

Background Note

Annual meeting of Special Procedure Mandate-Holders Session on System-Wide Coherence and Engagement with UNCTs

This background note aims to stimulate discussion between the Special Procedures mandate-holders and the UN system on how to integrate human rights in UN programming at the country level.

As result of the UN reform process initiated in 1997 and the increasing collaboration among UN agencies within the Common Country Analysis (CCA) and United Nations Development Assistance Framework (UNDAF) at the country level, *The UN Statement of Common Understanding* on Human Rights based Approach to Development Programming was adopted at a United Nations Development Group (UNDG) interagency workshop at Stamford (USA) in May 2003 to clarify the meaning of Human Rights Based Approach (HRBA) to Development Programming and to provide guidance on how to operationalize it in the context of UN common programming processes. The statement is a three page document summarized in three key guiding reference points:

- All programmes of development co-operation, policies and technical assistance should **further the realization of human rights** as laid down in the UDHR and other international human rights instruments.
- Human rights **standards** and **principles** guide all development cooperation and programming in all **sectors** and **phases** of the programming process.
- Development cooperation contributes to the development of the capacities of '**duty-bearers**' to meet their obligations and/or of '**rights-holders**' to claim their rights

The UN Common Understanding explicitly recognizes the centrality of the International Human Rights normative framework in the work of the UN and further states that programming is informed by the **observations and recommendations** of international human rights bodies and mechanisms.

Since the 80's UN agencies have developed "good programming" practices. Rather than replacing these practices, a HRBA adds value to "good programming", as follows:

i) Normative level: HRBA brings more legitimacy to the development process because it is based on universal values which are reflected in norms and standards legally binding on States. All UN programmes are called to contribute to human rights goals.

ii) Instrumental value: HRBA contributes to more sustainable development outcomes by addressing the development challenges in a more comprehensive way; this means identifying and responding to persistent patterns of inequality, discrimination, exclusion and other structural causes which ultimately prevent the realization of human rights. The application of human rights principles ensures a quality process which is more participatory, accountable and inclusive or marginalized and discriminated groups. Human rights standards also clarify the goal of capacity development by telling what

specific capacities of rights holders and duty bearers need to be built in order to further the realization of human rights.

iii) Institutional value: the UN has a comparative advantage in its core mandate on Peace, Security, Human Rights and Development as well as in its impartiality to deal with sensitive issues. The complementary in the various mandates of UN agencies ensures a more holistic analysis and response to problems. The observations and recommendations of the **international human rights mechanisms are valuable tools for analyzing and responding to national development challenges from a human rights lens.**

An important political boost was achieved in 2005, when Member States, gathered at the World Summit in New York, resolved to mainstream human rights in their national policies while endorsing the former Secretary General's reform agenda to integrate human rights throughout the UN system. This Summit was followed by the report of the High level Panel on System-Wide Coherence which advocated the concept of "One UN" and recommended the Organization to build on the diversity of mandates of its various entities in order to deliver as One, including through the formulation and implementation of "One Programme" at the Country level under the oversight of a strengthened Resident Coordinator as a "One Leader". The Panel further recommended that RCs and UNCTs should assist countries in implementing their human rights obligations and commitments as part of national development strategies.

Integrating the work of Special Procedures in UN development programming

Either through country visits, thematic studies, communications to governments, statements and press releases, the activities of Special Procedure mandate-holders provide opportunities for useful cooperation with UNCTs:

- **Mission preparation/conduct** Substantive participation by UNCTs in mission preparation and conduct affords the opportunity to update and contextualize the information already received by the mandate holder and helps her/him to get the most out of the visit in terms of identifying persons, sites and material to be most usefully consulted. It can also provide opportunities for the UNCT to engage in a dialogue on human rights issues, with a various range of partners, in particular the Special procedures mandate-holders themselves, the authorities, human rights NGOs, etc.

