

## GQUAL CONFERENCE

### Discussion Paper for Workshop on

### How to achieve Gender Parity in the UN Special Procedures

#### Discussion Paper<sup>1</sup>

- **Current and Historic Gender Composition of the UN Special Procedures**

From its inception, the United Nations (UN) has been at the forefront of advancing women's legal rights through the development of norms relating to gender equality.<sup>2</sup> Nonetheless, the organization has fallen short of achieving gender parity and gender equality within the institutions. According to the most recent Report of the UN Secretary General on the "Improvement in the status of women in the United Nations mechanism", women constitute 41.8% of professional staff on contracts of one year or more.<sup>3</sup> However, representation of women is less in more senior positions.

The Special Procedures of the Human Rights Council are mandates to report and advise on human rights from a thematic or country-specific perspective. Special Procedures are either individual appointments (called "Special Rapporteur" or "Independent Expert") or a Working Group composed of five members, one from each of the five UN regional groupings: Africa, Asia, Latin America and the Caribbean, Eastern Europe and Western Europe and Others. The Special Rapporteurs, Independent Experts and members of the Working Groups are appointed by the United Nations Human Rights Council to serve pro-bono in their personal capacities. This arrangement aims at ensuring that they can retain their independent status and perform their duties impartially. Special Rapporteurs, Independent Experts, and Working Groups submit a report to the Human Rights Council every year, some also to the UN General Assembly, and issue specific reports on thematic issues and country visits. Each person actively monitors his or her respective mandate.

The first UN Working Group was established in 1967 (an Ad-Hoc Working Group of Experts on South Africa), the first country-specific Special Rapporteur was appointed in 1979 (the UN Special Rapporteur on human rights in Chile), and the first thematic mandate was introduced in 1980 (the Working Group on enforced or involuntary disappearances).<sup>4</sup> As of 1 August 2017, there are 37 thematic mandates and 12 country mandates – a total of 55 Special Procedures, and 79 roles (including the members of the 6 Working Groups).<sup>56</sup>

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<sup>1</sup> Draft document prepared by the International Bar Association's Human Rights Institute

<sup>2</sup> Elizabeth Defeis, 'The United Nations and Women – A Critique' [2011] 17 Wm. & Mary J. Women & L. 395, 396.

<sup>3</sup> Report of the Secretary-General, 'Improvement in the status of women in the United Nations system' (2014) UN Doc A/69/346.

<sup>4</sup> M. Limon and H. Power, 'History of the United Nations Special Procedures Mechanism: Origins, Evolution and Reform' (2014) Universal Rights Group < [http://www.universal-rights.org/wp-content/uploads/2015/02/URG\\_HUNSP\\_28.01.2015\\_page\\_by\\_page.pdf](http://www.universal-rights.org/wp-content/uploads/2015/02/URG_HUNSP_28.01.2015_page_by_page.pdf)>

<sup>5</sup> Directory of Special Procedures Mandate Holders, United Nations Office of the High Commissioner for Human Rights < [http://www.ohchr.org/Documents/HRBodies/SP/VisualDirectoryJune2017\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/SP/VisualDirectoryJune2017_en.pdf)>

<sup>6</sup> A new Special Rapporteur position was created during the Human Rights Council's 35<sup>th</sup> Session in June 2017 – "Special Rapporteur on the elimination of discrimination against persons affected by leprosy and their family members" The official appointment will be made during the Council's 36<sup>th</sup> Session in September 2017.

Currently, 33 out of the 79 positions have women as mandate-holders (see Table 1 below). This represents 42% of the positions available, falling short of the United Nations' 50/50 target.<sup>7</sup> The current female representation within these positions is exhibited in the Table below:

**Table 1: Current Representation of women as of June 2017 (after the 35<sup>th</sup> Session of the HRC)<sup>8</sup>**

	Thematic-Specific	Country-Specific	Working Groups	Total
<b>Current Number of Female Mandate-Holders</b>	16	5	12	33
<b>Current Number of Positions</b>	37	12	30	79
<b>%</b>	43%	42%	40%	42%

Looking at the broader picture, the female representation within the Special Procedures has always been less than 50/50. Table 2 presents statistics from 1967 to 2017.

**Table 2: Historical Representation of women from 1967 to June 2017<sup>9</sup>**

	Thematic-Specific	Country-Specific	Working Groups	Total
<b>Total Number of Female Mandate-Holders</b>	41	7	30	78
<b>Total Number of Positions</b>	109	42	87	238
<b>%</b>	38%	17%	34%	33%

Since the first UN Working Group was appointed in 1967, 78 out of 238 positions have been held by women, this is 33% of positions. Moreover, 17 mandate positions within the Special Procedures have never been held by female candidates (see Table below).

