

The UN Special Rapporteur on the Right to Health

A GUIDE FOR CIVIL SOCIETY



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sp	600F	" sp	600F
cp	10F	Quinine 600	150F
cp	15F	Spasfon cp	60F
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FOREWORD

The ultimate realization of the right to the highest attainable standard of health requires the collaborated efforts of all groups. As actual providers of services, health workers play an indispensable role in the attainment of the right to health. Health workers have first-hand accounts of the state of health in various communities and it is only with their collaboration and perspectives that we can move forward.

Through my mandate as the UN Special Rapporteur on the right to health, I will be holding regional consultations. In these consultations, I will look to work with communities, health workers, and civil society organizations to help focus my agenda for the next three years.

This guide will provide useful information on the work of the Special Rapporteur, the important role of health workers and will reiterate the need that all groups must work together, if the right to health is to be realized. With this in mind, I truly believe this guide will be useful for us all in our efforts to promote and protect the right to health.

I look forward to working with you all throughout the course of my mandate.

Sincerely,



Anand Grover

UN Special Rapporteur on the right to the highest attainable standard of health

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TOPIC AND AIM

The UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (in short: 'the right to health') was appointed for the first time in 2002. Since then the activities of the Special Rapporteur and the resulting body of work on the right to health have proven to be a valuable catalyst for further action within the health and human rights movement. Nevertheless, there remains much unawareness and misconception concerning the work of the Special Rapporteur. This guide has been developed by the International Federation of Health and Human Rights Organisations (IFHHRO) to bridge this knowledge gap.

The guide is directed at civil society actors who wish to know more about the work of the UN Special Rapporteur on the right to health. It provides general information on the Special Rapporteur, presents possibilities for contribution and follow-up to his work and points towards further sources of information. Throughout the guide there is a specific focus on the valuable role that health workers can play. The aim of this guide is therefore threefold:

- To increase awareness on the work of the Special Rapporteur;
- To aid civil society organisations in becoming more involved in the Special Rapporteur's work;
- To stimulate civil society organisations to engage health workers in these activities.

Background on the Special Rapporteur

What is a UN Special Rapporteur?

A UN Special Rapporteur is an individual appointed by the United Nations Human Rights Council¹ to investigate, monitor, advise and report on human rights concerns. Thematic Special Rapporteurs are appointed to address a specific human rights issue, such as trafficking in persons, the right to food, or freedom of expression. Country Special Rapporteurs are mandated to deal with the human rights situation in a particular country. Special Rapporteurs are independent experts, meaning that they do not represent any government, but work in their personal capacity. This is to guarantee that they fulfil their functions with impartiality. It also means that they are not staff of the UN, and do not receive financial compensation for their work. Due to the fact that the work is unpaid most Special Rapporteurs hold another position next to their work as Special Rapporteur. Their work is supported and facilitated by one human rights officer at the Office of the United Nations High Commissioner for Human Rights (OHCHR). Important to highlight in this context is that a Special Rapporteur's work does have limitations in terms of scope and capacity.

Individuals appointed to act as Special Rapporteur are selected on the basis of their experience, expertise, impartiality, independence, objectivity and integrity. Candidates can be nominated by governments, international organisations, non-governmental organizations, other human rights groups and individuals. The term of a thematic Special Rapporteur lasts three years, after which it can be extended for another three years. A Special Rapporteur can serve a maximum of two terms. When the Human Rights Council decides to appoint a new Special Rapporteur, or to extend an existing mandate, this decision is laid down in a resolution. This resolution of the Human Rights Council establishes the mandate of a Special Rapporteur and directs how it should be fulfilled. In 2002, the then Commission on Human Rights decided to appoint a Special Rapporteur to concentrate on the right to health.

Who is the UN Special Rapporteur on the Right to Health?

The current Special Rapporteur, Anand Grover (India), was appointed in June 2008 and started work in August 2008. He is a practicing lawyer in the Bombay High Court and the Supreme Court of India, and Director of the Lawyers Collective HIV/AIDS in India. The previous Special Rapporteur, Paul Hunt (New Zealand), acted as Special Rapporteur from August 2002 until July 2008. He is Professor of Law and Member of the Human Rights Centre, University of Essex, UK, and Adjunct Professor at Waikato University, New Zealand.

What does the work of the Special Rapporteur on the Right to Health consist of?

