

**Report of the Consultative Group to the President of the Human Rights Council  
relating to the vacancies of mandate holders to be appointed  
at the forty-eighth session of the Human Rights Council**

**Mandates on cultural rights and on transnational corporations and other business enterprises**

*16 August 2021*

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**I. Background**

1. In paragraphs 47 and 49 of the annex to its resolution 5/1, the Human Rights Council decided to establish a Consultative Group comprised of Permanent Representatives appointed by Regional Groups and serving in their personal capacity. The Consultative Group is mandated by the Council to propose to the President a list of candidates who possess the highest qualifications for the mandate in question and meet the general criteria and particular requirements. Recommendations to the President of the Human Rights Council are required to be made public and substantiated pursuant to paragraph 50 of the annex to resolution 5/1.

2. The members of the Consultative Group for the selection of mandate holders to be appointed at the forty-eighth session of the Human Rights Council are: His Excellency Mr. Makaila Ahmad (Chad)<sup>1</sup>, His Excellency Mr. Joaquín Alexander Maza Martelli (El Salvador), His Excellency Mr. Ahmad Faisal Muhamad (Malaysia) and Ms. Tamara Mawhinney (Canada)<sup>2</sup>. The member of the Group from Eastern European States is yet to be nominated. The working cycle of the current Consultative Group commenced on 1 April 2021 and will end on 31 March 2022, pursuant to paragraph 1(b) of Council decision 30/115. The Group held its initial organizational meeting on 1 April 2021.

3. A total of three vacancies of special procedure mandate holders are to be filled at the Council's forty-eighth session as follows (listed in alphabetical order):

- 1. Special Rapporteur in the field of cultural rights (HRC resolution 46/9)**
- 2. Working Group of Experts on People of African Descent, member from Latin American and Caribbean States (HRC resolution 45/24)**
- 3. Working Group on the issue of human rights and transnational corporations and other business enterprises, member from Latin American and Caribbean States (HRC resolution 44/15)**

4. The vacancy number 2 above – that of the Working Group of Experts on People of African Descent, member from Latin American and Caribbean States – was not initially foreseen and arose due to the resignation of the mandate holder, Mr. Ahmed Reid (Jamaica), effective 4 June 2021.

5. The present report contains the list of recommended candidates proposed by the Consultative Group to the President of the Council for the following two mandates:

- 1. Special Rapporteur in the field of cultural rights (HRC resolution 46/9)**

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<sup>1</sup> The Coordinator of Human Rights Issues for the Group of African States informed the Secretariat, by note verbale dated 11 June 2021, that H.E. Mr. Mxolisi Nkosi, Permanent Representative of South Africa, would replace H.E. Mr. Makaila Ahmad during the temporary unavailability of the latter.

<sup>2</sup> The Group of Western European and other States (WEOG) initially nominated H.E. Ms. Leslie Norton (Canada) to serve in the Consultative Group for the entire cycle. Subsequently, the Regional Group decided to replace the original nominee with Ms. Tamara Mawhinney (Canada).

**2. Working Group on the issue of human rights and transnational corporations and other business enterprises, member from Latin American and Caribbean States (HRC resolution 44/15)**

6. The recommendations of the Consultative Group in relation to the remaining unforeseen mandate will be contained in an addendum to the Group's report (forthcoming as a separate document):

**1. Working Group of Experts on People of African Descent, member from Latin American and Caribbean States (HRC resolution 45/24)**

7. The Consultative Group has decided to present its recommendations relating to the unforeseen abovementioned mandate in an addendum to its report due to the timing of the resignation and the very short time available for launching the call for applications for the unforeseen vacancy.

