Chapter VIII

FACT-FINDING, RECOMMENDATIONS, AND FOLLOW-UP

INTRODUCTION

The role of the special procedures in conducting fact-finding into human rights problems and publishing reports with their findings and recommendations is among their strongest contributions to the protection of human rights. One cannot assess too highly this pivotal protection function of the special procedures in the human rights movement.

For a start, we should recognize that, to date, there is no UN world global human rights report. In 2006 High Commissioner Louise Arbour announced her intention to prepare and publish such a report but she has so far not followed up on the idea. There are annual reports of NGOs such as Amnesty International and Human Rights Watch and they are helpful but they do not have the authority of the world organization. Annual Reports published by national governments, such as that of the US State Department contain useful information but they are seen as having been prepared through the national lens of the issuing country.

The reports prepared by Special Procedures mandate holders and submitted annually to the Human Rights Council and, in some instances, to the UN General Assembly, represent, together, the United Nations' and the world's annual human rights report. The thematic and country scope of the reports over time is truly global. Every country has, at one time or another, come under scrutiny in a report by a special procedure.

In 2003 mandate holders undertook over 80 fact-finding missions and the information contained in their reports proved to be useful and relevant in supporting the work of UN country teams and in the development of technical cooperation projects.

Since 1999 58 countries have extended standing invitations to the thematic special procedures. In 2003 over 670 urgent appeals were communicated, some 60 percent of which were joint appeals. During the same period some 350 letters of allegations were processed. In 2003 Special Rapporteurs issued both jointly and individually more than 20 press releases on issues of concern in particular countries. In 2007, some 1,000 urgent appeals were made.

The world survey of violence against women, published by the Special Rapporteur on Violence against Women in 2003, was an example of the uni-
iversal coverage of the special procedures. Another example was the study on the situation of trade and production of torture equipment, a study conducted by the Special Rapporteur against Torture; the development of guiding principles on internally-displaced persons; the encouragement of work on judicial ethics (Bangalore Principles on Judicial Conduct); the study on Islamophobia: the study on political platforms which promote racial discrimination. Special procedures also jointly and publicly raise concerns over human rights issues such as the potential threat to human rights posed by counter-terrorism measures and the need to protect witnesses cooperating with human rights bodies.

The reports of the special procedures mandate holders document facts, make findings, and offer recommendations in respect of particular situations or in respect of broader problems. It is here that that the Special Procedures rise in stature as the world’s premier protection actors. Special Procedures contribute to a better understanding of the root causes, factors, and possible ways to combat and prevent phenomenon affecting the enjoyment of human rights.

I. METHODS OF FACT-FINDING

Theodor Van Boven, then Special Rapporteur against Torture, in a report submitted to the Commission on Human Rights in 2002-2003, provided a magisterial illustration of the methods of work of a professional Special Rapporteur.204 His work as Special Rapporteur, he reported to the Commission, was characterized by the following main types of activity:

a) Seeking and receiving credible and reliable information from Governments, specialized agencies and intergovernmental and non-governmental organizations as well as private individuals;

b) sending urgent appeals to Governments to clarify the situation of individuals whose circumstances give grounds to fear that treatment falling within the Special Rapporteur’s mandate might occur or be occurring;

c) Transmitting to Governments information of the sort mentioned in (a) above, indicating that acts falling within his mandate may have occurred or that legal or other measures were needed to prevent the occurrence of such acts:

d) Exploring the possibility of undertaking fact-finding visits to States where information suggested that torture may involve more than isolated and sporadic incidents, with a view to gaining more direct knowledge of the situation and practice relating to matters falling within his mandate and identifying measures to prevent the recurrence of such cases.