

**Statement by Sandeep Prasad of ACPD to the Working Group on the
implementation of operative paragraph 6 of General Assembly resolution
60/251 (review of mandates), February 13, 2007**

Mr. Facilitator, I wish to make a few comments on some of the issues raised during the debates Wednesday afternoon. I will limit my comments to thematic mandates, as other NGOs have ably raised many issues with respect to country mandates. There were some comments last day by a few delegations on the need to approach the discussions in this Working Group from the viewpoint of victims and that its work must be oriented towards victims and right-holders. And it is from this perspective that I will attempt to frame my comments on item 2 of your non-paper.

First of all, there has been a great deal of focus in the debates on the subject of overlap between mandates. The starting point of this discussion must be that overlap is a natural and desirable consequence of the interrelatedness and interdependence of human rights. Overlap between mandates enhances our understanding of human rights issues by allowing these issues to be examined from a variety of perspectives. Overlap between mandates also helps to avoid gaps between mandates.

Clearly, that some victims and rights-holders cannot find voice for the issues confronting them in the Special Procedure system is a far more serious problem than the situation where some issues can find voice under two or three mandates. Indeed, it is not just that some overlap is unavoidable, as some delegations have chosen to state the issue. It is that overlap is desirable whereas the gaps in mandate coverage must be eliminated and it is in this direction that this discussion must be reoriented.

It seems clear from the tenor of these discussions and the criteria of mandate review that many States have espoused, that some States might be suggesting the elimination of certain mandates. The elimination of any mandate prevents rights-holders and victims from having their human rights issues advanced by an international human rights protection mechanism. The elimination of a mandate might create a gap in thematic coverage where none existed before, and certainly goes against the spirit of needing to focus attention on eliminating gaps in protection. This Working Group must avoid the elimination of any mandate.

Moving to the issue of thematic protection gaps, and I will use the term protection gaps rather than simply substantive gaps as found in your non-paper, Mr. Facilitator, as this puts the emphasis where it should be: that these are gaps in the protection that the Special Procedure system is able to offer rights-holders and victims. I wish to reiterate a point I made near the end of the last round of Working Group negotiations that the existence of thematic protection gaps within the Special Procedure system runs contrary to the principles of “non-selectivity” and of “enhancing the promotion and protection of all human rights”. These are two of the principles upon which the Human Rights Council was founded as identified in operative paragraph 4 of GA Res. 60/251.

That there is some degree of convergence in this Working Group on the need to fill the substantive gaps is an important step to fulfilling the General Assembly’s instructions to the Council with respect to these principles.

Some States have suggested that in some cases mergers of 2 or more mandates or the expansion of individual mandates might be used as a means of addressing specific protection gaps. The merger or enlargement of mandates is not an ideal way of resolving protection gaps. However, any merger or enlargement that this Working Group is considering must be analyzed with respect to at least the following two criteria:

- Any decision in this respect must avoid creating overly broad mandates, lacking in sufficient specificity so as to address all topics (vulnerable groups/rights-holders, issues, and situations) falling within a mandate.
- In this respect, the views of the affected mandate holders must be solicited. The mandate holders will undoubtedly have insights into the overall workload of the mandate or mandates and how this might be affected by an enlargement or merger as well as insights into how well the issues to be added or merged together would fit with each other.

I also note that some have suggested that some of gaps could be closed by creating mandates on specific topics. Every mandate created is a significant step towards achieving a system of Special Procedures with comprehensive thematic coverage.

Given the stage we are at in the debates, it is clear that specific protection gaps both have been and will continue to be raised in the context of this Working Group. Specific protection gaps have been raised by States and NGOs and certainly this is an important part of this identification process. However, protection gaps must also be identified in an independent, objective and expert manner. The Working Group must seek out and rely on two additional sources of information. First, are there communications that have been received by the Special Procedures Branch of OHCHR from victims which could not be dealt with within the Special Procedures system because they did not relate to an existing mandate? What thematic areas do these communications relate to? This could be useful information for the Working Group.

However, this is not the only source of objective and independent information that the Working Group should act upon. Because victims or NGOs assisting them might exercise self-censorship in submitting communications where there is no potential mandate to assist them, objective and independent information on thematic protection gaps must also be received from other sources. The most important source is the expert opinions of Special Procedure mandate holders as to what thematic protection gaps exist in the system. I certainly recall that some mandate holders who have been present during these discussions have raised particular protection gaps, and the Working Group must act upon these. The Working Group must also consider formally soliciting an opinion from the collection of mandate holders as to the thematic protection gaps that currently exist within the system. Perhaps the Coordination Committee could facilitate this request.

In conclusion, I would just like to indicate that my organization is committed to working in the remainder of these negotiations this week and in April and to working with States to solve these protection gap issues.