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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Intersessional open-ended intergovernmental Working Group on the
implementation of operative paragraph 6 of General Assembly
resolution 60/251 established pursuant to Human Rights Council
decision 1/104**

Non-paper on special procedures*

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I. SYSTEM OF SPECIAL PROCEDURES

A. Selection and appointment of mandate-holders

1. The following criteria will be of paramount importance while nominating and appointing mandate-holders: (a) Expertise; (b) Experience in the field of the mandate; (c) Independence; (d) Impartiality; (e) Personal integrity; (f) Objectivity; (g) Gender balance.
2. During the selection of mandate-holders, the following principles also have to be considered: (a) Equitable geographic representation; (b) Representation of different legal systems.
3. The following entities may nominate candidates as special procedures mandate-holders: (a) Governments; (b) Regional Groups operating within the United Nations human rights system; (c) International organizations or their offices (e.g.: Office of the United Nations High Commissioner for Human Rights (OHCHR)); (d) Non-governmental organizations (NGOs); (e) Other human rights bodies; (f) Individual nominations.
4. Suitable candidates for the position of mandate-holder will be inscribed, if meeting the specified criteria, on the list of nominees - a roster managed by the Office of the United Nations High Commissioner for Human Rights (OHCHR). Candidates for a particular post from the roster, as well as any additional candidates, will be pre-screened by an advisory body composed of the representatives of the Coordination Committee and representatives of the special procedures branch of OHCHR. The advisory body shall nominate mandate-holders matching both the criteria and expertise in the field of a particular mandate.
5. Each mandate-holder will accept a principle of non-accumulation of human rights functions at a time, and the possibility of earliest reappointment after a 3-year pause. The mandate-holder may exercise the mandate for two consecutive 3-year terms.
6. Improved appointment procedure by the President of the Human Rights Council (“the Council”) after consultation with the Bureau and regional groups, considering the nomination by the advisory body.
or
7. Hybrid model combining appointment by the President and endorsement by the Council of all the pre-screened nominees matching a number of available seats, **as a slate**.
or
8. Brazilian model combining nomination and election **of individual mandate holders one by one**, from a pre-screened group of nominees meeting the required criteria.
or
9. **Election by the Council.**

B. Achieving coherence and proper coordination between mandates

10. It is necessary to improve coherence regarding the establishment and functioning of special procedures as well as their working methods. The working methods should be predictable and transparent, providing for the effective promotion and protection of human rights.
11. Special procedures should contribute, under the guidance of the Coordination Committee, to improving the coherence of their working methods.
12. Mandate-holders should cooperate with each other in requests for information, communications, country visits and the implementation of their recommendations.
13. It is necessary to establish a transparent mechanism to achieve standardization of mandates, while reflecting and retaining the specific features of individual mandates.
14. All the mandates should benefit from standardized means of establishment, working methods and scope of mandate while retaining for the mandate-holders to further develop their instruments, **with the contribution** of the Coordination Committee.
15. The working methods must provide for a standardized, transparent and impartial operation. A dialogue with the Governments concerned **is essential**, and which enables the effective implementation of the recommendations submitted in the reports to the Council.
16. The Working Manual improving the operation of special procedures on the basis of best practices would articulate the working methods.

C. Relationship with the Human Rights Council

17. It is necessary to reinforce format, structure, contents and timeliness of the special procedures reports. The reports need to be operational and updated, offering realistic and feasible recommendations allowing the Governments to improve their human rights record.
18. The Council should provide a guiding role to the special procedures, when establishing, vesting, extending the mandates, or eventually endorsing their findings. The Council also needs to specify a timeline and general contents of the reports, including when modifying a mandate. However, predictability may not limit the issues that merit attention, including through written and oral updates upon request.
19. Preparations of reports should be undertaken in time, after due, thorough and timely consultation with the Governments concerned (**6-week rule**). Special procedures should submit advance copies of their reports to the concerned countries after country missions, so that they may express their views.
20. The cooperation by the Governments in the compilation **and drafting** of the reports and the implementation of their findings is essential to the effectiveness of the mandates.
21. The reports need to be based on credible and objective information, benefiting from a variety of sources.

