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Human rights bodies and mechanisms

### **Current levels of representation of women in human rights organs and mechanisms: ensuring gender balance**

**Report of the Human Rights Council Advisory Committee\* \*\***

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\* Agreement was reached to publish the present report after the standard publication date owing to circumstances beyond the submitter's control.

\*\* The annexes are being circulated as received, in the language of submission only.



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## I. Introduction, purpose and methodology

1. The Human Rights Council, in its resolution 41/6, requested the Human Rights Council Advisory Committee to prepare a report, in close cooperation with the Working Group on discrimination against women and girls and the Committee on the Elimination of Discrimination against Women, on current levels of representation of women in human rights organs and mechanisms such as the Advisory Committee, the treaty bodies and the special procedures established by the Human Rights Council, for presentation at the Council's forty-seventh session.

2. The Council also requested that the report include good practices by States in nominating, electing and appointing candidates to ensure balanced gender representation, in line with the system-wide strategy on gender parity, and recommendations to assist the Council and Member States in that regard.<sup>1</sup>

3. In terms of methodology, the Council requested that the Committee seek the views, inputs and meaningful participation of relevant stakeholders in an inclusive manner, including Member States, international and regional organizations, the Office of the United Nations High Commissioner for Human Rights (OHCHR), the special procedures, national human rights institutions, civil society and academic institutions.

4. A drafting group was established at the twenty-third session of the Advisory Committee, and is currently composed of Buhm-Suk Baek, Milena Costas Trascasas, José Augusto Lindgren Alves, Ajai Malhotra, Itsuko Nakai, Mona Omar (Chair), Javier Palummo, Elizabeth Salmón (Rapporteur), Patrycja Sasnal and Catherine Van de Heyning. The drafting group prepared a questionnaire seeking contributions, and received responses from several stakeholders.<sup>2</sup> Additionally, the Rapporteur organized four regional consultations: one held in Bangkok (3 December 2019), one held in Geneva (21 February 2020), and two held remotely, one with stakeholders from Latin America (15 July 2020) and one with stakeholders from Africa (20 October 2020). Furthermore, the Rapporteur incorporated written comments from the Working Group on discrimination against women and girls and attended meetings with the Working Group (29 January 2020) and with Lia Nadaraia, the focal point nominated by the Committee on the Elimination of Discrimination against Women.

## II. Current levels of representation of women in United Nations human rights bodies and mechanisms

5. For some time, women have been underrepresented in not only human rights organs and mechanisms, but also in the United Nations system in general.<sup>3</sup> In 2003, the General Assembly had encouraged the Secretary-General to intensify his efforts to set concrete targets for the appointment of women as his special representatives and special envoys in order to reach the target of 50/50 gender balance by 2015.<sup>4</sup> Under target 5.5 of the Sustainable Development Goals, States are called upon to ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life. Moreover, gender equality has become a cross-cutting issue for the achievement of the 2030 Agenda for Sustainable Development and instrumental to guaranteeing effective advancements in the areas of education, health and elimination of poverty, among others.

<sup>1</sup> The Secretary-General launched the system-wide strategy on gender parity on 13 September 2017. See [www.un.org/gender/sites/www.un.org.gender/files/gender\\_parity\\_strategy\\_october\\_2017.pdf](http://www.un.org/gender/sites/www.un.org.gender/files/gender_parity_strategy_october_2017.pdf).

<sup>2</sup> As at 18 December 2020, the Advisory Committee had received a total of 43 responses, from 23 States, 7 non-governmental organizations, 1 national human rights institution, 11 members of academia and 1 international organization. The responses will be available at [www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/LevelsRepresentationWomen.aspx](http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/LevelsRepresentationWomen.aspx).

<sup>3</sup> See General Assembly resolution 70/133.

<sup>4</sup> See General Assembly resolution 58/144.

6. In 2019, the Secretary-General reported that gender parity in the United Nations system was yet to be achieved. In the reporting period 2016–2017, the representation of women in the professional and higher categories in the system had increased only marginally, from 42.8 per cent, as at 31 December 2015, to 44.2 per cent as at 31 December 2017.<sup>5</sup> In January 2017, the Task Force on Gender Parity and Equality in the United Nations System was established to develop a clear road map, with benchmarks and time frames, to achieve parity across the system. Since then, gender parity has been achieved in the United Nations leadership. Parity among resident coordinators has been achieved since 2018; at the beginning of 2020, there were 90 women and 90 men as full-time senior leaders among the resident coordinators, a parity that was also reflected among resident coordinators in countries affected by conflict. At OHCHR, there is currently 100 per cent female leadership at the Under-Secretary-General and Assistant Secretary-General levels.<sup>6</sup>

7. Despite efforts, the underrepresentation of women remains an issue within the United Nations human rights system. The Human Rights Council has long sought to achieve balanced gender representation, including as part of the existing system-wide strategy on gender parity and the implementation of Council resolution 6/30. Over the past decade, and even before, the Council and its Advisory Committee have made consistent efforts to implement a gender parity strategy and integrate a gender perspective in their work. For example, in 2009, the Advisory Committee presented to the Council draft guidelines on methods to operationalize gender mainstreaming, including action-oriented mechanisms.<sup>7</sup>

8. In practice, however, the composition of United Nations human rights bodies and mechanisms shows a serious lack of gender parity. As the statistics in annex II demonstrate, while gender parity has been reached in some United Nations bodies (in some cases very recently), women generally remain underrepresented in treaty bodies, among special procedure mandate holders, and in the Advisory Committee. Moreover, the figures show that women's representation is largely concentrated in bodies or mandates specifically dealing with issues related to women or children.

