

# AMNESTY INTERNATIONAL PUBLIC STATEMENT

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## **Human Rights Council Special Procedures: Failure to Learn from Experience**

Amnesty International is disappointed that the 8 May 2009 report of the Consultative Group to the President of the Human Rights Council relating to the special procedures mandate-holders to be appointed at the 11th session of the Council falls seriously short of the letter and spirit of requirements of Part IIA of the Annex to Council resolution 5/1 of 18 June 2007.

The appointment of independent, impartial, competent and expert men and women from all regions of the world is essential to ensuring a well-functioning system of Special Procedures, which in turn is of crucial importance to the good functioning of the Human Rights Council.

It is key to the credibility of the appointment process that the recommendations of the Consultative Group be public and substantiated. It is not enough for the Consultative Group simply to propose names from a roster with no explanation: it must describe how the candidates selected meet the general criteria for mandate-holders and the specific criteria for each mandate to be filled. Only in this way can the Council and its stakeholders be confident in the transparency and integrity of the process.

Many of the individuals named in the Consultative Group's report and its annexes possess extensive experience and knowledge in their respective fields. However, rather than building on the tentative steps towards substantiation in its report of 30 July 2007, the Consultative Group gives no detail of the candidates' specific attributes and retreats into formulaic boilerplate to substantiate four out of five recommended nominees. This lack of transparency is doubly disappointing as the report provides no indication of the mandate-specific requirements against which the Group evaluated candidates or whether it took into account the views of stakeholders, including the current or out-going mandate-holders, in determining those requirements.

The Consultative Group has also chosen to re-interpret the rule established by the Human Rights Council that mandate-holder's tenure in a given function will be no more than six years (two three year terms) as applied until now by the Consultative Group. Previously the Group interpreted the rule to mean that mandate-holders who stand down after two terms were ineligible for immediate selection for another mandate.

The Group has also recommended a sitting member of a United Nations human rights treaty body for appointment to a Special Procedure mandate when the Annex to resolution 5/1 clearly states that the principle of non-accumulation of human rights functions at a time shall be respected.

Although two of the Special Procedure vacancies are reserved for seats on the five-person Working Groups on Enforced or Involuntary Disappearances and on people of African Descent from the Western European and other group of states, and one is for a person from the Asian group to sit on the Working Group on arbitrary detention, it is disappointing to note that the preponderance of the

other nominees, including both of those recommended, are from countries belonging to the one geographic region.

Amnesty International believes that the selection procedure as set out in Human Rights Council resolution 5/1 can, if applied faithfully, lead to the appointment of a high-qualified person with the appropriate expertise and experience to every vacant mandate. The procedure must not only be applied faithfully; it must also be seen to be so applied.

The Human Rights Council has been the subject of severe public criticism, some of it well-justified. It is incumbent on the Council and its subsidiary mechanisms to take seriously the rules that the Council has established for itself if the Council is to meet the expectations that surrounded its creation. Unfortunately, the Consultative Group appears to have forgotten both those expectations and the rules in the preparation of its report of 8 May 2009.

### **Background:**

Part IIA of the Annex to Council resolution 5/1 establishes the rules for the selection and appointment of Special Procedures mandate-holders. A Consultative Group consisting of one member from each of the UN's regional groups, serving in his or her personal capacity, is tasked with proposing to the President of the Human Rights Council a list of candidates who possess the highest qualifications for the mandates in question and meet the general criteria and particular requirements for the vacant mandates. The Group is assisted by the Office of the High Commissioner for Human Rights. At present, the Consultative Group consists of the Geneva Ambassadors of Bulgaria, Senegal, Spain, Sri Lanka and Uruguay, each of whom serves in his personal capacity.

Expertise, experience in the field of the mandate, independence, impartiality, personal integrity and objectivity are to be the general criteria of paramount importance in the nomination, selection and appointment of Special Procedure mandate-holders. Due consideration should also be given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems. The Consultative Group is expected to take into account the views of stakeholders, including the current or outgoing mandate-holders, in determining the necessary expertise, experience, skills, and other relevant requirements for each vacant mandate. The Group's recommendations to the President are to be public and substantiated.

Amnesty International focuses its comments on the process of selection and appointment of Special Procedures mandate-holders. In keeping with long-established policy, the organisation does not take a position in favour of or against any candidate or mandate-holder.

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