22. Equal and appropriate time needs to be reserved for a consideration of each report.
23. There is room for further improvements, such as through clustered consideration of the reports, enabling the streamlining of mandates.
24. It is important to strengthen the follow-up to recommendations, including regular monitoring to overcome gaps in their implementation. **Both positive improvements and shortcomings must be highlighted.** (merged with para. 85)
25. The Council may provide guidance on substance to the special procedures.
26. A two-stage mechanism to monitor the implementation of recommendations: first, it would be for the special procedures, which would in general terms devote parts of their reports to this aspect. However, this may have logistical and financial implications. On the other hand, the concerned States, as primary actors, should make available the information on the extent of implementation.
27. One of the criteria for reporting may be a division of reports into an annual report by the special procedures to be presented according to an annual programme of work and the updates. Updates may be presented upon consideration by the mandate-holders (regular access to the Council), but always when presenting the written reports.

D. Cooperation by and with Governments

28. Special procedures instruments (urgent appeals, letters of allegation, and requests for information, recommendations and their follow-up, and visits) and responses by the Governments thereto are essential to improving the enjoyment and protection of human rights. A mutual cooperation is a prerequisite for the effectiveness of special procedures.
29. Attention needs to be paid to the provisions of the invitations **to visit** and **to** acceptance of requests for visit, as well as to the level of implementation of recommendations. Unhindered access to and within countries, facilitates the exercise of mandates of special procedures.
30. The mandate-holders may consult with the Governments on any issue within their mandates.
31. The appeals and requests for information must be objective, credible and justified, as must the reports of the special procedures, reflecting the replies by Governments or lack thereof. The mandate-holders should supervise any substantive communications with Governments, and authorize the communications. The Governments must contribute to the exchange of information, **within requested deadlines**, that facilitates the work of special procedures.
32. Improving cooperation is at the core of bettering the system. The Governments are encouraged to communicate in a timely manner with the special procedures and to reply to communications. The States that do not cooperate should not be exempted from scrutiny. Criteria applied to assess cooperation with Governments (extent of dialogue, level of implementation, effectiveness of national promotion and protection of human rights) need to be predictable.

33. Invitations are one of the means of safeguarding the fulfilment of the mission of special procedures to assess the level of enjoyment, promotion and protection of human rights. Nonetheless, their issuance is at the discretion of Governments. When visiting the countries, special procedures should take into account the national legislation, while assessing its compliance with international obligations.

34. The members of the Council shall consider issuing standing invitations, demonstrating their general will to always accept a request for a country visit.

E. Relation between the mandate-holders and with other human rights bodies

35. The mandate-holders should seize leadership in cooperation and exchange of observations among themselves, following the **guidelines contained in the draft Manual elaborated by all mandate holders and any other** guidelines by the Coordination Committee.

36. Mandate holders are encouraged to undertake joint activities (joint statements, reports and harmonized recommendations) where relevant.

37. The special procedures can interact with the UPR. Their findings and recommendations would form part of the background materials for the UPR, against which the compliance by the Government would be assessed. Interaction with the “complaints mechanism” should take into account the confidential character of the complaints procedure while exchanging the relevant information.

38. The special procedures are encouraged to improve an interaction with treaty bodies.

39. NGOs **are** relevant partners in **assessing** and **improving** of the human rights situation from a thematic or country perspective. They contribute to soliciting the information, assessing the level of implementation of findings, making proposals on remedying the situation and responding thus to the needs of individual victims. **The contribution of NGOs relies on unhindered activities, free from any reprisals for cooperation with the mandate-holders. Their contributions must be objective.** It is essential to ensure a safety of the members of NGOs that meet special procedures during their visits to countries. (merged with para. 62)

40. Cooperation among the mandate-holders may be improved by regular exchanges of information by the thematic and country desks of OHCHR, including on urgent responses, sharing the lists of allegations and information on domestic procedures and responses by the Governments, joint missions, statements and coordinated follow-up to recommendations.

F. Organization and Logistics - support of OHCHR to the special procedures

41. The system of special procedures must build on qualified, professional, independent, experienced and long-term, and regionally balanced personnel to create a stable environment.

