

3 July 2023

Dear Members of the Consultative Group,

On behalf of the Coordination Committee of Special Procedures, I am writing to you 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 June. As you have just commenced this important task, I would like to assure you of the full support of the Committee. As with your predecessors, the Committee would be happy to meet with you at a mutually convenient time to exchange views on good practices for the identification of a broad range of suitable candidates for mandates, and the selection process itself.

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 Independent Expert on protection from violence and discrimination based on sexual orientation and gender identity (Annex I), the Special Rapporteur on the rights of persons with disabilities (Annex II), the Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members (Annex III) and the Working Group on discrimination against women and girls (Annex IV).

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. This letter will also be posted on the public website of special procedures. I wish you success in your deliberations.

Sincerely yours,



Isha Dyfan
Chair of the Coordination Committee of Special Procedures

cc: H.E. Mr. Václav Bálek
President of the Human Rights Council

Annex I

CONTRIBUTION FROM THE INDEPENDENT EXPERT ON PROTECTION FROM VIOLENCE AND DISCRIMINATION BASED ON SEXUAL ORIENTATION AND GENDER IDENTITY

I am writing to you in connection with the selection of the new mandate holder for the mandate of the Independent Expert on protection from violence and discrimination based on sexual orientation and gender identity at the upcoming session of the Human Rights Council in September 2023. I give this input consistent 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.” As the current mandate holder, I identify some key qualifications, attributes, and capacities that the appointed mandate holder should have to discharge this role effectively.

1. The sexual orientation and gender identity mandate is highly sensitive in political terms: as the mandate has constantly expressed, these factors are the object of significant polarization in the debate within the international community, and the lively discussions on the occasion of the mandate’s renewal every three years are evidence of the political priority given to this topic by Member States. At the same time an enormous community of civil society organizations have identified the mandate as their point of entry to human rights advocacy within the United Nations (for example, over 1500 organizations coming from some 175 countries are members of one of the coalitions that relate to the mandate). For these reasons, the mandate is extremely work-heavy and demands sustained attention from the mandate holder. Sustained dedication, flexibility and travel capacity are therefore essential for the successful discharge of this mandate.

2. The mandate is a primary source for legal advice to Member States and the international community on the placement of sexual orientation and gender identity within international human rights law. The mandate is constantly required to gather and analyze evidence objectively and adhering to the highest methodological standards. Deep legal expertise in human rights is in my view a must. Indeed, freedom from violence and discrimination based on sexual orientation and gender identity always involves broad rights-based analysis, including inter alia right to life, personal freedom, religious liberties, freedom from torture, the rights to health, education, housing, employment. Proficiency in theoretical and practical human-rights based approaches is therefore a must. Further, general knowledge of human rights alone will not be sufficient to prepare the mandate holder for the immediate challenges to be faced: the mandate holder must also be competent in a number of complimentary fields of international law (human rights, humanitarian, criminal, refugee law); and a proven trajectory in understanding the nature of gender-based frameworks in international human rights law.

3. The appointed candidate must have experience with the management of participative research projects and the methodologies involved in the processing and analysis of large amounts of information. Every research project undertaken by the mandate (and, in particular, every thematic report) has very active participation of all stakeholders: as a general rule, more than 100 inputs are received for reports and dozens of participants take part in public consultations.

4. The mandate holder is regularly called upon to give technical advice to Member States and other stakeholders across this full spectrum of issues. A qualified individual will have familiarity with the majority of these issues and practice or academic experience in a core and diverse number of these subfields.

5. The mandate is also considered as a point of contact between victims of human rights violations, human rights defenders, and Member States and the human rights architecture of the United Nations. The LGBT context requires engagement with civil society actors in multiple national and regional contexts, and understanding the complex relations that exist within domestic, regional, and global non-State actors. The mandate holder must be capable of sustaining existing relationships and building new relationships with civil society actors. The LGBT acronym is used to designate a very diverse group of communities and peoples – and the mandate is required to carefully balance attention to their different problems and concerns. Therefore, the appointed individual must therefore have an evidenced history of capacity to work with and engage with diverse civil society in a productive, authentic, and diligent manner.