The Special Rapporteur is requested to gather information on the right to health, discuss possible cooperation with relevant actors, report on the status of the right to health throughout the world, and make recommendations on measures to promote and protect the right to health. In order to fulfil the mandate the Special Rapporteur submits an annual report both to the Human Rights Council and the UN General Assembly, undertakes official country and other missions, and receives individual complaints of alleged violations of the right to health. In addition to these three main areas of work the Special Rapporteur also undertakes additional activities such as interacting with other UN human rights bodies on issues of common concern, and attending relevant meetings convened by governments, international organisations and civil society. Details concerning the formal mandate of the Special Rapporteur can be found in the relevant resolutions of the Human Rights Council (or the Commission on Human Rights).² Resolutions may also request the Special Rapporteur to address specific topics or themes. For example, the Human Rights Council asked the previous Special Rapporteur to examine the right to health features of a health system. Within the contours of the mandate each Special Rapporteur is permitted to adopt their own approach, which is usually outlined in their preliminary report.³

Why is it significant to have a UN Special Rapporteur on the Right to Health?

The right to health is codified in numerous legally binding human rights treaties.⁴ A rights-based approach to health implies that governments have obligations, both with regard to the provision of health care services as well as the underlying determinants of health. This makes the right to health a very inclusive right, but it also means the right to health gives rise to a multitude of obligations, and that the implementation of this right can cover many diverse issues. The Special Rapporteur can play an important role in clarifying the content of the right to health and further explaining the scope and nature of the obligations of governments to implement this right. As an independent expert appointed by the United Nations the Special Rapporteur can also use his position to raise awareness of and draw international attention to specific right to health issues. Although it is difficult to attribute substantial results in the human rights field to one factor, the findings and recommendations of the Special Rapporteur may also serve as a valuable contribution to change.

More on the right to health:

Fact sheet: 'Our right to the highest attainable standard of health', Human Rights centre, University of Essex, IFHHRO, 2007

Available at: www.ifhhro.org/files/Factsheet_Our_RtH_2007.pdf

The right to health: a toolkit for health professionals, BMA, Commonwealth Medical Trust, IFHHRO, 2007. Available at: www.ifhhro.org/files/BMA_Right_to_health_final.pdf

How can the Special Rapporteur be contacted?

The Special Rapporteur can be contacted via the Office of the United Nations High Commissioner for Human Rights (OHCHR). There is a generic email address at the OHCHR specifically for the Special Rapporteur on the Right to Health. This email address can be used to send the Special Rapporteur messages, information and requests in relation to the mandate. Important to note is that there is a different email address that should be used for sending individual complaints (see also page 23). This email address as well as the postal address and fax number are the same for all Special Rapporteurs, so it is necessary to specify on the envelope or in the subject line that the message is meant for the Special Rapporteur on the Right to Health. When using these contact details it is always useful to indicate the purpose of the correspondence in relation to the different areas of work of the Special Rapporteur.

Contact details

Generic e-mail: srhealth@ohchr.org

E-mail address for individual complaints: urgent-action@ohchr.org

Fax: +41 22 917 90 06

Post:

Special Rapporteur on the Right to Health

Office of the United Nations High Commissioner for Human Rights

Palais des Nations

8–14, avenue de la Paix CH–1211 Geneva 10 Switzerland

The current Special Rapporteur can also be contacted directly at:

specialrapporteurhealth@lawyerscollective.org

In the following sections of this guide the three main areas of the Special Rapporteur's work will be further explained. Each section will focus on one area of work, and provide examples and suggestions on how civil society actors including health workers can become involved.

Annual Reports	Pages 10 – 16
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Annual Reports

The Special Rapporteur submits annually a report to the Human Rights Council and a report to the UN General Assembly. Each report covers the activities that the Special Rapporteur has carried out under the mandate during the year. In addition, the reports focus on one or several specific themes related to the right to health. For this reason the reports are also referred to as 'Thematic Reports'. Previous reports have addressed health issues, such as neglected diseases, maternal mortality, and mental disability, from a right to health perspective. Examples of other right to health topics that have so far been dealt with in the reports are: health systems, health indicators, and sexual and reproductive health rights.

The choice of topics is largely at the discretion of the Special Rapporteur, although the Human Rights Council may request the Special Rapporteur to address certain themes. Reports often contain a set of recommendations. These may be general recommendations related to the focus of the report or recommendations specifically directed at governments or other actors.

The annual reports can be found at:

www2.ohchr.org/english/issues/health/right/annual

Is it possible to contribute to the formation of an annual report?