42. Adequate financing from the regular budget is necessary. Increase in the regular funding to OHCHR should be used to improve financial and logistical support to special procedures. More resources are needed for country visits and monitoring follow-up to recommendations.

43. The majority of activities of the special procedures branch should be funded from the regular budget.
44. Common level of support to all the mandates needs to be achieved.
45. Administrative improvements should be regularly shared with the Council.
46. OHCHR is invited to **solicit statistics on country visits, communications and extent of implementation by the States of the recommendations by mandates, and to present an update to delegations on the issues at stake, including assessments of funding from the regular budget, composition of the special procedures branch and the latest administrative improvements and their effectiveness.**

G. Other issues related to working methods

47. Interaction of special procedures with the United Nations agencies, within the field of the mandate, should be reinforced, if beneficial. OHCHR field presences should be greatly involved in the preparation of country files, country visits as well as tailoring and implementing the recommendations by special procedures. Also, the human rights components of the United Nations missions should interact with the special procedures. **The United Nations country teams are encouraged to extend cooperation with the special procedures, when preparing a visit, making recommendations and following-up on their implementation.** (merged with para. 83)
48. The reports of special procedures should be shared with the General Assembly (Third Committee) upon request, as is the practice of **those special procedures which have been required to do so by the General Assembly.**
49. Cooperation with the regional organizations assists in soliciting the expertise, crafting the recommendations and monitoring their follow-up. Cooperation with international, regional and national NGOs is beneficial, provided these are independent and objective.
50. Annual interaction of special procedures with States in enhancing the effectiveness of special procedures should be continued, complemented by interactive dialogues at Council sessions.
51. Media interaction contributes to awareness-raising. The information from the special procedures **must** be accessible and disseminated to the greatest possible extent within the United Nations system. **Although media interaction facilitates awareness-raising about particular issues and situations, Governments should be given prior notification of the publication of press releases and informed of the timing and summary of media inputs before they are issued.** (merged with para. 84)
52. Reports and other observations of the special procedures should be **channelled to** the United Nations bodies, upon their request or by the decision of the Council. Nevertheless, there may be emergency situations when the special procedures observations could be shared as part of prevention of human rights violations. The established procedures and practices should be observed in this regard.

II. REVIEW, RATIONALIZATION AND HARMONIZATION OF MANDATES, GENERAL CRITERIA

A. General part

53. Universality, interdependence and interrelatedness of human rights, cooperation without selectivity, promotion of the inter-relatedness of human rights and achieving balance between the special procedures are the underlying principles of equal enjoyment of all rights and attention to all violations of human rights. **The effectiveness of the system of special procedures depends also on equal attention to all human rights, including the right to development.** (merged with para. 87)

54. It is the prerogative as well as the duty of both Governments and mandate-holders to contribute to improved enjoyment of all the rights contained in the Universal Declaration of Human Rights and other human rights instruments. Inter alia, thematic issues such as the right to education, poverty, protection against discrimination and **the violence against vulnerable groups**, torture and racism, right to food, to vote **and to be elected, access to justice and to a fair trial**, to assemble and to associate, **to privacy and the cultural rights** would benefit from continuous or improved focus.

55. The contribution of special procedures to advisory services and technical cooperation has been praised as a contribution to reinforcing national capacities.

56. A review implies an improved accountability of the Governments and of mandate-holders, while avoiding unnecessary duplications. On the other hand, a unification of terminology and titles of mandates will make the whole system more transparent and understandable.

57. In order to establish a system, some mandates may be streamlined, merged with others or eventually dismantled. Any such changes must be guided solely by the need for improvement of the enjoyment and protection of human rights, while bearing in mind that mandates should not be too broad nor too general. **However, the mandate holders must monitor the responsibility of all stakeholders of particular situation.**

58. The need for filling the existing substantive gaps might be remedied by closing the protection gaps upon the recommendations by the Coordination Committee.

59. A distinction should be made between the country mandates created in the past by consensus and those by vote.

60. Accountability by the mandate-holders needs to be improved. Mandate-holders should follow the established working methods, to be regularly reviewed by the Coordination Committee. On the other hand, Governments are encouraged to be of utmost assistance to the special procedures when exercising their mandates.

