

Joint Statement on Special Rapporteurs and their country visits

General Debate : Item 5

Mr. President,

I am making this statement on behalf of Algeria, Belarus, China, Cuba, Ecuador, India, Iran, Pakistan, Russia, Sri Lanka and Thailand.

2. As independent and impartial experts, Special Procedures carry out a task not only highly valued by the Council but also in accordance with the mandate given by the Council and the Code of Conduct for Special Procedures as stipulated in Resolution 5/2. This Code establishes the standards of ethical and professional conduct of mandate holders. The Special Procedures are important mechanism of this Council for a “genuine dialogue for strengthening the capacity of member states”. However, we have noted instances where certain Special Procedures on occasions have exceeded their respective mandates or have disregarded the Code of Conduct, which we wish to bring to the attention of this Council.

3. Resolution 5/2 requires the official visit programme of Special Rapporteurs to be prepared in close collaboration with the Permanent Mission or a designated authority of the concerned state. Programmes are often negotiated by the OHCHR on behalf of the Special Rapporteur leading to a communication gap where the rationale for inclusion or exclusion of an item in the programme provided by the concerned state are not properly or fully presented to the Special Rapporteur. At the same time, when states raise

issues of concern with regard to Special Procedures to the OHCHR, they are often met with the explanation that Special Procedures are independent and that OHCHR had no role in the matter.

4. We have noted instances where Special Procedures unilaterally change the agreed official programme after their arrival in the country. Such actions add to the work load of the receiving states and undermine the arrangements made by them.

5. Another matter of concern is a trend we have observed in the direct interference of OHCHR staff into substantive part of mandate holders activities. The role of OHCHR is to assist the Special Rapporteurs and not replace them, undermining their independence.

6. There have been instances where certain mandate holders have requested country visits as per mandate granted by specific Council resolutions, even after the lapse of such mandates as per the time frame granted by specific resolutions, in violation of due process. The rationale for choice of a country by thematic mandate holders is not provided to the states or an explanation given in their reports.

7. We note that most of the funding for the Special Rapporteurs comes from extra-budgetary sources. We hope that the choice of countries for visits by Special Procedures is not due to the funding propositions. We also reiterate the importance of ensuring equitable distribution of financial resources among all Special Procedures mandate holders through a transparent process. In this

context, we would request the OHCHR to provide a compilation of country visits by all Special Procedures in the last five years and the source of funding.

8. Another matter of concern is the end of country visit statements and press release. This is in contravention of Article 13 of the Code of Conduct which, inter-alia, stipulates that the concerned state should be the first recipient of their conclusions and recommendations and given adequate time to respond and likewise the Council should be the first recipient of those conclusions and recommendations addressed to it. This eagerness of the Special Procedures to reach out to the media and make public statements forces countries to go on the defensive and thereby undermines the whole purpose of the visit. Further, such public statements by Special Rapporteurs often contain unfounded allegations of human rights violations.

9. With regard to the source of information, the Code of Conduct in Article 6 & 8 has clearly established the responsibility of Special Procedures to “always seek to establish the facts, based on objective, reliable information emanating from relevant credible sources, that they have duly cross-checked to the best extent possible”. Further information should be taken into account only when they are sufficient in number to represent a pattern.

10. It is also noticed that during their field visits, the Special Procedures often reject the official security protection offered by the states. This needs to be looked into, since the receiving state is also responsible for the security of the Special Procedures.

11. While we recognize that mandate holders are independent, they should exercise this independence within the prerogatives of and in consonance with the Code of Conduct adopted by the Council. The modalities for country visits should be spelt out more clearly so that they are adhered to in letter and spirit, as opposed to the Terms of Reference or methods of work not endorsed by this Council. This will not only enhance the trust that the Council places on the Special Procedures mechanism but also encourage states to pay due regard to their expert advice and recommendations.
