



COORDINATION COMMITTEE OF SPECIAL PROCEDURES
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Dear members of the Consultative Group,

On behalf of the Coordination Committee of Special procedures, I have the pleasure of writing to you in connection to the selection of mandate holders, in particular the selection of several of our future colleagues at the upcoming session of the Human Rights Council in March.

The high quality of mandate holders is crucial to ensure the effectiveness and credibility of the system of special procedures. Taking the opportunity laid down in Human Rights Council resolution 5/1, paragraph 51, which says that “the Consultative Group should take into account, as appropriate, the views of stakeholders, including the current or outgoing mandate-holders, in determining the necessary expertise, experience, skills, and other relevant requirements for each mandate”, I invited the outgoing mandate holders to provide information on the skills they consider essential for the new mandate holders to discharge the mandate.

I am therefore pleased to share with you the contribution received from the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination (annex I), the Independent Expert on the promotion of a democratic and equitable international order (annex II) and the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence

I trust that you will find these suggestions useful and I would be happy to discuss this matter further with you should you find it necessary. As indicated earlier, special procedures mandate holders have decided that these contributions should be made publicly available as a way to enhance transparency. This letter will therefore be posted on the public website of special procedures. I wish you success in your deliberations.

Sincerely yours,

A handwritten signature in black ink, appearing to read "C. Devandas".

Catalina Devandas Aguilar

Chairperson of the Coordination Committee of the Special Procedures

cc: H.E. Mr. Vojislav Šuc
President of the Human Rights Council

Annex I

CONTRIBUTION FROM THE WORKING GROUP ON THE USE OF MERCENARIES AS A MEANS OF VIOLATING HUMAN RIGHTS AND IMPEDING THE EXERCISE OF THE RIGHTS OF PEOPLES TO SELF- DETERMINATION

We recall Human Rights Council Resolution 5/1 on the institution-building of the United Nations Human Rights Council which provides that “the consultative group should take into account, as appropriate, the views of stakeholders, including the current or outgoing mandate-holders, in determining the necessary expertise, experience, skills, and other relevant requirements for each mandate.” In this regard, as the current members of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination, we would like to share with the Consultative Group what we consider as essential requirements for the new mandate holders.

We consider the following attributes, not necessarily in order of importance, to be essential for ALL NEW MEMBERS of the Working Group on the use of mercenaries:

- Independence and impartiality;
- A commitment to: 1) compliance by private military and security contractors with applicable international human rights and humanitarian law obligations, and 2) the elimination of mercenarism;
- General knowledge of the UN Charter, international human rights law and international humanitarian law;
- A record of knowledge, experience, and expertise in the issues addressed by the Working Group, particularly as concerns the applicant's region of origin;
- A common language;
- Willingness and ability to devote considerable time to work on the Working Group's agenda, including flexibility for travel and meetings.

We consider the following attributes, not necessarily in order of importance, to be essential for AT LEAST ONE OR MORE NEW MEMBERS of the Working Group on the use of mercenaries:

- Legal background;
- Knowledge of the UN, international organizations and civil society organizations;
- A record of writing ability/scholarship;
- Ability to obtain research assistance;
- Field experience in human rights/humanitarian work;
- Human rights advocacy experience.

We also wish to see the Working Group maintain gender balance.

Annex II

CONTRIBUTION FROM THE INDEPENDENT EXPERT ON THE PROMOTION OF A DEMOCRATIC AND EQUITABLE INTERNATIONAL ORDER

The mandate on the promotion of a democratic and equitable international order is an all-inclusive mandate, illustrating the convergence of civil, cultural, economic, political and social rights. Better than most other mandates, this one demonstrates the interdependence and inter-relatedness of human rights. Resolution 18/6 formulates a universal goal that had already found expression in numerous General Assembly Resolutions following the historic Resolution 3201 on the Establishment of a New International Economic Order.

As the first mandate-holder, I have had the privilege to write twelve reports that address cross-cutting human rights issues, including various models of democracy, the right of self-determination, the social responsibility of business enterprises, bilateral investment treaties, free trade agreements, military expenditures, disarmament for development, tax evasion, tax havens, tax competition, protection of whistle-blowers and human rights defenders, and the reform of the United Nations system.