8. In its virtual organizational meeting of 1 April 2021, the Consultative Group decided that the chairing function for the interview and selection process for the entire period of 1 April 2021 to 31 March 2022 would be equally shared among its members through a rotation. Initially, the Group agreed on the chairing arrangements only for the seven mandates to be filled at the forty-seventh session. The Group decided to divide equally the chairing of the interviews for the mandates among the current four Consultative Group members, by alphabetical order of the mandates and of the members' last names, with the unforeseen vacancy of the Independent Expert on foreign debt taken as last in view of the later application deadline and interview dates. It is understood that such an arrangement is subject to adjustment upon the future nomination of the Consultative Group member from the Group of Eastern European States. The chairing plan was then updated on 7 April 2021 when the Permanent Mission of Liechtenstein, in its capacity as the regional coordinator, notified of a change of the WEOG member of the Consultative Group, with Ms. Tamara Mawhinney (Canada) replacing the previously nominated member, H.E. Ms. Leslie Norton (Canada). The Consultative Group subsequently agreed on the chairing plan for appointments at the forty-eighth session following the same rotation principle, with an adjustment based on a recusal of one member, in accordance with paragraph 13 of President's statement PRST OS/14/2 on the Methods of work of the Consultative Group of the Human Rights Council. The chairing arrangements for the specific mandates under consideration are noted below under each respective mandate.

## **II. Process**

9. The application period for the submission of applications for the two initially foreseen mandates – for the Special Rapporteur in the field of cultural rights and for the Working Group on the issue of human rights and transnational corporations and other business enterprises, member from Latin American and Caribbean States – opened on 30 April 2021. The call for applications closed on 11 June 2021 (12 noon Geneva time).

10. The Consultative Group considered 30 individual applications from 30 eligible candidates submitted for the aforementioned first two vacancies in accordance with the relevant paragraphs of Human Rights Council resolution 16/21. The applications of the eligible candidates were made public on the designated web page<sup>3</sup> of the Office of the United Nations High Commissioner for Human Rights (OHCHR) as provided for in paragraph 22 (b) of the annex to Council resolution 16/21 and paragraph 26 of President's statement PRST OS/14/2 (see annex I of this report).

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<sup>3</sup> See <https://www.ohchr.org/EN/HRBodies/HRC/SP/Pages/HRC48.aspx>.

11. The Consultative Group held five formal meetings on 8, 15 and 16 July 2021 to consider and interview candidates for the aforementioned first two vacancies. This included one virtual and four hybrid meetings.

12. In accordance with paragraph 34 of President's statement PRST OS/14/2, each member of the Consultative Group individually ranked the most qualified candidates for each vacancy drawing on the written applications received, reflecting on their stated qualifications, relevant experience, expertise, independence, impartiality, personal integrity, objectivity, availability and motivation in compliance with relevant provisions of Human Rights Council resolution 5/1, decision 6/102, resolution 16/21, President's statement PRST OS/14/2 and also Council resolutions relating to the specific mandates under consideration. On the basis of the list of ranked candidates and after consideration of all above-mentioned elements, the Group had a discussion and established a shortlist of candidates to be interviewed for each mandate.

13. The members of the Consultative Group took into full consideration the technical and objective requirements as stipulated in paragraphs 39-41, 44-46, 48, 50-51 of the annex to Human Rights Council resolution 5/1, decision 6/102, paragraph 22 of resolution 16/21, paragraph 31 of President's statement PRST OS/14/2 and also Council resolutions relating to the specific mandates under consideration.

14. As per paragraph 51 of the annex to Council resolution 5/1 and paragraph 33 of President's statement PRST OS/14/2, the Consultative Group took note of the perspectives offered by stakeholders including current or outgoing mandate holders in determining the necessary expertise, experience, skills and other relevant requirements for the mandates in question.<sup>4</sup>

15. The Consultative Group gave due consideration to gender balance, equitable geographic representation, as well as representation of different legal systems as stipulated in paragraph 40 of Council resolution 5/1 and in paragraphs 31 and 48 of President's statement PRST OS/14/2.

16. In connection with the aforementioned, the Consultative Group affirmed its commitment to ensuring that the most qualified candidates are recommended to the positions under consideration, that the process of selection is objective and transparent, ensures equal treatment of all candidates, and that the recommendations to the President are public and substantiated pursuant to Council resolutions 5/1 and 16/21 and President's statement PRST OS/14/2.

17. In accordance with paragraph 13 of President's statement PRST OS/14/2, Ms. Tamara Mawhinney (Canada) recused herself from participating in the shortlisting, interviews, deliberation and decision-making process of the candidates to be interviewed for the Special Rapporteur in the field of cultural rights, in view of the fact that a candidate from Canada was under consideration.