**Table 3: Mandate Positions without a Female Mandate Holder since their establishment**

Year Founded	Working Group/Special Rapporteurship/ Independent Expert	Current Member(s)	Former Members
1985	Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment	(M) Prof. Nils Melzer - WEOG	(M) Mr. Juan Méndez - Latin America (M) Mr. Manfred Nowak - WEOG (M) Mr. Theo van Boven - WEOG (M) Sir. Nigel S. Rodley - WEOG (M) Sr. Peter Kooijmans - WEOG

<sup>7</sup> UN Resolution 58/144 of 2004 set a 50/50 target for appointed special representatives and special envoys. As recently as 2015, UN Resolution 70/133, paragraph 27 referred to the UN's goal of achieving 50/50 gender balance at all levels of the United Nations system.

<sup>8</sup> Data compiled from Directory of Special Procedures Mandate Holders, United Nations Office of the High Commissioner for Human Rights < [http://www.ohchr.org/Documents/HRBodies/SP/VisualDirectoryJune2017\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/SP/VisualDirectoryJune2017_en.pdf) >

<sup>9</sup> Ibid.

1993	Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	(M) Mr. David Kaye - WEOG	(M) Mr. Frank William La Rue - Latin America (M) Mr. Ambeyi Ligabo - Africa (M) Mr. Abid Hussain - Asia Pacific
1993	Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	(M) Mr. Mutuma Ruteere - Africa	(M) Mr. Githu Muigai - Africa (M) Mr. Doudou Diène - Africa (M) Mr. Maurice Glèlè-Ahanhazo - Africa
1993	Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967	(M) Mr. S. Michael Lynk- WEOG	(M) Mr. Makarim WIBISONO - Asia Pacific (M) Mr. Richard FALK - WEOG (M) Mr. John DUGARD - Africa (M) Mr. Giorgio GIACOMELLI - WEOG (M) Mr. Hannu HALINEN - WEOG (M) Mr. René FELBER - WEOG
2000	Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights	(M) Mr. Juan Pablo Bohoslavsky - Latin America	(M) Dr. Cephass Lumina - Africa (M) Mr. Bernard Mudho - Africa (M) Mr. Fantu Cheru - Africa
2002	Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	(M) Mr. Dainius Pūras - Eastern Europe	(M) Mr. Anand Grover - Asia Pacific (M) Mr. Paul Hunt - WEOG
2004	Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea	(M) Mr. Tomás OJEA QUINTANA - Latin America	(M) Mr. Marzuki DARUSMAN - Asia Pacific (M) Mr. Vitit MUNTARBHORN - Asia Pacific

On the other hand, 10 mandates have only been held by female candidates, for example the Special Rapporteur on violence against women, its causes and consequences, the entire Working Group on the issue of Discrimination Against Women in Law and in Practice. It is important to note that not all of these positions concern issues that supposedly relate solely to women. For example, only women have held the position of the Special Rapporteur in the field of cultural rights.

### **Geographical representation**

It is useful to study the contribution of each geographical region to the gender balance within the UN Special Procedures. Although there are no formal gender or geographical requirements for Special Rapporteurs and Independent Experts, the Consultative Group - that interviews candidates and sends a shortlist to the President of the Human Rights Council - does consider this element when shortlisting candidates for the position. Working Group Positions do have a geographical requirement. Table 4 below presents the current geographical representation.

**Table 4: Current Gender Breakdown within Special Procedures (September 2017)<sup>10</sup>**

	WEOG	Eastern European Group	Latin America and the Caribbean	Asia-Pacific	Africa	Total
<b>Number of Female Mandate Holders</b>	13	4	4	5	7	33
<b>Total Number of Mandate Holders</b>	25	9	15	12	18	79
<b>%</b>	52%	45%	27%	42%	39%	

Today, the Western European and Others Group has the highest gender parity ratio and the highest number of female mandate holders – 13/25 mandate-holders are female (52%); only 27% of mandate holders from the Latin America and Caribbean Group are women.

**Table 5. Historical Gender Breakdown within Special Procedures since 1967 until June 2017<sup>11</sup>**

	WEOG	Eastern European Group	Latin America and the Caribbean	Asia-Pacific	Africa	Total
<b>Number of Female Mandate Holders</b>	19	10	15	19	15	78
<b>Total Number of Mandate Holders</b>	64	24	42	51	57	238
<b>%</b>	30%	42%	36%	37%	26%	

Throughout the history of the UN Special Procedures, the regions with the highest number of female mandate holders have been the WEOG and the Asia-Pacific Group.

- **UN Special Procedures Selection Process**

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

Despite the UN's concern for gender equality and gender parity, the data regarding gender parity within the Special Procedures proves that there are flaws in the nomination and recruitment process. There is an underrepresentation of women across mandates [some are exclusively held by women as stated above].

