

Special Procedures and Mandate of the UN Special Rapporteur of the Human Rights Council on violence against women, its causes and consequences ¹

1. What are Special Procedures

"Special procedures" is the general name given to the mechanisms established by the Commission on Human Rights and later the Human Rights Council, to address either specific country situations or thematic issues in all parts of the world. Currently, there are 39 thematic and 8 country mandates². The Office of the High Commissioner for Human Rights (OHCHR) provides these mechanisms with personnel, logistical and research assistance to support them in the discharge of their mandates.

Special procedure mandates usually call on mandate holders to examine, monitor, advise and publicly report on human rights situations in specific countries or territories (referred to as country mandates), or on major phenomena of human rights violations worldwide (referred to as thematic mandates). Special procedures are either an individual (bearing the title of "Special Rapporteur", "Special Representative of the Secretary-General", "Representative of the Secretary-General" or "Independent Expert") or a working group usually composed of five members (one from each region).

The mandates of the special procedures are established and defined by the resolution creating them. Mandate-holders of the special procedures serve in their personal capacity, and do not receive salaries or any other financial compensation for their work. The independent status of the mandate-holders is crucial in order to be able to fulfil their functions in all impartiality. A mandate-holder's tenure in a given function, whether a thematic or country mandate, will be of no longer than six years (two terms of three years for thematic mandate-holders).

2. Mandate of the Special Rapporteur of the Human Rights Council on violence against women, its causes and consequences

In its resolution 1994/45, adopted on 4 March 1994, the United Nations Commission on Human Rights decided to appoint a Special Rapporteur on violence against women, including its causes and consequences. The mandate was assumed by the Human Rights Council pursuant to General Assembly resolution 60/251 of 2006 and Human Rights Council decision 2006/102. In March 2008, the mandate was extended for a period of three years by Human Rights Council resolution 7/24.

According to her mandate, the Special Rapporteur is requested to:

(a) Seek and receive information on violence against women, its causes and consequences, from Governments, treaty bodies, specialised agencies, other Special Rapporteurs responsible for various human rights questions, and intergovernmental and non-governmental organisations, including women's organisations, and to respond effectively to such information;

(b) Recommend measures, ways and means, at the local, national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences;

¹ Relazione della Special Rapporteur ONU contro la violenza sulle donne, Rashida Manjoo, per il seminario di formazione forense "Gli strumenti internazionali per la tutela delle vittime di violenza e discriminazioni di genere", organizzato da Giuristi Democratici e D.i.RE. Bologna, 14.01.2010.

² A list of all mandates holders is available at: <http://www2.ohchr.org/english/bodies/chr/special/index.htm>

(c) Work closely with other special procedures and human rights mechanisms of the Council and with the treaty bodies, taking into account the request of the Council that they regularly and systematically integrate the human rights of women and a gender perspective into their work, and cooperate closely with the Commission on the Status of Women in the discharge of its functions;

(d) Adopt a comprehensive and universal approach to the elimination of violence against women, its causes and consequences, including causes of violence against women related to the civil, cultural, economic, political and social spheres.

The definition of violence against women used by the Special Rapporteur follows the United Nations Declaration on the Elimination of Violence against Women, adopted by the General Assembly in its resolution 48/104 on December 1993³. The Declaration defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

In the discharge, of the mandate the Special Rapporteur:

- ***Submits annual thematic reports to the Human Rights Council***

The Special Rapporteur has been requested to submit an annual report on the activities undertaken and themes analysed under the mandate to the Human Rights Council. The **thematic reports** in the last several years have focused on the following topics: political economy and violence against women (2009); indicators on violence against women and State response to it (2008); the relationship between culture and violence against women (2007); the due diligence obligation to prevent and combat violence against women (2006); and intersections between HIV/AIDS and violence against women (2005). In addition to her thematic report, in 2009 the Special Rapporteur also issued a critical review of the 15 years of work of the mandate⁴. The Special Rapporteur's thematic report for 2010 will explore the issue of reparations and compensation for violence against women who have been subjected to violence. Future thematic reports will look into prevention strategies to combat violence against women and intersectionality between violence against women and multiple forms of discrimination.