18. The Consultative Group adhered to paragraph 14 of President's statement PRST OS/14/2 which provides that the members of the Consultative Group, in the event that they have been approached by any Member State, organization or individual with regard to the application of a candidate, shall inform the other members in order to ensure maximum transparency.

19. In accordance with paragraphs 44 and 46 of the annex to Human Rights Council resolution 5/1 and paragraphs 35 to 38 of President's statement PRST OS/14/2, the Consultative Group sought to address consistently the observance of the principle of non-accumulation of human rights functions and the potential for conflict of interest of all candidates holding decision-making positions in Government or in any other organization or entity. These issues were clarified during interviews to ensure, inter alia, that if appointed, the candidate should state what steps he or she would be prepared to take with regard to any functions or duties that may give rise to an accumulation of human rights

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<sup>4</sup> As per paragraph 51 of the annex to Human Rights Council resolution 5/1. Letter from the Chair of the Coordination Committee of Special Procedures to the Consultative Group on the selection process of special procedure mandate holders (dated 6 July 2021).

functions and/or any potential conflict of interest. When necessary, further clarifications were requested in writing.

20. The Group held a total of 12 interviews with 12 shortlisted candidates for the aforementioned first two mandates (see annex II of this report for the alphabetical list of interviewees per mandate). These interviews occurred from 15 to 16 July 2021, pursuant to paragraph 22 (c) of the annex to Human Rights Council resolution 16/21. Each candidate was asked similar questions based on the relevant provisions of Council resolution 5/1, decision 6/102, resolution 16/21, President's statement PRST OS/14/2 and Council resolutions relating to the specific mandates under consideration.

21. Shortlisted candidates were able to request in advance and make use of interpretation in one of the six official languages of the United Nations during their interviews, pursuant to the President's statements PRST 29/1 and PRST OS/14/2. Fluency in one of the two working languages of the United Nations was also assessed by the members of the Consultative Group for all candidates.

22. The Consultative Group carried out interviews by video calls through the platform Webex, and through the platform Interprefy when the interviewees requested interpretation. The Consultative Group noted the frequent technical difficulties experienced in carrying out interviews through both these means both because of the insufficient quality of the connection and limited technical support. The Consultative Group requests the Division of Conference Management of the United Nations Office in Geneva to urgently look into this matter, and provide viable alternatives, to avoid the repetition of these difficulties, which have repercussion on the conduct of interviews, in the future.

23. The decisions of the Consultative Group were taken by consensus.

### **III. Candidates proposed by the Consultative Group to the President for the Special Rapporteur in the field of cultural rights**

24. The meetings held by the Consultative Group in relation to this mandate were chaired by H.E. Mr. Joaquín Alexander Maza Martelli (El Salvador). There were 24 eligible candidates for this vacancy. Of the nine candidates interviewed, the Consultative Group decided to recommend the following three candidates as best qualified to fulfil the mandate, ranking them in the order of preference below.

**1. Alexandra XANTHAKI (F) Greece**

**2. Kristen CARPENTER (F) United States of America**

**3. Basma EL HUSSEINY (F) Egypt**

25. **Alexandra Xanthaki** is a Professor of Law at Brunel University London, where she also serves as the Director of Research of the Brunel Law School. She is also a member of the Human Rights Faculty of the Centre for Continuing Education at the University of Oxford and a Senior Research Fellow at the Institute of Advanced Legal Studies of the University of London. She has worked closely with the Special Rapporteur on the rights of indigenous peoples and the Expert Mechanism on the Rights of Indigenous Peoples, as well as with the International Labour Organization, the African Commission on Human and Peoples' Rights and the European Union. She has published extensively on human rights, especially cultural rights. Ms. Xanthaki holds a Bachelor of Laws from the Athens Law Faculty, a Master of Laws from the Queen's University Belfast and a PhD in international human rights law from the University of Keele. The Consultative Group noted her knowledge, expertise and experience relating to the mandate as well as her clear vision, coupled with pragmatism, for its further development.

