Agenda. The UNHRP has facilitated/supported the participation of the Special Rapporteur in certain key activities of the UN-Habitat, such as the participation in the World Urban Forum, the UN-Habitat Governing Council and a number of expert meetings.

II. Future cooperation

Despite the examples of contribution and cooperation above-mentioned, it must be acknowledged that it is not always easy to ensure in practice smooth support to a specific mandate involving collaboration between several Units or Branches. Cooperation between RRDB and SPB in providing support to Special Procedures is closer in the case of some mandates than for others. With the move to SPB of support to eight special procedures, new modalities of cooperation will be needed to ensure that the office's thematic work and capacity, wherever it may be located, best benefits the work of the Special Rapporteurs and helps increase their impact on the enjoyment of human rights, particularly at the country level.

RRDB is keen on receiving the Special Rapporteurs' views and opinions on their current relationship with the Branch and on how to improve and strengthen future cooperation. RRDB would like to submit a few elements that could be part of the discussion.

Womens' Human Rights and Gender Unit

OHCHR's Strategic Management Plan makes provisions for the establishment of a Women's Human Rights and Gender Unit. The new Unit would benefit from the collective experience of the Special Procedures on the challenges - both human rights and implementation - faced in achieving gender equality and promoting women's human rights. As the Unit builds its capacity, it is expected to be better able to contribute to the efforts of both country and thematic Special Procedures to address gender and women's rights within their mandates.

Other Units

- In cases where the Branch possess objective and particular capacity on a specific theme, contribute to the preparation of country visits;
- Facilitate the link between the rapporteurs and relevant stakeholders working in close partnership with RRDB, such as indigenous and minorities groups, as well as actors involved in the Branch's work on transitional justice;
- Work, together with SPB, on preparation of fact sheets focusing on the human rights issues addressed by Special Rapporteurs;
- Facilitate the contribution of Special Procedures to RRDB's work on indicators;
- Collaborate, at the request of special procedures, in the development of conceptual frameworks;
- Assist in ensuring follow-up to country visits and recommendations regarding specific themes;

- Assist the Special Rapporteurs in identifying emerging and new issues related to their mandates;
- Strengthen the Branch's work with CBB, UNCTs, technical cooperation programmes etc. with a view to increase capacity on economic, social and cultural rights and other priority issues, which would benefit also special procedures in connection with, for example, CBB contribution to mission preparation and follow-up on recommendations;
- Strengthen inter-agency cooperation and programmes on thematic issues, which would also benefit a number of special procedures.

This cooperation would have a direct impact on how OHCHR can concretely advance the enjoyment of human rights by: building on the capacity of the different human rights mechanisms, including the conventional ones; weaving their achievements into the work of field presences; monitoring the implementation of recommendations from these mechanisms; and determining if redress and improvement has been achieved at country level.