6. The appointed individual should be a nationally and internationally respected legal figure whose knowledge of gender and human rights is undisputed. Experience in relevant sectors (judiciary, legal sector/assistance, non-governmental sector, academia, and other related professional areas) would be a basis for this kind of reputation.

7. Carrying out of the duties of the mandate holder entails an extremely burdensome time commitment. It may not be compatible with full-time working obligations that have limited flexibility or an inflexible working situation. In addition to the two country visits per year; participation in General Assembly and Human Rights Council sessions, engagement with victims, travel to regional fora (cf. the EU, OAS), meeting with civil society organizations and Member States, as well as meeting a high turn-over of day-to-day work of communications the mandate is expected engage with groups such as the LAC7, the Group of Friends in Geneva, the LGBTI Core Group in New York, and the Equal Rights Coalition.

8. The appointed individual must have a capacity to engage in a meaningful way with individuals, entities and organizations that hold views opposing the mandate. Both the present and previous mandate holder have demonstrated significant commitment to advancing dialogue with those who have not historically supported the mandate, in the understanding that dialogue is part of the methodological principles upon which the mandate is built. To open and nurture spaces of dialogue requires diplomatic, personal, and professional skills.

9. The appointed individual must have a demonstrated capacity of collegial and cooperative working. The work of the mandate increasingly requires collective, cooperative work with other Special Procedure colleagues. Similarly, the mandate must work in a correct and cooperative manner with the thematic section at the OHCHR and a range of other UN entities (UNHCR, UNWOMEN, UNDP, UNFPA). An ability to engage productively, respecting the UN confidential nature of much of this works, requires an individual who guards their independence but also understands the unique balance that must be exercised by this mandate.

10. The appointed individual often has access to highly sensitive personal and national security information. The mandate holder must balance independence, discretion, trust-building capacity, and good judgement in the exercise of the position.

Annex II

CONTRIBUTION FROM THE SPECIAL RAPPORTEUR ON RIGHTS OF PERSONS WITH DISABILITIES

It has been an honour to serve as Special Rapporteur on the Rights of Persons with Disabilities over the past three years. I do regret that, due to personal circumstances, I will not be able to continue.

The following are some personal reflections about the role that have evolved in that time. I hope and trust you find them useful.

First of all, a key part of the role is to continually reinforce the significance of the move to the human rights model of disability. One might have thought that this should be taken for granted. However, in many situations – especially situations of risk and emergency – States tend to revert to very old models of disability in law, policy and practice – especially in practice. Change at the level of formal law is the easy part. Re-engineering whole systems that have evolved over the past several decades takes a lot more intentionality.

Thankfully, we are now at the point where these changes are becoming increasingly possible. However, a key role of the mandate is to continually communicate in a clear fashion the move to the human rights framing as something mandated under international law, worthy in itself and of inestimable value to States as they re-think their economic and social systems in the 21st century. Consequently, in my view, a premium is placed on the capacity of the mandate holder to clearly communicate the shift to the human rights model. This goes beyond the technicalities of the law and speaks more to the underlying shift of values that the law represents. Because the shift to the human rights value-base is still a work in progress, the mandate holder has to be able to communicate the values underpinning this shift to ratchet forward levels of compliance.

Secondly, in my own view, one of the enablers of the move to the human rights model of disability is to prise disability away from (perceived) soft social policy silos. In truth, the UN disability treaty is a disrupter of established law and practice across a very broad range of domains – fields that present challenges to humankind. These domains have largely grown up on the basis of a medical model of disability and need to be refreshed by the fresh breeze of the CRPD. To me this includes domains like armed conflict, peacebuilding, IDPs, refugee law, climate change, etc. Consequently, in my view, the mandate holder should be comfortable reaching beyond the four corners of the CRPD treaty to explore its constructive interaction with these outlying domains. This is where real change happens. This is where one can derive real cross-cutting benefits from the CRPD. One doesn't have to be an expert in these domains (that's probably impossible) – but one should have an appetite to articulate the transformative value of the CRPD in these domains. Otherwise, the 'farthest left behind' will have no chance to catch up.