Good practices:

Guatemala: In preparation of the visit of the Special Rapporteur on Right to Food to Guatemala in 2005, the UNCT delegated in the UN Theme Group on Food Security and Nutrition to produce an interagency report on the country situation. With the technical assistance of OHCHR, the report prepared by the UN theme group did a rights-based analysis of the root causes preventing the realization of the Right to Food and identified the main developments and challenges regarding the legal, policy and institutional frameworks for the protection and fulfillment of the Right to Food. In particular, the report suggested specific issues for the Special Rapporteur to take on and address during the visit, like advocating for the adoption of a National Law on Food Security. The law was passed four months after the visit of the Rapporteur and its normative content inspired many of the recommendations issued in his country report.

Ecuador: The visit of the SR on the Independence of Judges and Lawyers, Special Rapporteur on the Independence of Judges and Lawyers, Leandro Despouy (March, July and

November 2005) led to a major UN coordination effort -together with the Organization of American States and the Community of Andean Nations- supporting the national process of reconstitution of the Supreme Court of Justice (which culminated after several months of day-to-day national and international monitoring -including several UN experts- of the selection process of the new judges). This UN institution-building initiative was considered by the Secretary General to be reflecting an exemplary coordination and cooperation between UN and regional/sub regional organizations as well as among UN departments and agencies, and by SR Despouy.¹

Points for discussion:

- How Resident Coordinators and UN country teams could maximize the opportunity of the visits of Special Procedures?
- What can be done to promote a better understanding of the mandates of Special Procedures, and their value/role in strengthening the normative and operational linkages in the UN system?
- What inputs are required from Resident Coordinators and UN country teams to make the Special Procedures work more effective?
- How the knowledge of ongoing legal, institutional and policy reform processes can contribute to shape the agenda or even initiate a visit?

- **Follow-up to missions** UNCTs can make use of the interest generated following a visit, as well as keep in contact with the mandate holder, in order to maintain momentum on addressing human rights issues.

Good practices:

Georgia: The Special Rapporteur on torture visited Georgia in February 2005. The possibility of UNDP's further involvement in the implementation of recommendations and follow up actions were discussed together with the UNCT and the donor community. Draft recommendations were presented to UNCT and a discussion was held on supporting government in overcoming culture of impunity and ratification of Optional Protocol on Torture (OPCAT) to establish a truly independent monitoring system of penitentiary establishments. Following this the government ratified OPCAT in 2006. The General Prosecutors office started preparation of newsletter providing information on the cases of torture inhuman and degrading treatment. As a result of the visit and recommendations of the Special Rapporteur the new Country Program Action Plan (CPAP) extended its focus on Justice and human rights. In addition in the framework of an on-going project supporting the National Human rights institution a number of trainings were added and conducted on CAT (The Convention Against Torture) and OPCAT (the Optional Protocol on the Convention Against Torture) both for the staff of the Public Defenders office as well as the law enforcement institutions.²

Uganda: In March 2005 the Special Rapporteur on the right to health carried out a country mission to Uganda, which focused on neglected tropical diseases. In May 2006, WHO and OHCHR supported the Ministry of Health in organizing a health and human rights capacity building workshop with the objectives to explain the linkages between health and human rights and explore how human rights can be used as a tool for analysis, implementation and monitoring of the Uganda Health Sector Strategic Plan II. The workshop included parallel

¹ Source: ([humanrights-talk] May 2007 E-Discussion: How to Strengthen Engagement with the International HR Machinery)

² ibid

sessions on specific health and human rights issues. The recommendations made by the Special Rapporteur in his Uganda mission report were incorporated into sessions on "patients' rights and community empowerment" and "neglected diseases". The workshop brought together a large number of participants from the Ministry of Health, other ministries, the Uganda Human Rights Commission, academic institutions, NGOs and UN agencies. The workshop initiated a dialogue on health and human rights within the Ministry of Health, identified recommendations and supported strategic partnerships between health and human rights professionals. One of the recommendations on monitoring and accountability was for the Uganda Human Rights Commission to establish a right to health unit which would hold duty bearers accountable in relation to the right to health and neglected diseases. This recommendation was discussed during the mentioned workshop and at other meetings, which supported the Uganda Human Rights Commission in its efforts to respond positively to the recommendation. In 2006 the Right to Health Unit was established.³