Special Rapporteurs are requested to use all available sources of information for the production of their reports. This means that information can derive from a variety of actors and sources, including existing (academic) research, governments, inter- governmental organisations, non-governmental organisations, and individuals. The development of a report is often the result of extensive consultations with relevant actors. In the case of the Special Rapporteur on the Right to Health, the professional insights and expertise of health workers can also serve as essential information. Health workers have therefore often been included in consultations preceding the formation of an annual report.

The method by which an annual report is researched and developed is at the discretion of the Special Rapporteur. For this reason direct contribution by specific civil society actors to this process depends upon the Special Rapporteur. The Special Rapporteur may solicit information from civil society organisations or individual health workers and may invite them to participate in consultation meetings. Civil Society actors are also welcome to provide the Special Rapporteur with information and analyses or suggestions for upcoming reports. It is legitimate, and can be influential, for civil society to request the Special Rapporteur to address particular issues. Requests and information can be submitted via the contact details provided on page 8, with a clear indication what the information is aimed at.

How can the information in the reports be used by civil society?

The reports of the Special Rapporteur function as an authoritative source of information on the right to health. This information can form a basis for action by civil society actors who wish to play a role in advancing the right to health and raising its profile as a fundamental human right. The type of action that different actors can take based on information in the reports will depend on their work environment, their professional influence and the resources at their disposal. A report of the Special Rapporteur can be used as an advocacy or lobbying tool, as training material, or it can inspire new endeavours or reinforce existing efforts relevant for the realization of the right to health.

Raising awareness

As a starting point one general form of action that can be undertaken is simply raising awareness about the reports and their contents among civil society actors, including health workers. This can be done, for example, by reproducing (parts of) the reports in professional journals, sharing the information at meetings, or announcing the publication of a new report on relevant websites and in newsletters.

These possibilities, as well as the ideas included in the remainder of this section, are neither prescriptive nor exhaustive, but are meant to encourage civil society actors to take note of the reports of the Special Rapporteur and to inspire them to use these reports for further action. The following section will address two different ways in which specific information in the reports can be used by civil society. The first example focuses on how the reports can play a role in engaging health workers in the realization of the right to health. The second example looks at the way in which the reports can provide assistance for monitoring the right to health. Several extracts of previous reports of the Special Rapporteur have been included to illustrate the type of information that can be found in the annual reports.

Health workers and the right to health

Throughout the reports considerable attention has been paid to the roles and responsibilities of health workers in relation to the right to health.⁵ The reports explain how health workers are integral to the realization of the right to health.

At the same time the reports underline that human rights can be used by health workers to fulfil their professional objectives. Such information can be used by civil society organisations to inform health workers how their work influences the advancement of right to health as well as how the right to health can support their work.

The necessity of human rights education for health professionals has been emphasized in the Special Rapporteur's reports. Human rights education plays an important role in enabling health professionals to defend the rights of their patients as well as their own human rights. Civil society organizations together with health workers can play a role in lobbying for the incorporation of human rights education in curricula of medical and nursing schools.

Issue-specific information in reports can also be used by civil society organisations to introduce health workers to human rights. Reports have addressed specific health issues, such as neglected diseases, maternal mortality, and mental disability, from a right to health perspective. For health workers who encounter these problems in their daily work the reports can offer an alternative approach and new possibilities for addressing these issues.

Example extracted from a report of the Special Rapporteur:⁶

Obviously, the realization of the right to the highest attainable standard of health depends upon health professionals enhancing public health and delivering medical care. The right to health cannot be realized without health professionals. Equally, the classic, traditional objectives of the various health professions can benefit from the new, dynamic discipline of human rights. Human rights can help to reinforce existing, good health programmes, and they can sometimes help to identify new, equitable health policies. They can help to ensure that health policies and programmes are equitable, effective, evidence-based, robust, participatory, inclusive and meaningful to those living in poverty. The supportive role of human rights extends to the provision of medical care, as well as public health. Also, provided it is done in an appropriate manner, framing a pressing health concern as a human rights issue can enhance its legitimacy and importance. In other words, health professionals can use human rights to help them achieve their professional objectives.

Minimum content of human rights training for health professionals as lifted form a report of the Special Rapporteur:⁷

1. Human rights of patients
 - Right to health
 - Health related human rights of vulnerable groups
2. Their own human rights relating to their professional practice
3. A human rights approach in clinical practice, how to:
 - Maintain respect for the inherent dignity of all patients
 - Resist institutional or societal pressure to commit violations
 - Identify violations
 - Promote accountability in relation to violations
 - Empower patients and colleagues to defend their human rights
 - Minimize the risk of reprisals

More specialized training is necessary for health professionals working in situations where human rights violations are more likely to occur, or situations that bring them into contact with evidence of abuse.

