

26 August 2020

Dear Members of the Consultative Group,

On behalf of the Coordination Committee of Special Procedures, I am writing to you once again in connection with the selection of new mandate holders, in particular the selection of several of our future colleagues at the upcoming session of the Human Rights Council in September.

The high quality and integrity of mandate holders are crucial to ensure the effectiveness and credibility of the system of special procedures. I recently invited the relevant outgoing mandate holders to provide information on the skills they consider essential for the new mandate holders to discharge the mandate. I sought their views in line with 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 am therefore pleased to share with you the contributions received from the Special Rapporteur on the human rights to safe drinking water and sanitation (Annex I), the Special Rapporteur on the rights of persons with disabilities (Annex II), the Working Group on Arbitrary Detention (Annex III), the Working Group on discrimination against women and girls (Annex IV) and the Working Group on Enforced or Involuntary Disappearances (Annex V).

I trust that you will find these suggestions useful as you undertake the selection process. I am at your disposal to discuss this matter further if you have additional questions or require additional feedback. 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,



Anita Ramasastry  
Chair of the Coordination Committee of Special Procedures

cc: H.E. Ms. Elisabeth Tichy-Fisslberger  
President of the Human Rights Council

## Annex I

### CONTRIBUTION FROM THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS TO SAFE DRINKING WATER AND SANITATION

As requested by the Coordination Committee of Special Procedures, I am very pleased to share some reflections on the most desirable profile of the new mandate-holder and the issues that I consider relevant for the Consultative Group of the Human Rights Council to consider at this stage. First of all, I would like to take this opportunity to thank the Human Rights Council for the confidence it has placed in my work during the two terms I have been serving as Special Rapporteur and for the fruitful dialogues I have held with several State members. On this occasion, I look forward to a successor that can move the mandate forward, progressing with an independent work that will contribute to the realization of the human rights to water and sanitation (HRtWS) worldwide.

In these reflections, I have tried to avoid prescribing a comprehensive and idealistic profile for the next mandate-holder. If I provide a long list of personal qualities attributed to an ideal profile of a Special Rapporteur, it would be almost impossible to identify a candidate encompassing all those features and the Consultative Group would need to choose only some attributes, not necessarily adopting the best mix of elements to ensure an adequate continuity of the mandate. Thus, my objective in this letter is to highlight, in my perspective, what is not essential as well as what is crucial as criteria to be taken into account in this selection phase.

In my view, ensuring a balance between the incoming mandate-holder and the former ones is not relevant. The new Rapporteur will be the third one to hold the mandate. The first Rapporteur was Catarina de Albuquerque, female, from Europe, with a background in law. I, the second SR, am male, from South America, with a background in water and sanitation. In my view, it would not be necessary to consider gender balance or geographical balance in the selection process of the third Special Rapporteur, because it would make more sense to adjust any imbalance in the profile of the mandate-holders further at a later time, after a greater number of Rapporteurs have served their mandates. This would allow the CG to focus on what is most essential at this point in time: the skills of the new SR.

Having said that, the most important criteria for the selection would be to identify the main challenges of the mandate and to assess the most appropriate profile of the mandate-holder that meets the related and relevant requirements. Catarina de Albuquerque had helped to establish the grounds of the legal aspects of the HRtWS, and also started to clarify how these rights can be translated into practice. During my tenure, I have departed from the legal interpretation of the rights and worked intensively to show how to incorporate the HRtWS framework into practice. While the work of the first two mandate-holders have contributed to establish grounds for implementing the rights, I think there is still an important gap to be filled in translating the HRtWS framework into implementation. This will require that the incoming SR play a prominent role in encouraging the actors in the water sector to frame their actions based on the HRtWS, through thematic reports, country visits and advocacy. Additionally, the two terms of the incoming mandate-holder, from 2020 to 2026 (provided that the second term is extended by the Human Rights Council), is the six-year period that will be crucial for the implementation of the SDGs. In the case of water and sanitation, States are lagging behind with targets SDG 6.1 (water) and SDG 6.2 (sanitation), particularly the latter. The new SR can be instrumental in clarifying how to strengthen the human rights approach in the way countries have implemented the SDGs, helping them to advance towards meeting the targets by 2030.

Considering the needs outlined above, I suggest that the new SR combine, as far as possible, the following characteristics and skills:

- Background in water and sanitation as opposed to a legal background: I strongly recommend that the new SR have a background in the water and sanitation area. A range of training and/or expertise fits with this requirement, such as a background in engineering, geography or social science with experience in the field of water and sanitation. This experience would strengthen his/her credibility for the dialogue with the several stakeholders in the sector. In this assessment, “water and sanitation” should not be considered the same as “water resources management.” Candidates with an expertise in “water” at large suggest familiarity with water resources management, which is very distinct from water and sanitation. Such a background would face difficulties in understanding the particularities of the mandate and would risk missing essential elements, as those related to the extreme social inequalities and discrimination in the access to services worldwide. A legal background should be considered as an additional asset and not a prerequisite for the selection.