Points for discussion:

- How the existing channels of communication and procedures can be strengthened with a view to ensuring a follow-up to country visits?
- What are the best ways to document the impact resulting from a visit?
- What is expected from RCs and UN country teams to bring recommendations to an operational and programming level? How follow-up visits can contribute to this process?

- **Advocacy and programming** UNCTs can encourage the government to cooperate with, invite and implement the recommendations of Special Procedure mandate holders. The recommendations made can also serve as a platform for UNCTs to mobilize the government and other actors to address human rights concerns, and also for longer-term programming and institution-building.

Good practices:

Uganda: In Uganda, an increasing number of partners, including both health and human rights professionals, are starting to address health from a human rights perspective. The engagement with the Special Rapporteur has helped to put important, but marginalised, issues on the agenda. For example, the CAP 2007 for Northern Uganda includes for the first time a response to some of the neglected diseases faced by IDPs. WHO and the Vector Control Division of the Ministry of Health are presently developing a booklet to raise awareness about neglected diseases and the right to health. The recommendations from the Stakeholders' meeting with the Special Rapporteur are intended to guide the forthcoming mid-term review of the Health Sector Strategic Plan II.⁴

Turkey: The Representative of the SG on human rights of IDPs in 2002 not only included strong advice in his Report to the UN to do targeted programming for IDPs in Turkey, but also had a series of informal exchanges with the Government and UNDP to include IDPs as distinct target groups/beneficiaries in poverty reduction programs. The Representative engaged with the Government at levels and with content that the UNCT had not really done before. He was able to "identify" the "supporters/champions" of IDP issues in Government, allowing to "break through" the UNCT self imposed conservatism in getting into such sensitive issues. Since then the UNCT has established a UN Thematic Group on IDPs which has among others been able to support the Government –through experts and reviews of an

³ ibid

⁴ ibid

IDP survey- in realistically accounting for the IDP population in Turkey. The Government's IDP survey was launched in December 2006.

The UNDP also engages frequently with the current Representative of the SG on HR of IDPs. One area has been to invite for the commentary of the Representative on project documents, policy papers emanating from IDP related projects etc. This – despite the time burden on the schedule of the SP - has been a great contribution to the quality of the work of the UNDP. Another benefit of this close engagement has been the opportunity it has presented for “independence” “neutrality” of the UNDP programming in Turkey. By basing project documents –almost verbatim – on the recommendations of the Representative, we are able to claim that the project is not biased for any IDP constituent or NGO stakeholder or the Government: it is simply the word of the person / body who has the mandate. This almost makes our programming “infallible.” An example project document is attached is available in <http://www.undp.org.tr/demGovDocs/RecommendationoRepresentativeMarch2006.doc>

It may provide for an interesting example of programming based on an instrument of special procedures.⁵

Points for discussion:

- What type of guidance Resident Coordinators and UNCTs need from Special Procedures in order to operationalize human rights standards into development programming?
- How SP recommendations can be made more specific in providing additional guidance for UN programming?
- What does the UN system understand by “capacity development” of rights-holders and “duty bearers” and how recommendations can provide guidance in that regard?

Session Objective

To promote a exchange of views, experiences and “good practices” between Special Procedures Mandate-holders and the UN system with a view to enhancing cooperation with UNCTs and providing mutual guidance on how to integrate human rights in UN programming at the country level.

Session methodology

The session will take the form of an informative session followed by an open debate.

Moderator: to be confirmed)

Invited participants: in addition to all SP mandate-holders, invitations will be issued to selected members of UN agencies and Action 2 Task Force to attend this session.

⁵ Ibid