#### 1. Call for Applications/Nominations

The Office of the High Commissioner for Human Rights issues a public call for qualified persons to be nominated. The application is usually open for six weeks, but this timeframe may vary. Governments, NGOs, international organisations, other human rights bodies, and individuals (including oneself) can nominate candidates to the position. There is no established gender quota during the process – countries are not required to nominate the same number of candidates from each gender. If an insufficient number of eligible candidates apply to a position, the Consultative Group may extend the deadline. All applications materials of candidates are published on the OHCHR website.

#### 2. Consultative Group Selection

The Human Rights Council appoints a Consultative Group to conduct interviews and provide recommendations to the President of the Human Rights Council. The Consultative Group consists of five members, one from each of the regional groups, appointed by their regional groups to serve for one cycle/year. Currently, there is only one woman in the Consultative Group but this number fluctuates (for example, in 2016 there were three women).

The Consultative Group reviews all the eligible applications. Each member individually evaluates and ranks all candidates to determine those who will be short-listed for interviews. Although there are no regional requirements for the appointment of Special Rapporteurs or Independent experts, the Consultative Group keeps the geographical distribution in mind when it evaluates applications. There are, however, geographical specifications for members of Working Groups. All Working Groups have five members – one from each of the five regional groups, and the call for applications will specify which geographical region new members must come from.

The Group also takes into consideration the perspectives offered by stakeholders, including current or outgoing mandate holders.<sup>12</sup> After the interviews, the Group discusses qualitative elements, including gender balance, equitable geographical representation, and diversity of legal systems. It proposes a ranked list of three applicants to the President of the Council. The following general criteria are of paramount importance in the selection of possible mandate-holders by the Consultative Group: expertise; experience in the field of the mandate; independence; impartiality; personal integrity; and objectivity. There is no official gender quota that the Consultative Group must take into account when selecting candidates for interview or for the final shortlist to be sent to the President of the Human Rights Council.

The proceedings of the Consultative Group are confidential and the Secretariat will not disclose any information regarding the selection process or shortlisting of candidates until the publication on the

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<sup>12</sup> Report of the Consultative Group to the President of the Human Rights Council relating to the vacancies of special procedures mandate holders and a member of the Expert Mechanism on the Rights of Indigenous Peoples to be appointed at the twenty-eighth session of the Human Rights Council (2015)  
<http://www.ohchr.org/EN/HRBodies/SP/Pages/HRC28.aspx>

website of the final report of the Consultative Group, which includes the list of candidates recommended to the President of the Human Rights Council for each mandate. The report is made public on the OHCHR website.

### 3. Presidential Selection

The Consultative Group submits its ranked recommendation to the President of the Human Rights Council at least one month before the beginning of the session. The President evaluates its report and the ranking, and makes his/her decision on the final candidates and their ranking for each role based on recommendations from the Consultative Group and consultations with the coordinators of each of the geographical regions and other stakeholders. If he/she decides not to follow the order of priority proposed by the Consultative Group, he/she has to justify his/her decision.<sup>13</sup> The President sends his/her final recommendation to the Human Rights Council for consideration and appointment.

### 4. Appointments by the Human Rights Council

After the President puts forward his/her list of candidates to the Human Rights Council in session, representatives of the 47 member countries vote on the appointment, usually on the last day of the Council's session. There are appointments to be made at every session of the Human Rights Council, which meets three times a year.

- **Main Obstacles and Challenges to Achieve Gender Parity in the Special Procedures**

#### **RE the application process:**

→ The mandate holders work pro bono, and therefore, the call for applications attracts people who have a work platform that allows them to devote time and resources to the issue. As a result, these positions are mostly filled by academics, generally belonging to well-endowed institutions, or by people from NGOs who are given the freedom to hold these mandates. In many countries, higher positions in academia are not equally distributed between men and women [the ratio of female to male professors and higher positions in most western countries is appalling]. Moreover, the UN Special Procedures positions require time that is not rewarded financially and the capacity to spend time abroad, which may represent difficulties for more women than men.

→ There might also be a lack of support for female candidates from relevant stakeholders and regional coordinators. Both the Consultative Group and the President of the Council consult with State Representatives in the Human Rights Council and their teams when interviewing and ranking applicants.

→ Another challenge to achieving gender parity within the Special Procedures mechanism is the lack of gender balance within the relevant organs. Currently, only one woman forms part of the Consultative Group. In addition, from 2007 (one year after the Consultative Group was established), only 9/58 (16%) Consultative Group Members have been women.<sup>14</sup> Yet, one must note that more women being appointed to the Consultative Group does not necessarily guarantee gender parity in the Special Procedures.

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<sup>13</sup> UNHRC Res 16/21 (12 April 2011), para 22(d).