- Background in the social aspects of water and sanitation as opposed to technical aspects: It is crucial that the experience in the water and sanitation field, highlighted above, is not restricted to the technological side of this area. The predominant profile of the water professional is focused on planning, designing, building and operation of services, or the so-called “water industry”, which is not an adequate background to carry out the functions of the mandate. It is necessary that the candidate, if he/she is initiated in this type of professional trajectory, combine it with a strong experience in dealing with communities, civil society organizations and formulation and assessment of public policies, among other aspects that show the human face of water and sanitation. This desirable profile should not be equated with a long record of working with aid activities, since this approach often distorts the view of human rights, reducing it to a philanthropist perspective.

- Ability to engage with civil society and rights-holders: The candidate would need to demonstrate this ability, with a genuine openness to take into consideration inputs from civil society organizations and communities in his/her assessments, not imposing previously ingrained positions. As is the case with many human rights but even more particularly so, monitoring and assessing the HRtWS involve addressing the private lives and personal areas of rights-holders. This includes speaking about hygiene, including menstrual hygiene, and discussing about the daily lives of rights-holders to understand how they access drinking water and sanitation facilities. Therefore, communication skills, openness and empathy are crucial interpersonal skills for the mandate-holder.

- Academic background and intellectual capacity: The reports submitted by the SR, particularly the thematic reports, play the role of authoritative interpretation of rights and are frequently used as literature reference for many scholars, practitioners, policy-makers and grassroots movements. For this reason, the reports need to be carefully conceptualized and drafted. Skills, commitment and time availability in delivering accurate outputs are essential qualities of a mandate-holder, who also needs to have the ability to conduct extensive consultations with stakeholders.

Independence: In the water and sanitation sector, several particularistic interests have influential positions at the international and national arenas. These interests can be not compatible with the public and general interest, particularly the need to prioritize the provision of services to those most marginalized in the societies. The independence of the mandate-holder in regard to those particularistic interests is a crucial element in the profile of the mandate-holder. Specifically, chumminess with for-profit organizations should be definitely avoided in this selection process. The same applies to a proximity with international financial institutions, such as the World Bank, due to their reluctance to

adopting the human rights framework and their mind-set disconnected from the human rights approach. A long working record with both types of organizations, as employee or consultant – without strong background or extensive experience in human rights - is an indicator of an undesirable choice.

## Annex II

### CONTRIBUTION FROM THE SPECIAL RAPPORTEUR ON THE RIGHTS OF PERSONS WITH DISABILITIES

#### Considerations for the Consultative Group on the selection of the new mandate holder

It is **basic and fundamental** that the candidates demonstrate:

- Solid knowledge and expertise on the international human rights standards, in particular the Convention on the Rights of Persons with Disabilities (CRPD), as well as demonstrated experience;
- Adherence to the highest human rights standards introduced by the CRPD, as well as to the jurisprudence of the Committee on the Rights of Persons with Disabilities;
- Knowledge of the substantive work of: a) the Committee on the Rights of Persons with Disabilities, and of other treaty bodies as it pertains to disability, b) other Special Procedures mandate holders whose mandate is particularly relevant to the rights of persons with disabilities (e.g., SR on Health, SR Torture, SR Housing, IE Older people), and c) the Human Rights Council and its mechanisms.
- Strong understanding of the need to directly consult and actively engage with the diversity of organizations of persons with disabilities when discharging the mandated duties;

Additionally, the candidates would **ideally** benefit from demonstrating:

- Ability to identify global trends, challenges and gaps in the realization of the rights of persons with disabilities;
- Based on international standards on the rights of persons with disabilities, ability to develop knowledge and guidance to address those gaps and trends, including capacity to develop policy guidance that translate standards for their implementation;
- Clear vision to drive and support disability law and policy reform based on an articulated theory of change, to support the rights of persons with disabilities at national level.
- Clear understanding of the development and humanitarian challenges and gaps in relation to persons with disabilities;
- Familiarity with the roles, functions and methods of work of the Committee on the Rights of Persons with Disabilities and other UN human rights mechanisms (including the UPR) to strengthen cooperation and avoid overlapping and duplication;
- Ability to manage sensitive issues in highly political contexts;
- Ability to write reports and documents and to conduct research;
- Communication skills: ability to adequately communicate and engage with a diverse audience, including representatives of States, NHRIs, UN entities, civil society, organizations of persons with disabilities, and persons with all types of disabilities;
- Clear understanding of how the Special Procedures system works and interacts with the UN System, especially the United Nations Secretariat.
- Clear understanding of the procedures of work of the Human Rights Council;