26. **Kristen Carpenter** is the Council Tree Professor of Law at the University of Colorado, teaching in the areas of property, cultural property, international human rights and indigenous peoples' law. She also taught at the New York University Law School and at Harvard Law School. She served as a member of the Expert Mechanism on the Rights of Indigenous Peoples, including one year as its chair. She has published extensively on issues of cultural rights and diversity within the human rights context. Ms. Carpenter holds a Bachelor of Arts from Dartmouth College and a Juris Doctor degree from Harvard University. The Consultative Group noted her knowledge and experience, including in community work, as well as her personal motivation in relation to the mandate.

27. **Basma El Hussein** is the Founder and Director of the non-governmental organization Action for Hope, which works to protect the cultural rights of marginalized and displaced communities in the Arab region. She previously founded and directed the non-profit organization Culture Resource (Al Mawred Al Thaqafy). She is a member of the Expert Facility of the United Nations Educational, Scientific and Cultural Organization (UNESCO), an international pool of recognized experts on the support to cultural and creative sectors. She has published many articles and organized training modules on cultural rights and governance. Ms. El Hussein holds a Bachelor's degree in English literature and language from Cairo University. She indicated that, if she were to be appointed, she would not relinquish her position as Director of Art for Hope, but that she would abide by the rules on conflict of interest, set by the Human Rights Council, should a specific case of conflict of interest arise. Consultative Group noted her knowledge and experience at regional level relating to the mandate.

#### **IV. Candidates proposed by the Consultative Group to the President for the Working Group on the issue of human rights and transnational corporations and other business enterprises, member from Latin American and Caribbean States**

28. The meetings held by the Consultative Group in relation to this mandate were chaired by H.E. Mr. Ahmad Faisal Muhamad (Malaysia). There were six eligible candidates for this vacancy. Of the three candidates interviewed, the Consultative Group decided to recommend the following three candidates as best qualified to fulfil the mandate, ranking them in the order of preference below.

**1. Fernanda HOPENHAYM (F) Mexico**

**2. Humberto CANTÚ RIVERA (M) Mexico**

**3. Danielle Anne PAMPLONA (F) Brazil**

29. **Fernanda Hopenhaym** is the Co-Executive Director of the Project on Organizing, Development, Education and Research (PODER), a non-governmental organization dedicated to promoting corporate accountability and advancing the business and human rights agenda in Latin America. She is also the Chair of the Board of the International Network for Economic, Social and Cultural Rights (ESCR-Net), as well as a member of the Board of EarthRights International and an adviser to the Human Rights and Business Award Foundation. She is a frequent participant in the United Nations Forum on Business and Human Rights and she has authored many publications on business and human rights. Ms. Hopenhaym holds a Bachelor's degree in sociology from the Catholic University of Uruguay and a Master's degree in Latin American studies from the National Autonomous University of Mexico. She confirmed that, should a potential conflict of interest arise, she would be willing to relinquish her activities, in the NGO PODER, as Chair of the Board of ESCR-Net and Board member of EarthRights International, related to that potential conflict of interest, if she were appointed to the mandate. The Consultative Group noted her knowledge, expertise and

experience relating to the mandate as well as her clear vision for its further development and her cooperative approach with a variety of stakeholders.

30. **Humberto Cantú Rivera** is Professor at the School of Law and Social Sciences of the University of Monterrey, where he founded and directs the Institute for Human Rights and Business. He is also a lecturer on business and human rights at the Autonomous University of Nuevo León, as well as a board member and a Vice-President of the Global Business and Human Rights Scholars Association. He has worked as an adviser to governments in Latin America and as a consultant for the United Nations Children's Fund and the Office of the United Nations High Commissioner for Human Rights in business and human rights projects focused on Latin America. He has published extensively on business and human rights. Mr. Cantú Rivera holds a Bachelor of Laws from the Autonomous University of Nuevo León, as well as a Master of Laws and a PhD in business and human rights from Paris 2 Panthéon-Assas University. The Consultative Group noted his knowledge and experience in the issues relating to the mandate as well as the United Nations system.