The Special Rapporteur on right-to-health norms and obligations relevant to maternal mortality:⁸

The right to health entitles women to reproductive health-care services, goods and facilities that are:

- (a) Available in adequate numbers. Among others, this gives rise to an obligation on States to ensure an adequate number of health professionals. Improving human resource strategies, including increasing the number of health professionals and improving terms and conditions, is a vital prerequisite for reducing maternal mortality in many countries;
- (b) Accessible physically and economically. Physical access to, and the cost of, health services often influence women's decisions about whether or not to seek care. In many countries, reducing maternal mortality will depend on making relevant services more accessible, including through expansion of relevant services into underserved areas. It will also often depend on ensuring relevant interventions are affordable;
- (c) Accessible without discrimination. They must be sensitive to gender and to the rights and cultures of minorities and indigenous peoples. Preventing maternal mortality and enhancing access to maternal health care is not simply about scaling up technical interventions or making the interventions affordable. It is also vital to address social, cultural, political and legal factors which influence women's decisions to seek maternal or other reproductive health-care services. This may require addressing discriminatory laws, policies, practices and gender inequalities that prevent women and adolescents from seeking good quality services;
- (d) Of good quality. The quality of care often influences the outcome of interventions and also influences a woman's decision of whether or not to seek care.

Monitoring the right to health

For civil society monitoring the right to health means keeping track of government action or inaction in order to assess whether and to what extent governments are complying with their obligations under the right to health.⁹ It is important to involve health workers in this process because their occupation allows them to witness existing discrepancies between health needs and the level of implementation of the right to health. The reports can assist in monitoring the right to health by pointing towards monitoring tools and by clarifying government obligations that arise from the right to health.

Two types of monitoring tools that have been addressed in the reports are health indicators and impact assessment instruments. Although the reports focus mainly on the obligations of governments in relation to health indicators and impact assessment instruments, and not on the role of civil society, they nevertheless offer helpful background information on how these tools can be used to monitor the right to health.

Due to the fact that the right to health is subject to progressive realization **health indicators** are needed to measure and monitor the progress that is being made by governments to implement the right to health. In one report the Special Rapporteur has set out a human rights-based approach to health indicators.¹⁰ The report indicates features that health indicators should possess so that they can be used to monitor aspects of the progressive realization of the right to health.

Human rights impact assessment instruments can be used to predict the potential effect of a planned programme or policy on the enjoyment of human rights. A report of the Special Rapporteur assesses three existing initiatives on human rights impact assessment:¹¹ the Handbook in Human Rights Assessment (2001) of the Norwegian Agency for Development Cooperation;¹² the Health rights of women assessment instrument (2006) of the Aim for Human Rights;¹³ the Rights and Democracy initiative on human rights impact assessment (2007)¹⁴.

To be able to effectively monitor the implementation of the right to health it is necessary to understand the scope and nature of government's obligations under the right to health. The information and recommendations included in the reports can clarify what it is that governments need to do, or refrain from doing, in order to comply with the right to health.

The Special Rapporteur on Mental Disability and the Right to Health and obligations in relation to participation in decision-making: ¹⁵

Under international human rights law, the population is entitled to participate in health-related policy decision-making at the local, national and international levels. The right of persons with mental disabilities to participate in decision-making processes that affect their health and development, as well as in every aspect of service delivery, is an integral part of the right to health, and is affirmed in the Standard Rules and Montreal Declaration. Some persons with mental disabilities face difficulties making decisions or communicating preferences – in which case they should be supported in doing so.

It is essential that persons with mental disabilities, and their representative organizations, are involved at all stages of the development, implementation and monitoring of legislation, policies, programmes and services relating to mental health and social support, as well as broader policies and programmes, including poverty reduction strategies, that affect them. States should affirmatively solicit their input. As providers of care and support, family members also have an important contribution to make in legislative and policy processes, as well as decisions concerning care. Involving mental health-care users, their families and representative organizations, and encompassing their perspectives in the design and implementation of all relevant initiatives, helps to ensure that the needs of persons with mental disabilities are met.