- General knowledge of the UN system (structures and functioning);

## **Annex III**

### **CONTRIBUTION FROM THE WORKING GROUP ON ARBITRARY DETENTION**

The Working Group on Arbitrary Detention (WGAD) considers that the following skills and expertise should be taken into account in the process of selection of the members:

i. The execution of the mandate of the WGAD, especially consideration of cases of deprivation of liberty, involves legal matters requiring expertise in international human rights law. For these reasons, it is essential that the new members of the WGAD are lawyers with extensive relevant expertise in international human rights law.

ii. As the members of the WGAD are required to draft opinions with legal arguments based on relevant applicable international human rights instruments in cases assigned to them, the candidates must possess the necessary legal drafting skills.

iii. The tasks of the WGAD also involve strenuous field missions in possibly difficult conditions, as well as visits to prisons and other detention facilities and interviews of the detainees.

iv. Carrying out of the duties of the WGAD entails a significant time commitment (at minimum, participation in three sessions per year in Geneva, preparation of opinions, and participation in country visits). As such, the new members must have sufficient availability.

v. It is also important that the WGAD is balanced in terms of gender.

vi. The WGAD works in three official languages of the UN (English, French and Spanish). It would be important to maintain this capacity.

## **Annex IV**

### **CONTRIBUTION FROM THE MANDATE OF THE WORKING GROUP ON THE ISSUE OF DISCRIMINATION AGAINST WOMEN IN LAW AND IN PRACTICE**

In the spirit of Human Rights Council resolution 5/1, we are honoured, as the current mandate-holders of the Working Group, to share with the Consultative Group what we consider as essential requirements for the Working Group's membership. We base our views on the experiences of its members who have been working as a group since the operationalization of the mandate in 2011 and we go beyond the general requirements of human rights expertise and experience for serving as independent human rights experts.

A fundamental first requirement would be a track record of commitment to women's right to equality and practical experience specifically on the issue of women's human rights, particularly regarding the question of discrimination against women as existing in every part of the world.

Different from individual mandate holders, the effective functioning of the Working Group requires a combination of skills and backgrounds among its five members and a common language to enable it to work as a team, including when there is no official interpretation. A very strong collaborative spirit among its members is key to the work of the Group. In these uncertain times, flexibility is also crucial as well as constant availability to respond to pressing demands.

Given the original framing of the mandate on discrimination in law and in practice, expertise in international human rights law would be strongly encouraged. It would be a considerable added-value to the work of the Group to benefit from diversity in terms of background and/or experience and identify someone who has worked directly and quite extensively with women and girls in situations of heightened vulnerability or who belongs to such a group. The combination of skills should include strong writing capacity as well as genuine eloquence.

The inclusion in the membership of the Working Group of highly qualified men with proven record of working on women's right to equality would be a welcome development. However, effort to bring diversity to the composition of the Group should not in any way compromise the fundamental requirement of commitment and expertise on the issue of discrimination against women.

Our experience in the past ten years has shown that strong connections of the experts with networks of academia, civil society organizations, and other independent institutions are most valuable, in terms of the mandate's outreach as well as its ability to obtain research assistance, which the limited resources available to the mandate does not provide. Our experience also indicates that a progressive and innovative mind-set and strong dedication for the cause of equality would be an added value in confronting the challenge of this broad mandate of combatting the persistent and pervasive discrimination against women.

## **Annex V**

### **CONTRIBUTION FROM THE WORKING GROUP ON ENFORCED OR INVOLUNTARY DISAPPEARANCES**

The Working Group on Enforced or Involuntary Disappearances submits this contribution to the Consultative Group, in accordance with Human Rights Council resolution 5/1, paragraph 51, 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”.

It is the view of the Working Group, that the new member to be appointed from an African State should comply with the following pre-requisites:

1. The selected mandate holder should be a woman. The experience of the Working Group demonstrates that enforced disappearances affect women in differentiated and gendered ways. The voice and guidance of at least one female member is crucial to ensure the Working Group delivers its mandate in a comprehensive and inclusive manner, and to achieve gender balance within the Working Group itself.

2. The selected candidate should have proven knowledge and work experience in human rights protection and advocacy in the area of Enforced Disappearances, at the regional level in Africa. She should ideally have experience working with relevant regional mechanisms, such as the African Commission on Human and Peoples' Rights.

3. The selected mandate holder should have experience working with and supporting relatives and victims of enforced disappearances.

4. The selected candidate should not come from a diplomatic background or have official ties with any particular African State, in order to ensure her independence and impartiality.