Thirdly, we often insist that the UN CRPD does not 'invent' new law but is merely 'declaratory' of existing international human rights law. To be sure, it extends existing international law to the disability context and adds nuance. But it is essentially woven of the same cloth as the other UN human rights treaties. Often the values underpinning the CRPD will help refresh these instruments – and often these instruments (and the jurisprudence thereunder) will help inform the CRPD. Consequently, a capacity to work interactively with

these treaties (and special mandates thereunder) is quite important. I have worked particularly closely with the UN Independent Expert on the rights of older persons. I am sure the incoming Special Rapporteur will have their own set of interacting interests. Consequently, a capacity for working interactively across the different treaty domains would, in my view, be an asset. Again one doesn't necessarily need the expertise to do this (that's probably asking too much) – but, in my view, an appetite to do so would be an asset.

Fourth, the mandate is an independent and impartial mandate – one that is not captured by faction or interests. However, to be effective the mandate holder should have the facility to work with all: States, UN organs and Specialised Agencies, Regional Organisations and civil society. Consequently, the mandate holder should be a good and active listener – to probe the real blockages to change and to identify common ground that allows change to move forward. In my own view, regional bodies have tremendous potential to add value to the implementation of the UN CRPD and I have focused a lot on UN ESCWA (in the Arab region) and the EU in the European region. I'm sure the mandate holder will have their own interests in this regard. To my way of thinking, these bodies can unlock the potential for change in their own regions and it would be useful if the new mandate holder would have an appetite to assist them.

Finally, and perhaps most importantly, the mandate implies a theory of change. It is all about how to move things forward. Every mandate holder will have their own view of change, why it happens, why it doesn't happen, how it happens, how it can be made to work better. Consequently, in my view they should have the capacity to understand where they can – through their activities – add value to the process of change and move the dial forward. In this way, the mandate holder translates the majestic generalities of the UN CRPD into practicable lines of reform. Consequently, the mandate holder should not (and does not need to) emulate a normative body like a treaty monitoring body. Instead, the mandate holder should aim to find ways forward that can motivate all parties to change. A capacity for this kind of 'policy entrepreneurship' would be an asset.

I do not mean that any of the above should be essential criteria. I merely extract as *desiderata* based on my own experience. Essentially, the mandate holder is a volunteer and cannot do everything. To me this places a premium on deciding where change is possible and how the activities of the mandate can move change forward.

Annex III

CONTRIBUTION FROM THE SPECIAL RAPPORTEUR ON THE ELIMINATION OF DISCRIMINATION AGAINST PERSONS AFFECTED BY LEPROSY AND THEIR FAMILY MEMBERS

1. Preferably the appointed person should be a person affected by leprosy or someone with a record of engagement with national and grassroots organizations of persons affected by leprosy. The individual in question must have the capacity and required skills to interact with grassroots organizations, in full respect of their time, language and priorities.
2. The appointed person should have knowledge of international human rights law, together with the ability to conduct analysis of national legal frameworks. Knowledge of both policymaking and policy evaluation, at both the national and sub-national levels of government, is particularly important. The appointed person should have a reasonable understanding of how international and national monitoring mechanisms work in order to sustain the mainstreaming of leprosy into different mechanisms. It would be an advantage if the individual in question has some knowledge of public health.
3. The appointed person should be acquainted with the multidimensional and contemporaneous aspects of human rights violations and discrimination on the grounds of leprosy and should be skilled in doing research, especially among marginalized groups and populations living in vulnerable situations.
4. The appointed individual should have a solid knowledge of research ethics and an in-depth understanding of trauma, together with the sensitivity to work with people whose mental health might require caution and care when interacting with them.
5. The individual in question should have expertise on a gender framework and be sensitive to the various intersections of leprosy with gender, age, disability, among other prohibited grounds of discrimination.
6. The appointed individual should have excellent communication skills. The person should be able to communicate with very diverse audiences, from grassroots organizations to governments and the academia.
7. Such person should be able to manage sensitive situations. It's fundamental that such a person has the ability to make good judgement under stressful situations and in such a way that always ensures the full integrity of persons affected by leprosy and their family members. The appointed individual should be able to build trust among very different stakeholders.
8. It would be highly beneficial if the appointed person has some knowledge of the issues that mostly affect countries of the Global South, preferably with some background knowledge on Latin America, Africa and Asia.
9. It is very important that the person appointed has availability of time, not only to perform fundamental tasks, such as official country visits and presentations to the Human Rights Council and the General Assembly, but also to engage on a frequent basis with persons affected by leprosy, their family members and their representative organizations, as well as other key