Checklist to identify Possibilities for Action

- What issues have been addressed in the Special Rapporteur's reports so far?
www2.ohchr.org/english/issues/health/right/annual.htm
- Is there a specific right to health issue that the Special Rapporteur should be informed about so that it can be covered in future reports?
See contact details on page 8

- Are all relevant actors aware of the reports?
- Have reports been translated?
- Has useful information in reports been adapted for distribution?
- Are there recommendations in the reports that need to be taken up?
- Can the information in the reports be applied in current or future work?
 - trainings
 - meetings
 - monitoring
 - lobbying or advocacy
 - other issue-specific activities

Country Missions

As part of his work the Special Rapporteur undertakes official missions. These have predominantly been missions to countries, but have also included missions to international organisations, and to a pharmaceutical company. The potential role of civil society including health workers is more evident in relation to missions to countries than to international organizations; therefore this section will focus predominantly on country missions. The missions are an essential means to obtain first-hand information on a specific right to health situation. The Special Rapporteur can normally make a maximum of two country missions per year, which necessarily limits the number of countries that can be visited during a mandate period.

How is a country mission initiated?

A mission is usually initiated by a request to visit from the Special Rapporteur. However, a mission may only be carried out once this request is accepted through a formal invitation from the government of the country concerned. Some governments have extended a 'standing invitation' to all Special Rapporteurs, which means that they will in principle accept a request to visit from any Special Rapporteur. For a visit by the Special Rapporteur it is not necessary that relevant human rights treaties containing provisions on the right to health have been ratified by the government concerned.

What takes place during a mission?

The duration of a mission is generally one to two weeks, depending on the circumstances and character of the mission. The mission is prepared in cooperation with the government concerned, the OHCHR and other relevant UN organs, but the definite agenda of the mission is determined by the Special Rapporteur. During a mission the Special Rapporteur has meetings with national and local authorities, international organisations, donors, and civil society together with health workers' associations. The missions also include site visits to selected facilities or communities who are facing particular obstacles to their realisation of the right to health. The government is expected to cooperate with the Special Rapporteur and offer certain guarantees including; freedom of movement, access to all relevant stakeholders and institutions, as well as assurance that no persons who have been in contact with the Special Rapporteur will suffer harassment or punishment as a result.¹⁶

How are the findings of a mission recorded?

After the mission is completed the Special Rapporteur will record observations, conclusions and recommendations in a report. These reports are submitted as annexes to the annual reports to the Human Rights Council. The reports are required to be brief, while the right to health covers many issues. Consequently, the Special Rapporteur has to make choices concerning which topics to address. For this reason the previous mandate holder often selected one right to health issue to become the focus of a mission and the report. The mission to Uganda in 2005, for example, focused on neglected diseases, and the mission to India in 2007 focused on maternal mortality. Although the reports deal with a mission to one country, the information can also be used in other countries facing similar issues.

The list of countries that have issued a **standing invitation** can be found at:
www2.ohchr.org/english/bodies/chr/special/invitations.htm

A full list of countries indicating previous **visits**, forthcoming visits, agreed upon visits, and requested visits for all special rapporteurs can be found at:
www2.ohchr.org/english/bodies/chr/special/countryvisitsa-e.htm

Country Reports can be found at:
www2.ohchr.org/english/issues/health/right/visits.htm

What are the possibilities for civil society involvement in a mission?

Civil society has the potential to play a valuable role in all aspects of a mission of the Special Rapporteur. Before the destination of a mission has been selected civil society actors can lobby the Special Rapporteur to go to a particular country or institution.

Once a mission has been confirmed there are numerous ways in which civil society can be involved in the period before a mission, while a mission takes place and during the follow-up phase after a mission.

When different civil society organisations choose to participate in a mission it is important that they are coordinated among themselves. When many actors are lobbying on different issues it can make it difficult for the Special Rapporteur to know what issues to take up during a mission. It is therefore usually more effective and helpful when civil society organisations are able to decide on priorities.

Due to health workers' inherent role in the realization of the right to health they inevitably play a part in all missions of the Special Rapporteur. Relevant civil society organisations can ensure health workers are notified about a mission and well informed on the focus and nature of the mission. The remainder of this section will look at various options for the involvement of civil society organisations and health workers before, during and after a mission.

Before a mission

Preparation before a mission of the Special Rapporteur is essential. It provides the opportunity to set priorities, to assemble information and to make sure that all necessary stakeholders are aware that the mission is taking place so that they can become involved.

Once a mission has been confirmed preparatory work can include:

- Publicizing the announcement of the mission through the media, among civil society organisations and health workers.
- Briefing civil society organisations and health workers on the Special Rapporteur and his work.
- Organising a preliminary meeting with relevant actors to structure inputs for meetings with the Special Rapporteur during the mission.
- Submitting preliminary relevant information to the Special Rapporteur. This can include reports, thematic recommendations, advice on which issues to address, or suggestions for the Special Rapporteur's agenda during the mission. Civil society may request confidentiality in this respect.
- Lobbying the Government to ensure that the Special Rapporteur will have access to all government figures which have influence in relation to the realization of the right to health.