61. Equilibrium shall be reached among all the special procedures and mandate-holders so that they may rely on equal support and level of servicing, including financing. This would reinforce the equal attention paid to all categories of rights. **There is generally a balance in numbers between mandates covering civil/political rights and economic/social/cultural rights and specific groups.**

62. There are many arguments for and against symbiosis of country mandates with the UPR and special sessions. Some situations may require the establishment of a country mandate because of their gravity and sometimes also of the non-cooperation by the Government. Such country mandates may complement the UPR cycle, which is sometimes too long, as well as the special sessions, which may eventually benefit from an implementation partner, such as a fact-finding/inquiry mission or special procedures' assistance. General Assembly resolution 60/251 provides i.e. for a combination of the consideration of the violation of human rights, including gross and systematic violations, and for a regular scrutiny of the States by the UPR. Therefore, country consideration should not be limited to UPR, as it would contravene the General Assembly resolution opting for a country focus as one of the tools in the Council's box.

63. Should country mandates be established in the future, there is strong preference for doing so by consensus, such as in the case of the provision of advisory services or technical assistance. In certain instances, e.g. in case of gross and systematic violations such as genocide, torture, arbitrary executions, enforced disappearances or slavery, a country resolution may be introduced with the aim of possibly establishing the country mandates, as one of the last resorts. If consensus cannot be achieved on this, the country resolution possibly establishing the country mandate may be adopted by a vote.

64. Ensuring accountability is the responsibility of all actors, both mandate-holders and Governments. **There is complementarity of principles of accountability of mandate holders to their peers, resp. to the Council and that of States being responsible for enjoyment of human rights and for ensuring their protection and respect, including through cooperation (submission of information, protection of complaining victims etc.).** The mutual responsiveness may be improved by regular exchanges between the special procedures and States rather than by exercising regular control over their performance, which is exercised when establishing or extending a mandate (merged with para. 104).

65. Mandate-holders should be guided by the need for objectivity, equal attention to all the rights and freedoms as well as issues at stake, transparency, impartiality, accessibility and fairness. The mandate-holders' conduct would rest with their independent judgment.

66. **Rationalised mandates could newly operate within unified cycle (e.g. two years for thematic and country mandates). Mandates could be extended in four different groups, according to their original date of expiration. The mandate-holders approaching or exceeding the maximum length of function (i.e. 6 years) should be replaced, while reflecting on the administrative burden to establish new selection procedure. Rationalised mandates could be reviewed again when up for renewal, in order to enable the stable surrounding of a system.**

III. CODE OF CONDUCT

67. A Code of Conduct (CoC) could be understood as a set of guiding principles to be complied with when applying the working methods of the special procedures and soliciting the cooperation of Governments **providing for interaction between special procedures mandate holders and States in the promotion and protection of human rights.**

~~68.~~ The Council may endorse a CoC **articulating** the principles on operation and cooperation. **It is complemented by the Working Manual of the UN special procedures and the Terms of Reference for Fact-Finding Mission by special procedures.**

69. A CoC should provide for the accountability of the mandate-holders to their peers (i.e. Coordination Committee) as well as of the Governments, to enable the enjoyment and protection of human rights. Such a code should build on and complement the Regulations Governing the Status, Basic Rights and Duties of Officials, other than Secretariat Officials, and Experts on Mission adopted in 2002 by the General Assembly (ST/SGB/2002/9).

70. The principles of objectivity, transparency, mutual cooperation, dialogue, verification of facts and of the effective implementation must be upheld by the CoC.

71. Other principles that may be elaborated by the CoC include:

(a) International responsibilities of mandate-holders;

(b) Exercise of a mandate in the name of the United Nations;

(c) Respect for the rights and duties of the mandate-holders;

(d) Respect for the laws and regulations of the visited countries, **while assessing their conformity with international human rights standards so not to prevent mandate holders from carrying out their mandates;**

(e) Efficiency, competence, integrity, fairness and exercise of the utmost discretion in regard to all the matters of official business;

(f) **Cooperation by the Governments within established deadlines to facilitate the country visits, replies to requests for information and to urgent appeals and to follow-up on recommendations through a dialogue.**