- ***Undertakes fact-finding country visits***

Mandate holders also carry out 2 or 3 country visits ('field missions') a year to investigate the situation of human rights at the national level. These country visits can be carried out separately or jointly with other Special Rapporteurs or working groups. Mandate holders typically send a letter to the Government requesting to visit the country and, if the Government agrees, an invitation to visit is extended. Some countries have issued a "standing invitation", which is an open invitation extended by a Government to all thematic special procedures. By extending a standing invitation States announce that they will always accept visit requests from all special procedures. As of July 2009, a total of 66 countries had extended a **standing invitation** to thematic procedures. .

During such missions, the experts assess the general human rights situation in a given country, as well as the specific institutional, legal, judicial, administrative and *de facto* situation under their respective mandates. During the country visit the experts will meet with national and local authorities, including members of the judiciary and parliamentarians; members of the national human rights institution, if applicable; civil society organizations and victims of human rights violations; the UN and other inter-governmental agencies; and the press when giving a press-

⁴ A/HRC/11/6/Add.5, 15 Years of the United Nations Special Rapporteur on violence against women, its causes and consequences (1994-2009) – A critical review.

conference at the end of the mission. After their visits, special procedures mandate-holders present mission reports containing their findings and recommendations to the Human Rights Council.

Since the inception of the mandate in 1994, the Special Rapporteur on violence against women has visited and issued country reports on a total of 37 countries. The mandate has recently requested invitations to visit Zimbabwe, USA, El Salvador and Somalia in 2010.

The Special Rapporteur has also conducted some country visits jointly with other mandate holders or in collaboration with other regional bodies and mechanisms. Examples include: the joint mission to Moldova with Manfred Nowak, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, in July 2008; the mission to Darfur with the Special Rapporteur on Women's Rights of the African Commission on Human and Peoples' Rights in September 2004; and the joint visit to Turkey in November 2008 with the European Parliament's Rapporteur on Women's Rights.

Terms of Reference for Fact-finding missions by Special Procedures

The terms of reference for country visits were adopted at the fourth annual meeting of the Special Rapporteurs (E/CN.4/1998/45) and are intended to guide Governments in the conduct of the visit. During fact-finding missions, special procedures mandate holders as well as United Nations staff accompanying them, should be given the following guarantees and facilities by the Government that invited them to visit its country:

- (a) Freedom of movement in the whole country, including facilitation of transport, in particular to restricted areas;
- (b) Freedom of inquiry;⁵
- (c) Assurance by the Government that persons, whether officials or private individuals, who have been in contact with the special Rapporteur/representative in relation to the mandate, will not, as a result, suffer threats, harassment or punishment or be subjected to judicial proceedings;
- (d) Appropriate security arrangements without, however, restricting the freedom of movement and inquiry referred to above;
- (e) Extension of the same guarantees and facilities mentioned above to the appropriate United Nations staff who will assist the special Rapporteur before, during and after the visit.

- ***Transmits communications to Member States on reported human rights violations***

The Special Rapporteur transmits urgent appeals and allegation letters (communications) to States addressing reported individual cases and general situations of concern to her mandate. The communications, always sent with the victim's consent, are based on reliable and credible information received from governments, intergovernmental organizations or civil society.

The dialogue established with governments by the Special Rapporteur and the transmission of allegations concerning their countries in no way implies any kind of accusation or value judgment on the part of the Special Rapporteur, but rather a request for clarification that aims to ensure, in cooperation with the government concerned, the effective prevention, investigation, and punishment of acts of violence against women as well as compensation for victims of such violations.

⁵ In particular as regards:

- (i) Access to all prisons, detention centres and places of interrogation;
- (ii) Contacts with central and local authorities of all branches of government;
- (iii) Contacts with representatives of non-governmental organizations, other private institutions and the media;
- (iv) Confidential and unsupervised contact with witnesses and other private persons, including persons deprived of their liberty, considered necessary to fulfil the mandate of the special Rapporteur; and
- (v) Full access to all documentary material relevant to the mandate.

VAW communications sent in 2008:

In 2008, a total 911 communications were sent by special procedures as a whole to Governments in 118 countries. 66% of these were joint communications of two or more mandate holders.⁶ From 5 December 2007 to 2 April 2009, the VAW mandate sent 93 communications to 34 Member States during 2008⁷. These communications addressed a wide variety of issues and forms of violence against women, such as: assaults and/or rapes perpetrated by police officers, governmental forces and other armed actors; threats and attacks against women human rights defenders; stoning of women on allegations of adultery; abductions and rapes of girls; female genital mutilation; and discriminatory legislation. Of the 34 States concerned, only 19 Governments responded to communications sent by the VAW mandate during that period.