During a mission

A mission of the Special Rapporteur usually includes numerous meetings and visits. These may include:

- Meetings with civil society.
- Meetings with professional associations.
- Meetings with individual health workers.
- Visits to medical or other relevant facilities.
- Visits to communities.

Civil society actors can request to meet the Special Rapporteur during a mission through the contact details provided on page 8. Another option is to contact the United Nations country team which is usually engaged in the logistics of the mission (this is either the United Nations Development Programme or other United Nations agencies present in the country).

After a mission

A mission of the Special Rapporteur can generate interest for the right to health and incentives to make changes conducive for the realization of this right. After a mission takes place it is therefore important to capitalize on this attention and motivation by taking follow-up actions. Options for follow-up include:

- Publishing the results of the mission in relevant local media, including medical journals.
- Translating reports into local languages.
- Adapting and distributing (parts of) reports so that they are accessible for health workers.
- Monitoring the implementation of the recommendations in the report.
- Lobbying the Government and other actors to implement the recommendations.
- Holding follow-up meetings and developing follow-up reports in collaboration with other civil society actors.
- Keeping the Special Rapporteur informed about the status of implementation of the recommendations.

CASE STUDY 1

Civil Society Participation in the Mission to Peru¹⁷

The contribution that civil society organisations made to the Special Rapporteur's mission to Peru in 2004 provides a good example of the value of coordinated civil society involvement in a mission of the Special Rapporteur. Civil society organisations played a significant role in the planning of the mission in cooperation with the Peruvian Ministry of Health, and the UN system. Prior to the mission a large group of civil society organisations held a preliminary meeting to share information and to prepare a background report for the Special Rapporteur. During the mission the active participation of civil society provided valuable opportunities for the Special Rapporteur to see the true face of community's health issues without intermediaries.

Two years after the mission several civil society organisations, undertook research and held a series of follow-up meetings to look at government action and inaction in relation to the recommendations made by the Special Rapporteur. These meetings resulted in a report which was given to the Special Rapporteur when he returned to Peru for a short public meeting in October 2006. The Special Rapporteur was able to follow up with a communication to the government enquiring about the situation in Peru. The resulting correspondence gave greater clarity into the measures that had been taken following the mission and provided further recommendations and possibilities for follow-up. In 2008, a group of civil society organisations developed a second follow-up report, which was presented to the Special Rapporteur in London. This sustained involvement of civil society has served as an important contribution to the Special Rapporteur's efforts to hold the Peruvian government accountable on the fulfillment of its obligations and commitments in relation to the right to health.

CASE STUDY 2

Mission to Sweden –The Right to Health for Undocumented Migrants¹⁸

The Special Rapporteur's mission to Sweden illustrates how the introduction of a human rights-based approach to a specific health issue in a country can support and augment existing efforts to address this issue. On mission to Sweden in 2006 it was brought to the attention of the Special Rapporteur that undocumented adults have very restricted access to health care in Sweden. In his report following the mission the Special Rapporteur made the following observation and recommendation:

'A fundamental human right, the right to the highest attainable standard of health is to be enjoyed by all without discrimination. It is especially important for vulnerable individuals and groups. Asylum-seekers and undocumented people are among the most vulnerable in Sweden. They are precisely the sort of disadvantaged group that international human rights law is designed to protect. [...]

Accordingly, the Special Rapporteur encourages the Government to reconsider its position with a view to offering all asylum-seekers and undocumented persons the same health care, on the same basis, as Swedish residents. By doing so, Sweden will bring itself into conformity with its international human rights obligations.¹⁹

These conclusions in the Special Rapporteur's report have been very important in an intense Swedish debate on the right to health for undocumented persons. It has drawn the attention to health as a human right and served as a powerful lobby and advocacy tool for organisations in Sweden working to provide access to health care services for undocumented migrants.

Checklist to Identify Possibilities for Action

When the Special Rapporteur has not visited a country:

- Has the Special Rapporteur made a request to visit the country?
- Has the government accepted a request through formal invitation?
www2.ohchr.org/english/bodies/chr/special/countryvisitsa-e.htm
OR
Has the government extended a 'standing invitation' to all Special Rapporteurs?
www2.ohchr.org/english/bodies/chr/special/invitations.htm
- Should the Special Rapporteur be lobbied to visit a certain country?