My twelve reports evidence the added value of the mandate as a holistic directive to cast human rights in a coherent framework that invites cross-fertilization with other mandates. I have built on the findings and recommendations of other mandate-holders including those on international solidarity, extreme poverty, illicit financial flows and sanctions regimes. I have also endorsed new standard-setting initiatives such as the declaration on the right to peace, the declaration on the rights of peasants, a binding legal instrument on the social responsibility of transnational enterprises, the criminalization of environmental destruction, a global bill of rights, an international court on human rights and the creation of a world parliamentary assembly. My reports have shown democratic deficits in many fields, called for enhanced transparency and accountability by all players. It bears repeating that any exercise of power, particularly economic power, should be subjected to some kind of democratic controls.

In future years the international order mandate will continue to unfold its potential. Of course, achieving a democratic and equitable international order requires overcoming formidable obstacles, including the wrong priorities by governments and international organizations, bias in favour of civil and political rights over economic, social and cultural rights, the prevailing *demophobia* in many countries, where governments refuse to listen to their citizens and ban referenda, the curses of positivism, selectivity and double-standards, the tendency to go for short-term solutions instead of addressing root causes, the continued existence of secrecy jurisdictions, the impunity of transnational corporations and other private sector actors, and, of course, institutional inertia. The mandate holder will have to fight the good fight for sanity and human dignity.

In addition to tackling these concerns, a future mandate-holder may wish to address the impact on a democratic and equitable international order of inter-governmental groupings such as the G7, G20, private associations like the World

Economic Forum, the Bilderberg and the Trilateral Commission, sometimes perceived as promoting world government outside the United Nations context. Major global challenges that should be studied from the international order perspective include climate change, cultural imperialism, economic neo-colonialism, commodities speculation, vulture funds, and the unregulated activities of credit rating agencies and media conglomerates. It would also be important to explore how the great world religions and non-denominational humanist and ethical unions could proactively advance a more peaceful, more democratic and more equitable international order. The mandate holder may also wish to explore how Peoples' Tribunals could break the blackout on war crimes by the powerful and contribute to ending impunity.

Annex III

CONTRIBUTION FROM THE SPECIAL RAPPORTEUR ON THE PROMOTION OF TRUTH, JUSTICE, REPARATION AND GUARANTEES OF NON-RECURRENCE

Given the breath of the mandate calling for a comprehensive response to violations, I consider it important that the person selected should ideally be familiar or conversant with as many of the transitional justice measures as possible (truth commissions, criminal justice procedures and tribunals, reparations and the various measures to aim at non-recurrence of further violations).

In particular, I would like to draw attention to the fact that in the specialised area of human rights, there is immeasurably more familiarity with criminal justice procedures, courts and tribunals than with truth-seeking mechanisms, reparation schemes, and guarantees of non-recurrence. Hence, there is a significant risk to reduce the mandate to one of its dimensions only. Taking seriously the notion that transitional justice is a comprehensive policy (a point that the resolution that creates the mandate expresses clearly) experience in a number of elements of transitional justice should be a *sine qua non condition* for being considered for the position.

Second, I would like to highlight that it would be important that the candidate have experience in a number of different contexts, and not only in one country or regional setting. One of the major challenges the transitional justice field faces today, as I argued in the Global Study (A/HRC/36/50/Add.1), is that it has not yet been able to accommodate all the changes called for in the post-conflict (as compared to the post-authoritarian) transitions. Hence, it is my view that experience in various contexts, as well as some form of 'interdisciplinarity,' would be of significant help to discharge this challenging mandate. Legal rigorism will be insufficient.

Third, the breadth of the mandate, and the changing needs of transitional justice in all the different contexts in which it is applied calls for openness to (if not some expertise in) diverse topics. It would be useful that the mandate be implemented by someone whose aim is to further develop with seriousness some of the issues that have thus far been under-attended. These issues are the leit-motifs in a number of my reports to the Human Rights Council and the General Assembly: history education, systematic documentation, and an expansive understanding of the role of civil society to redress violations of human rights and international humanitarian law (beyond monitoring, reporting, and advocacy). Furthermore, another element of transitional justice, which has only recently been granted more attention and requires further study and elaboration, is its potential as a tool for the prevention of mass atrocities.

Fourth, Human Rights Council Resolution 18/7 that established the mandate refers to the possibility of providing technical advice and advisory services. This is an opportunity, but of course also a challenge. The person appointed should be attuned to both.

Finally, I would like to highlight my gratitude to the Office of the High Commissioner for Human Rights and other stakeholders, including Member States, civil society, and individuals, who have importantly supported the mandate since its inception in 2011. I have felt it as both an honour and privilege to be the first Special Rapporteur discharging this important mandate. At the same time, I am convinced about the usefulness of term limits and hope that the new mandate holder will be able to continue the work and further develop the field of transitional justice.