<sup>14</sup> This figure does not include Consultative Group members from the first cycle (2006 – 2007)

### **RE the selection by the President of the Human Rights Council:**

→ There has only been one female President of the Human Rights Council; the ten other Presidents have all been men. The Council elects the President every year and the Presidency rotates between each of the regional groups. The absence of a female President of the HRC could have an impact on the eventual appointment of Special Rapporteurs.

→ As a result of the Guidelines adopted by the Consultative Group of 2015, Consultative Group proposed a number of women candidates that – if appointed – would have increased female representation to thirty-five percent. Unfortunately, not all of these candidates were appointed. As mentioned above, the President can decide not to follow the Consultative Group's rankings, but he/she must justify his/her position.

→ If the Consultative Group is of the opinion that two candidates perform equally well during the interview and both are recommended, then the President should be encouraged to give preference to the qualified woman candidate.

### **RE the appointment by the Human Rights Council:**

→ The Human Rights Council votes on the appointment of all Special Rapporteurs and members of Working Groups. This means that members of the Council may choose to vote *against* the appointment of a Special Rapporteur or member of a working group suggested by the President.

- **Relevant Stakeholders to improve the Representation of Women in the Special Procedures**

- Governments, NGOs, international organisations, and other human rights bodies, and individuals nominating candidates to the SP position
- Regional groups and their members – since they appoint the members of the Consultative Group
- Consultative Group
- President of the Human Rights Council
- Regional coordinators and other stakeholders (previous and current mandate holders) – as President holds consultations with them
- Human Rights Council, i.e. representatives of the 47 member countries
- Others?

- **Potential Recommendations to improve Gender Balance in the Special Procedures**

In June 2015, the Consultative Group adopted the “Guidelines on Gender Parity” to improve the gender disparity in the mandate holder selection process. The Group sent a letter to the President of the Human Rights Council, Mr. Joachim Rucker, reflecting on issues they had encountered in the course of their work, and setting out advice for future members of Consultative Groups. The Guidelines are concerned with the **push and pull factors** in the recruitment process, which include,

- The Guidelines recommend that the Consultative Group's three-candidate short-list for the President and that the President's shortlist for the Council's final decision include no more than two out of three persons of the same sex.<sup>15</sup>
- Conducting positive, targeted advertising to seek out qualified female candidates through an enlarged network
- Extending application deadline if not enough female candidates have applied
- Establish a quota for female applicants and extend the deadline if an insufficient number of women apply.

However, subsequent Consultative Groups did not adopt the Guidelines.

**RE the application and selection process by the Consultative Group:**

→ The Human Rights Council should formally adopt the Guidelines on Gender Parity and make the Guidelines an official Consultative Group Policy.

→ The Consultative Group should receive an up-to-date, detailed breakdown of the Gender Composition of the Special Procedures at each meeting, to keep the gender balance at the forefront of their discussions.

→ State Representatives/regional coordinators should take an active role in supporting female candidates to the position of Special Procedures [in lobbying for candidates, nominating etc].

**RE the selection by the President of the HR Council:**

→ The Council elects the President every year, and the Presidency rotates between each of the regional groups. It would be useful to encourage the Council Members to appoint more female Presidents in the upcoming cycles.

→ If two candidates perform equally at interview and are both recommended, then the President of the Human Rights Council should be encouraged to give preference to the qualified woman candidate.

→ In making his/her decision, the President of the Council consults with regional coordinators and stakeholders to make the final decision, but does not specify who. For the sake of transparency, it would be useful for the Office of the President to publish a record of his/her meetings or a list of those consulted.

→ State Representatives and chairs of regional groups should take an active role in supporting female candidates to the position of Special Procedures in communications with the President of the Human Rights Council.

**RE the appointment by the Human Rights Council:**

→ The State Representatives must be encouraged to take gender balance into account when voting on the appointment of Special Rapporteurs.

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<sup>15</sup> C. Martin, 'Taking-stock: The Human Rights Council and Gender Parity in Special Procedures After Ten Years', (*Human Rights Brief*, 25 November 2016) <http://hrbrief.org/2016/11/taking-stock-human-rights-council-gender-parity-special-procedures-10-years/>

- **Proposals for the Implementation of the Recommendations**

The Guidelines for Gender Parity are non-binding. The GQUAL Campaign sent a letter to the Consultative Group of the Human Rights Council in April 2017, strongly encouraging the Consultative Group to formally adopt the Guidelines.<sup>16</sup>

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<sup>16</sup> GQUAL Campaign, '#KeepUpthePicture: Human Rights Council's 2017 Consultative Group must adopt "Guidelines on Gender Parity' (27 April, 2017) <<http://www.gqualcampaign.org/3351-2/>>