31. **Danielle Anne Pamplona** is a Professor of international human rights law, constitutional law, and business law at the Pontifical Catholic University of Paraná, where she also coordinates the university's Human Rights Clinic. She is also a lawyer at the law firm Pamplona, Braz & Brusamolin and a Vice-President of the Global Business and Human Rights Scholars Association. She worked as a consultant of the Office of the United Nations High Commissioner for Human Rights in the project Responsible Business Conduct in Latin America and the Caribbean. She has published extensively on business and human rights. Ms. Pamplona holds a Bachelor of Law from the Federal University of Paraná, a Master of Laws from the Pontifical Catholic University of São Paulo and a PhD in constitutional law from the Federal University of Santa Catarina. She was also a postdoctoral fellow in international human rights law at the American University. The Consultative Group noted her knowledge and experience relating to the mandate.

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*Annex I - List of eligible candidates by mandate<sup>5</sup>***Special Rapporteur in the field of cultural rights**

<b>First name</b>	<b>Last name</b>	<b>Nationality</b>	<b>Gender</b>
Loujayn	ALHOKAIL	Saudi Arabia	F
Kristen	CARPENTER	United States of America	F
Pablo Francisco	CORRAL VEGA	Ecuador	M
Maurizio	CUSIMANO	Italy	M
Edmundo	DE WERNA	Brazil	M
Basma	EL HUSSEINY	Egypt	F
Erika	FLORES DÉLEON	Mexico	F
Suraya Imran	GOONOO	Mauritius	F
Rhonda	GRIFFITHS	New Zealand	F
Véronique	GUÈVREMONT	Canada	F
Jayashree	GUPTA	India	F
Stephanie	LAULHÉ SHAELOU	Cyprus	F
Mikel	MANCISIDOR	Spain	M
Maidar	MARAÑA	Spain	F
Alejandro	NEYRA	Peru	M
Gervais	NZOA	Cameroon	M
Jordi	PASCUAL I RUIZ	Spain	M
Alison	PHIPPS	United Kingdom of Great Britain and Northern Ireland	F
Eleni	POLYMENOPOULOU	Greece	F
Ricardo III	SUNGA	Philippines	M
Ana Filipa	VRDOLJAK	Croatia	F
Alexandra	XANTHAKI	Greece	F
Mehdi	ZAKERIAN	Islamic Republic of Iran	M
Yanqun	ZHAO	China	F

**Working Group on the issue of human rights and transnational corporations and other business enterprises, member from Latin American and Caribbean States**

<b>First name</b>	<b>Last name</b>	<b>Nationality</b>	<b>Gender</b>
Vag-Lan	BORGES	Brazil	M
Humberto	CANTÚ RIVERA	Mexico	M
Winston	DOOKERAN	Trinidad and Tobago	M
Fernanda	HOPENHAYM	Mexico	F
Danielle Anne	PAMPLONA	Brazil	F
José Rafael	UNDA	Colombia	M

<sup>5</sup> The list of mandates and of candidates is provided in alphabetical order.

Annex II – List of shortlisted candidates interviewed by the Consultative Group<sup>6</sup>

**Special Rapporteur in the field of cultural rights**

<b>First name</b>	<b>Last name</b>	<b>Nationality</b>	<b>Gender</b>
Kristen	CARPENTER	United States of America	F
Edmundo	DE WERNA	Brazil	M
Basma	EL HUSSEINY	Egypt	F
Véronique	GUÈVREMONT	Canada	F
Maidar	MARAÑA	Spain	F
Alejandro	NEYRA	Peru	M
Ana Filipa	VRDOLJAK	Croatia	F
Alexandra	XANTHAKI	Greece	F
Yanqun	ZHAO	China	F

**Working Group on the issue of human rights and transnational corporations and other business enterprises, member from Latin American and Caribbean States**

<b>First name</b>	<b>Last name</b>	<b>Nationality</b>	<b>Gender</b>
Humberto	CANTÚ RIVERA	Mexico	M
Fernanda	HOPENHAYM	Mexico	F
Danielle Anne	PAMPLONA	Brazil	F

<sup>6</sup> The list of mandates and of candidates is provided in alphabetical order.