When the Special Rapporteur plans to visit a country:

- What are the dates of Special Rapporteur's mission?
- What health issues does the Special Rapporteur plan to cover during the mission?
- What areas of the country does the Special Rapporteur plan to visit?
- Are all relevant actors aware of the impending mission?
- Has a civil society meeting been organized to prepare for the mission?
- Is there information that should be sent to the Special Rapporteur before the mission?
- Can a baseline report on the right to health situation in the country be prepared?
- What meetings and visits have been planned during the mission?
- Should additional meetings or visits be organized?

For information on some of these points it may be necessary to contact the Special Rapporteur or the relevant UN country team see page 8 for contact details.

When the Special Rapporteur has already visited a country:

- Has the report already been published on the OHCHR website?
www2.ohchr.org/english/issues/health/right/visits.htm
- Has the report been translated?
- Has the report been disseminated?
 - via local media
 - within the government
 - within civil society
- What topics does the report address?
- What recommendations have been made in the report?
- What measures have been taken to follow up on these recommendations?
 - by the government
 - by civil society
 - by other actors such as international organizations, donors and the private sector
- Has the Special Rapporteur been kept up to date concerning developments?

Individual Complaints

Individuals, groups or communities or representatives of victims, can send information to the Special Rapporteur concerning an alleged violation of the right to health. The submission of an individual complaint to the Special Rapporteur does not require the exhaustion of domestic remedies. When the information received is considered reliable the Special Rapporteur can respond to the complaint by sending a communication to the government concerned. In this communication the Special Rapporteur may request comments and clarification on the alleged violation and, where relevant, call for redress, or preventive or investigatory action on the part of the government. The communications together with replies received from governments are confidential, but a summary of their content is published as an addendum to one of the Special Rapporteur's annual reports. As the reports are public and the alleged victims are named in the reports, it is important that groups acting on behalf of victims ensure the victim is made aware that the case is to be transmitted to the Special Rapporteur. In a case where other rights have been breached in addition to the right to health there may be scope for a joint communication with other Special Rapporteurs. To be able to adequately monitor follow-up of the communications by a government, the Special Rapporteur encourages individuals or groups that have submitted a complaint to continue sending updated information on the case concerned.

Submitting an Individual Complaint

In accordance with the Special Rapporteur's official website at the OHCHR the following information is needed in order for a complaint to be assessed:²⁰

- Who is the alleged victim(s) (individual(s), community, group, etc.);
- Who is the alleged perpetrator(s) of the violation;

Please provide substantiated information on all the actors involved, including non-state actors if relevant.

- Identification of the person(s) or organization(s) submitting the communication (this information will be kept confidential);

As a general rule, the identity of the source of information on the alleged violation is always kept confidential. When submitting information please indicate whether there are any of the submitted information which you would like to remain confidential.

- Date, place and detailed description of the circumstances of the incident(s) or the violation; The information submitted can refer to violations that are said to have already occurred, that are ongoing or about to occur. Information should include the legal remedies, if any, taken at the national level or regional level, and any other relevant information on the various aspects of the case.

A complaint can be submitted to the contact details provided on page 8, with an indication that the message contains an individual complaint.

Relevant Websites

www2.ohchr.org/english/issues/health/right/index.htm

This is the Special Rapporteur's official website at the OHCHR. All reports of the special rapporteur can be found on different sections of this website as well as applicable resolutions of the UN Human Rights Council.

www.ifhro.org

The website of the international federation of health and human rights organizations gives access to documents of the Special Rapporteur, resources on the right to health, information regarding significant events, and news about right to health issues around the world.

www.lawyerscollective.org/un/anand

The website of the current Special Rapporteur, Anand Grover.

www2.essex.ac.uk/human_rights_centre/rth/rapporteur.shtml

This is the website of the previous Special Rapporteur, Paul Hunt. In addition to the reports of the Special Rapporteur up to 2008 it contains publications on the right to health as well as press releases and presentations of Paul Hunt.

Although the focus of this guide is on the UN Special Rapporteur who is mandated to work on the Right to Health there are other UN Special Rapporteurs and Independent Experts dealing with issues that may also be relevant in relation to the right to health. These include the Special Rapporteurs on torture, violence against women, adequate housing, the right to food, the right to education, as well as Country Rapporteurs. At present there are 30 thematic mandates and 8 country specific mandates. Much of the general information contained in this guide is also applicable to these mandates.