The mandate issues most of its communications jointly with other mandates. Indeed in 2008, 80 out of the 93 communications were sent jointly with other mandate holders, mainly with the mandates on human rights defenders, freedom of expression, and torture. Summaries of all communications sent by the Special Rapporteur and government responses received are published in addenda to the annual thematic reports.

- ***Participates in consultations with civil society***

Consultations with civil society have become an integral part of the work of the Special Rapporteur on Violence against Women, its causes and consequences. Some NGOs have been facilitating consultations with the Special Rapporteur since the inception of the mandate.

Regional and national consultations provide important input into the work of the Special Rapporteur by highlighting regional and national specificities, and provide an opportunity for women's groups from a specific region/country to inform the Special Rapporteur of the violations of women's rights occurring in their region/country. In addition, some consultations have focused on discussions around the elected topic of the Special Rapporteur's annual report to the UN Human Rights Council.

Consultations with civil society also allow NGOs to become familiar with opportunities the Special Rapporteur's mandate offers in advancing their national and regional initiatives. The Special Rapporteur is grateful to those NGOs taking the lead in organising these consultations and encourages them to provide reports on the findings of the consultations or other outcome documents.

3. Entry Points for NGOs

NGOs are an invaluable partner in the work of the Special Rapporteur and the VAW mandate. This is reflected in the longstanding and prominent relationship that the mandate has maintained with NGOs from all regions of the world, including through regular regional consultations. In addition to these consultations, NGOs play a vital role with regard to other regular activities of the mandate, including in the context of the communications procedure and country missions.

Submitting Communications

⁶ United Nations Special Procedures, Facts and Figures 2008, OHCHR.

⁷ It is noteworthy as well that 40% of communications sent by the VAW mandate in 2008 were to 5 States alone, namely Iran, India, Pakistan, Mexico and Sudan.

While some complaints are received directly from individuals affected, the large majority of violations are brought to the attention of the Special Rapporteur by NGOs. This accessible complaint mechanism offers the advantage of not requiring that one exhaust domestic remedies, and can be used in conjunction with other international mechanisms. Although it is not required to use any particular form in submitting a case, a questionnaire is available (attached as an annex to this paper) for this purpose. The minimum information which should be provided in a complaint includes: the identity of the victim, and that of the alleged perpetrator (when known); the identification of the person or organisation submitting the complaint; the date and place of the incident; and a detailed description of the circumstances of the incident in which the violation took place. It is especially important that NGOs ensure and specify that they have obtained the consent of the victim on behalf of whom they are acting. This means that: the victim is aware and agrees that the NGO sends a case to special procedures on her behalf; is informed that if special procedures takes up the case, a letter concerning the alleged violation and containing the victim's name will be sent to the government; and is also informed that a summary of the case will appear in a public report by the Special Rapporteur. In addition to individual cases of human rights violations, the Special Rapporteur also considers complaints relating to patterns of violations against women and other situations of concern, such as laws or bills which appear to be in violation of women's rights and likely to lead to violence against women.

Cooperation during Country Visits

In the context of country visits, NGOs also play a key role. NGOs can provide suggestions regarding the countries to visit and the timelines of missions, as well as advise on key issues of concern to women, who to meet with, and places to visit. Furthermore, they often assist in the preparation of missions by informing and working with organisations and communities to prepare meetings with the Special Rapporteur. Country visits offer an important occasion for NGOs not only to voice their concerns, but also their recommendations to the Special Rapporteur. Given the visibility and momentum provided to the issue of VAW by the Special Rapporteur's visits, they can represent a unique opportunity for NGOs to report on the situation in their country and promote change.

NGOs play a further and critical role in the follow up to the mission, with regard to the dissemination of the Special Rapporteur's report, and the ongoing monitoring and reporting on the implementation of its recommendations. Some NGOs have taken up the practice of reporting annually on the progress made on these recommendations. This follow up work by NGOs can also be complemented by their contribution to other human rights processes, including through the submission of NGO reports to treaty bodies such as the Committee to CEDAW and submissions in the context of the Universal Periodic Review (UPR), in which they continue highlighting the situation of VAW and the recommendations of the Special Rapporteur.