stakeholders. The appointed person should be diligent and take a proactive approach to the mandate, given the many barriers that such a person will face for implementing it. Availability, flexibility, creativity and leadership are key qualities for implementing this particular mandate.

10. The appointed person must be fully independent and implement the mandate on an impartial manner, in order to guarantee that the interests of persons affected by leprosy and their family members are always at the centre and prioritized. Such individual should not have any contractual bound with either governments or international civil society organizations.

Annex IV

CONTRIBUTION FROM THE WORKING GROUP ON DISCRIMINATION AGAINST WOMEN AND GIRLS

In the spirit of Human Rights Council resolution 5/1, we are honoured, as the current mandate-holders of the Working Group on discrimination against women and girls, to share with the Consultative Group what we consider as essential requirements for the Working Group's membership. Our suggestions are based on our experience of working as a group in the past years, going beyond the general requirements of deep knowledge of and expertise in international human rights law, as it relates to women's and girls' human rights, and familiarity with the role of international mechanisms for serving as independent human rights experts within the UN system.

A fundamental first requirement would be an unwavering track record of commitment to women's and girls' right to gender equality combined with a proven track record of success in advancing these rights, and practical experience in applying international human rights law specifically to issues of women's and girls' human rights, particularly with respect to addressing structural discrimination against women and girls as a human rights violation in multiple spheres and in different parts of the world. In order to effectively tackle the escalating global backlash against gender equality, the four successors should be able to navigate the complexity of the international legal and multilateral systems in a constructive, strategic and coordinated manner. Their connections to the various realities of women and girls in all their diversity and in different parts of the world will be crucial to ensuring progress on gender equality.

As distinct from individual mandate holders, the effective functioning of the Working Group requires a combination of skills and competencies, including a collaborative spirit, an inclusive approach, a conciliatory attitude, diplomacy and strong negotiation skills. Members should be from diverse backgrounds (possibly as jurists, activists, sociologists, etc.), with the ability to communicate in a common language to enable the group to work as a team, including when there is no official interpretation. Each member should demonstrate excellent analytical, writing and advocacy skills, as well as exceptional eloquence and a strategic approach.

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

The experience of the Working Group since its inception has shown that strong connections by the experts to 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 build partnerships and collaborate with key partners recognising the limited resources available to the mandate. Our experience also indicates that a progressive and innovative mindset and strong dedication for the cause of gender equality from an intersectional perspective is critical to combatting the persistent and pervasive discrimination against women and girls, in all their diversity, worldwide. The selected successors should be ready to devote a considerable amount of their time to the fulfilment of this mandate.

The Working Group is a central mandate within the Special Procedures system covering the human rights of half of the world's population. It operates at a time of deeply entrenched structural discrimination that is becoming even more pervasive due to rising inequalities. Given its unique responsibility to bring about gender mainstreaming and to identify good practices, we sincerely hope that the upcoming membership of the Working Group will be highly talented, resourceful, courageous and progressive in order to duly address the persistent challenges to achieving gender equality.