A full list of mandates can be found at:

www2.ohchr.org/english/bodies/chr/special/index.htm

Endnotes

- ¹ Formerly: the Commission on Human Rights
- ² Commission on Human Rights, Resolution 2002/31, Commission on Human Rights Resolution 2003/28, Human Rights Council, Resolution 6/29
- ³ See for example Paul Hunt's preliminary report, E/CN.4/2003/58. The first report of the current Special Rapporteur, Anand Grover, is available from March 2009
- ⁴ International Covenant on Economic, Social and Cultural Rights (article 12), Convention on the elimination of Discrimination against Women (article 12), Convention on the Rights of the Child (article 24), as well as several other conventions and declarations.
- ⁵ See especially: Report of the Special Rapporteur on the right to health, E/CN.4/2003/58, paras. 95-98, Report of the Special Rapporteur on the right to health, A/HRC/4/28, paras. 38-47
- ⁶ Report of the Special Rapporteur on the right to health, A/HRC/4/28, para. 41
- ⁷ Report of the Special Rapporteur on the right to health, A/60/348, para. 15
- ⁸ Report of the Special Rapporteur on the Right to Health A/61/338, para. 17
- ⁹ For useful guidance on monitoring the right to health, see: Judith Asher, *The Right to Health: A Resource Manual for NGOs*, Commat, 2004, pp. 77-107. Available at: http://shr.aaas.org/pubs/rt_health/rt_health_manual.pdf
- ¹⁰ Report of the Special Rapporteur on the right to health, E/CN.4/2006/48, paras. 22-61
- ¹¹ Report of the Special Rapporteur on the right to health, A/62/214, paras. 33-44 The information in the report is a summary of a research report: Paul Hunt and Gillian MacNaughton, *Impact Assessments, Poverty and Human Rights: A Case Study using the Right to the Highest Attainable Standard of Health*, UNESCO, 2006. Available at: www2.essex.ac.uk/human_rights_centre/rth/projects.shtm
- ¹² Norwegian Agency for Development Cooperation (NORAD), "Handbook in Human Rights Assessment: State Obligations, Awareness & Empowerment" (February 2001). Available at: www.norad.no/files/Handbook.pdf
- ¹³ Aim for Human Rights, Health Rights of Women Assessment Instrument (2006). Available at: www.aimforhumanrights.nl/fileadmin/user_upload/pdf/HeRWA_2006.pdf
- ¹⁴ International Centre for Human Rights and Democratic Development, Initiative on Human Rights and Impact Assessment. Online: www.dd-rd.ca/site/what_we_do/index.php?id=1489&subsection=themes&subsubsection=theme_documents
- ¹⁵ Report of the Special Rapporteur on the Right to Health E/CN.4/2005/51, paras. 59-60
- ¹⁶ *Terms of Reference of Fact-Finding Missions by Special Rapporteurs/Representatives of the Commission on Human Rights*, E/CN.4/1998/45, Appendix V
- ¹⁷ Report of the Special Rapporteur on the right to health on the Mission to Peru, E/CN.4/2005/51/Add.3 Report of the Special Rapporteur on the right to health on Communications to and from Governments, A/HRC/7/11/ Add.1, paras.38-45 This case study was made possible with the assistance of Dr. Ariel Frisancho (CARE-Peru).
- ¹⁸ Report of the Special Rapporteur on the right to health on the Mission to Sweden, A/HRC/4/28/Add.2, paras. 67-85 This case study was made possible with the assistance of Dr. Henry Ascher (Nordic School of Public Health)
- ¹⁹ *Ibid.* paras. 73 & 75
- ²⁰ www2.ohchr.org/english/issues/health/right/complaints.htm

The International Federation of Health and Human Rights Organisations (IFHHRO)

IFHHRO forms a unique network of active organisations committed to the protection and promotion of health related human rights. The Federation currently consists of 29 member and observer organisations worldwide. These members and observers are human rights groups which address health-related rights violations, medical associations involved in human rights work, and organisations that have been created specifically to mobilize health workers for human rights protection.

Vision: IFHHRO strives for the full enjoyment of health related human rights by everyone.

Mission: IFHHRO engages health workers in the realisation of health related human rights.

Copies of this guide can be ordered from www.ifhhro.org

We are very interested in receiving feedback and examples from individuals who have used this guide. Please send your experiences to ifhhro@ifhhro.org



Boothstraat 6
3512 BW Utrecht
The Netherlands
Tel: +31 30 253 8006
Fax: +31 30 253 7242
www.ifhhro.org