Recent consultations with civil society organisations

- Africa Regional Consultation on sexual violence against women and girls, including in times of peace, Lusaka. Zambia, January 2010.
- Asia Pacific Regional Consultation on violations of women's sexual and reproductive rights Bangkok, Thailand, December 2009.
- Africa Regional Consultation on violence against women in the context of conflict in the Great Lakes and Horn of Africa Region, Nairobi, Kenya, December 2008. Held jointly with the Special Rapporteur on Human Rights Defenders.
- Asia Pacific Regional and National Consultations on violence against indigenous women, New Delhi, India, October 2008. Held jointly with the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples.
- CIS/Eastern Europe Regional and National consultations, St-Petersburg, Russian Federation, September 2008.

- Asia Pacific Regional and National Consultations on political economy, globalisation and militarization, Manila, Philippines, September 2007.
- Regional Consultation with women's organizations from Georgia, Armenia and Azerbaijan in Tbilisi, Georgia, May 2007 – themes discussed included violence in times of armed conflict, domestic violence and trafficking.
- Europe Regional Consultation, London, United Kingdom, January 2007 – discussions focused on domestic violence and the situation of immigrant and refugee women.
- Asia Pacific Regional and National Consultations on the intersections between culture and violence against women, Ulanbatur, Mongolia, September 2006 (a report of the consultation can be found at: <http://www.apwld.org/pdf/NegotiatingCulture.pdf>).
- Africa Regional and National Consultations, Khartoum, Sudan, September 2004 – discussions focused on a wide range of issues, from harmful traditional practices to violence against women in situations of armed conflict. Held jointly with the Special Rapporteur of the African Commission on women's rights in Africa,

For further information about the mandate and all available reports please visit the OHCHR website: <http://www.ohchr.org/english/issues/women/rapporteur/>

For communications to the Special Rapporteur on violence against women, please write to: vaw@ohchr.org

ANNEX

**Confidential Violence against Women
Information form**

PETITIONER: *(This information, if taken up by the Special Rapporteur, will remain confidential).*

(a) Name of person/ organisation:

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(b) relationship to victim(s)

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(c) Address:

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(d) Fax/tel/e-mail, web-site:

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(e) Date petition sent:

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.....

(f) Other:

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.....

2. ALLEGED INCIDENT

(i) information about the victim(s):

(a) Name:

.....
.....

(b) Sex:

(c) Date of Birth or Age:

(d) Nationality:.....

(e) Occupation:

(f) Ethnic / religious / social background, if relevant:

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(g) Address:

.....
.....

(h) Other relevant information: *(such as passport, identity card number):*

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(i) Has the victim(s) given you her consent to send this communication on her behalf?

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(j) Has the victim(s) been informed that, if the Special Rapporteur decides to take action on her behalf, a letter concerning what happened to her will be sent to the authorities?

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.....

(k) Is the victim(s) aware that, if this communication is taken up, a summary of what happened to her will appear in a public report of the Special Rapporteur?

(j) Have the authorities taken any action after the incident?

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If so, which authorities?

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What action?

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When?

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(l) If the violation was committed by private individuals or groups (rather than government officials), include any information which might indicate that the Government failed to exercise due diligence to prevent, investigate, punish, and ensure compensation for the violations.

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(m) Has the victim seen a doctor after the incident took place? Are there any medical certificates/notes relating to the incident concerned?

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(iii) Laws or policies which are or are likely to cause or contribute to violence against women

(a) If your submission concerns a law or policy, please summarize it and the effects of its implementation on women's human rights. Provide concrete examples, when available.

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Please inform the Special Rapporteur of any further information which becomes available after you have submitted this form, including if your concern has been adequately addressed, or a final outcome has been determined in an investigation or trial, or an action which was planned or threatened has been carried out.

**PLEASE RETURN TO
THE SPECIAL RAPPORTEUR ON VIOLENCE AGAINST WOMEN, OFFICE OF THE
HIGH COMMISSIONER FOR HUMAN RIGHTS,
OHCHR-UNOG, 1211 GENEVA 10, SWITZERLAND
(Fax: 00 41 22 917 9006, e-mail: urgent-action@ohchr.org)
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