



## **UN Office of High Commissioner for Human Rights**

### **SEMINAR ON THE PREVENTION OF GENOCIDE**

21 January 2009, Geneva

#### ***Joint statement by***

- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance
- Special Rapporteur on extrajudicial, summary or arbitrary executions
- Special Rapporteur on violence against women, its causes and consequences
- Special Rapporteur on independence of judges and lawyers
- Special Rapporteur on freedom of religion or belief
- Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people
- Independent Expert on minority issues
- Working Group on arbitrary detention

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“Reflecting on the strategies to effectively prevent genocide and other mass atrocities, we believe that Special Procedures can contribute to overall United Nations efforts in this regard. Because of our independence, field activities and our access to Governments and civil society, the various Special Procedures are a useful instrument to collate and impartially analyse in-depth information on serious, massive and systematic violations of human rights. We can also provide an independent assessment and present recommendations on the steps to be taken by the concerned Governments and the international community at large to defuse tensions at an early stage. In addition, as part of our daily activities, the communications sent to Governments constitute a means to draw attention to emerging problems, including patterns of human rights violations such as extra-judicial executions, torture, mass arbitrary arrests and detention or disappearances and sexual violence, that could forewarn of a potentially genocidal situation. Through our reporting to the Human Rights Council and General Assembly, we also endeavour to contribute to a better understanding of and early warning on complex situations, for example involving systemic anathematization, exclusion and discrimination that might lead to crimes against humanity, genocide and other mass atrocities.

History has taught us that situations of escalating tensions and polarization along ethnic, racial, religious or national lines, aggravated by State inaction or complicity, can potentially degenerate into mass atrocities, including crimes against humanity and genocide. Particular groups within society, for example minorities, indigenous peoples and women, may be particularly vulnerable when violence breaks out. While it is true that not all situations of tension and polarization along ethnic, racial, religious or national lines lead to genocide or crimes against humanity, it is nonetheless essential that early warning signs be constantly monitored, and indicators employed, so that timely responses can be devised, including of a diplomatic or political nature. In cases where such tensions have led to genocide, responding to these alarm bells has proven to be challenging.

One of the most striking examples is the situation leading up to the genocide in Rwanda in 1994. A year before the outbreak of genocide, the Special Rapporteur on extrajudicial, arbitrary and summary executions visited Rwanda and stated that “the cases of intercommunal violence brought to the Special Rapporteur’s attention indicate very clearly that the victims of the attacks, Tutsis in their overwhelming majority of cases, have been targeted solely because of their membership of a certain ethnic group” (E/CN.4/1994/7/Add.1, para. 79, published in August 1993). He added that the Convention on the Prevention and Punishment of the Crime of Genocide “might therefore be considered to apply to these cases”. Five weeks before the genocide started, the Special Rapporteur presented his country report to the Commission on Human Rights and flagged that not only had no comments been received from the authorities of Rwanda concerning his conclusions and recommendations but

the situation in that country had worsened. Subsequently, the members of the independent inquiry commission appointed by the Secretary-General to look into United Nations' actions during the genocide criticized that "[the United Nations peacekeeping mission in Rwanda] was apparently not even aware of [this] disturbing report. [...] That a report of this nature was not taken into account in the midst of planning a large United Nations peacekeeping presence in Rwanda shows a serious lack of coordination on the part of the United Nations organs concerned" (S/1999/1257, p. 31).

The tragedy of Rwanda, the atrocities in the Balkans and other instances of large-scale violence have triggered a review of United Nations actions in this regard. More recently, with the appointment of the Special Advisor on the prevention of genocide in 2004, the convening of the 2005 World Summit and the emergence of the "Responsibility to Protect" doctrine, emphasis has been rightly put on strategies to take prompt action on early warning signs. In this context, based on our mandates' experiences, we would like to make the following recommendations to both the United Nations Secretariat and Member States.

1. The Rwanda example clearly shows that **effective channels of communication are needed between different parts of the United Nations system**. In order to strengthen our collective response in preventing genocide, we need to ensure that such early warnings signals reach the political and conflict-prevention bodies of the Organization, such as the Security Council, the Department of Peacekeeping Operations and the Department of Political Affairs, including its Mediation Support Unit. This would allow decision-makers at the highest levels to take action with full knowledge of the facts on the ground. In this regard, one of the communication channels that Special Procedures could rely on more systemically is the Office of the Special Advisor on the prevention of genocide, particularly in view of his mandate and regular interaction with the Secretary-General and the Security Council.

2. Member States have the main responsibility to **facilitate the work of, and cooperate with, Special Procedures in order to prevent crimes against humanity and genocide**. As such, Member States should ensure that Special Procedures have unfettered access to regions and countries with ongoing tensions which can result in widespread crimes against humanity or genocide. In crisis situations, when devising specific *ad hoc* mandates (e.g. Group of Experts on Darfur), Member States should ensure that the terms of reference of these mandates are comprehensive and adequate. For instance, in several cases Special Procedures have been provided with mandates restricted to assisting specific countries in order to identify *technical cooperation* needs in the area of human rights rather than with a full-fledged monitoring and reporting mandate. While technical cooperation is without any doubt of crucial importance to enhance the respect for human rights, particularly in the long term, it is certainly an insufficient and inept tool to effectively alert Member States of

situations where crimes against humanity are already being perpetrated. Finally, but very importantly, Special Procedures should be provided with sufficient resources to carry out their activities, including fact-finding missions.

3. Relevant stakeholders could also benefit more from **specific recommendations of Special Procedures in the aftermath of large-scale violence** in order to address the root causes of such violence and prevent its recurrence. For example:

- In addition to criminal justice proceedings, national commissions of inquiry can play an important role in identifying root causes of major incidents of racial, ethnic or religious violence and in making recommendations to address underlying tensions and thus prevent them from re-igniting into genocidal violence. Special Procedures have provided both general, thematic advice on ensuring the effectiveness of national commissions of inquiry and have reported on the progress of specific inquiries – including sounding the alarm bell on signs that the efforts of such commissions might be foundering. Increased use could be made of Special Procedures to ensure more continuous and coherent engagement by the international community in the work of national commissions of inquiry.
- For countries undertaking transitional justice initiatives, Special Rapporteurs can also provide specialized information and expertise on how the conflict impacted particular groups of persons, such as women, and on appropriate protection, reparation and justice mechanisms that could be established.

Prevention of genocide is an obligation of the international community and therefore constant vigilance by the United Nations is mandatory. That implies a full knowledge of the situations that can result in crimes against humanity and genocide (early warning) and an in-depth study of the cases – in order not to repeat the Rwanda example – and of its root causes. At the same time, Member States have the primary responsibility to implement their international obligations. Ultimately, the best prevention against genocide or massive violence is to ensure respect for human rights, democracy and the rule of law, with particular attention to the principle of non-discrimination. As Special Procedures, we strive to assist Member States in their tasks through our various activities and independent advice. The recommendations we issue are devised in this spirit of cooperation, as is our continuous openness to assist Member States in their implementation.”