## A. Treaty bodies

9. In 2015, the Secretary-General expressed his extreme concern about the stark gender imbalance in the membership of the human rights treaty bodies.<sup>8</sup> In 2016,<sup>9</sup> 2018<sup>10</sup> and 2020,<sup>11</sup> he reported that women continued to be underrepresented in most treaty bodies.

10. In the Committee on the Elimination of Discrimination against Women, the representation of women has historically been above 90 per cent. As at 1 May 2021, the representation of women was at least 50 per cent in only three treaty bodies: the Committee on the Rights of the Child has gender parity, 52 per cent of the members of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are women, and women represent 67 per cent of the members of the Committee on the Rights of Persons with Disabilities. In the remaining six treaty bodies, the average of women's representation was 31 per cent, with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families having the lowest number of female members (2 of 14). While over the years some treaty bodies have attained greater gender balance in their composition, this average is far from reflecting gender parity. It shows, rather, that the commitment of States parties to gender balance in treaty bodies remains unachieved.<sup>12</sup>

<sup>5</sup> A/74/220, para. 13.

<sup>6</sup> United Nations, Gender Parity Dashboard. Available at [www.un.org/gender/content/un-secretariat-gender-parity-dashboard](http://www.un.org/gender/content/un-secretariat-gender-parity-dashboard).

<sup>7</sup> Available at [www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Session2/Pages/Index.aspx](http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Session2/Pages/Index.aspx).

<sup>8</sup> A/70/257, para. 27.

<sup>9</sup> A/71/118, para. 80 and annex XVIII.

<sup>10</sup> A/73/309, para. 87 and annex XXIV.

<sup>11</sup> A/74/643, annex XXIII.

<sup>12</sup> On the gender composition of the treaty body system, see annex II to the present document.

## B. Special procedures of the Human Rights Council

11. In July 2020, in its decision 43/117, the Human Rights Council noted with concern the current lack of gender balance among mandate holders.

12. As at 1 May 2021, there were 44 thematic mandates: six working groups (with a combined total of 30 members) and 38 individual mandates. Women held 17 of the 30 working group positions, including all 5 positions on the Working Group on discrimination against women and girls, and 16 of the individual mandate positions (42.1 per cent). There were 11 country-specific mandates; two (18.2 per cent) were held by women.<sup>13</sup>

13. Of the 297 former and current special procedure mandate holders since 1980, 107 have been women (36.0 per cent). More specifically, of the 120 special rapporteur appointments throughout that period, 47 were of women (39.2 per cent). Of the 15 independent expert appointments, 5 were of women (33.3 per cent); and of the 108 working group members, 45 were women (41.7 per cent). This amounts to a 39.9 per cent rate of historical female participation in thematic mandates and an 18.5 per cent rate in relation to country mandates.<sup>14</sup>

14. Among the individual mandates, 11 have never been held by a woman.<sup>15</sup> Furthermore, excluding the Working Group on discrimination against women and girls, women have been the minority in most working groups. One working group has had only one female expert in its five-member composition.<sup>16</sup>

## C. Human Rights Council Advisory Committee

15. Four women were among the first 18 members elected to the Advisory Committee in March 2008,<sup>17</sup> a number that remained unchanged in 2009 and 2010. The ratio of women rose to one third (six women) in 2011 and stayed at that level until 2013, when it fell to five women (27.8 per cent). The number of women on the Advisory Committee increased again to six in 2014/15, only to fall to four in 2017, reaching its lowest percentage in 2018 with only three (16.7 per cent). It then increased again to four women in 2019 (22.2 per cent).<sup>18</sup>

16. In March 2018, the then-Chair of the Advisory Committee wrote to the Human Rights Council expressing concern that only four of the human rights experts on the Advisory Committee were women.<sup>19</sup>

17. As of 1 October 2020, 7 of the Committee's 18 members were women (38.9 per cent), which is the highest female representation the Advisory Committee has ever had.<sup>20</sup>

## III. Impact of the underrepresentation of women in international bodies

18. The prohibited grounds of gender discrimination considered in the report are based on guidance provided by the Committee on the Elimination of Discrimination against Women

<sup>13</sup> OHCHR, "Current and former mandate-holders for existing mandates as at 1 November 2020". Available at [www.ohchr.org/EN/HRBodies/SP/Pages/Currentmandateholders.aspx](http://www.ohchr.org/EN/HRBodies/SP/Pages/Currentmandateholders.aspx).

<sup>14</sup> Ibid. See also GQUAL, "Composition of international organizations and tribunals – UN special procedures". Available at [www.gqualcampaign.org/current-composition/](http://www.gqualcampaign.org/current-composition/).

<sup>15</sup> Annex II to the present document, para. 54.

<sup>16</sup> See [www.ohchr.org/EN/HRBodies/SP/Pages/Currentmandateholders.aspx](http://www.ohchr.org/EN/HRBodies/SP/Pages/Currentmandateholders.aspx).

<sup>17</sup> A/HRC/AC/21/2, p. 28.

<sup>18</sup> See the respective reports of the Advisory Committee, available at [www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Sessions.aspx](http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Sessions.aspx), and [www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Elections.aspx](http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Elections.aspx).

<sup>19</sup> A/HRC/AC/20/2, annex III, p. 16.

<sup>20</sup> See [www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Members.aspx](http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Members.aspx).

and the Human Rights Council.<sup>21</sup> The Committee has defined gender as socially constructed identities, attributes and roles for women and men and society's social and cultural meaning for these biological differences resulting in hierarchical relationships between women and men and in the distribution of power and rights favouring men and disadvantaging women.<sup>22</sup> This requires the application of an intersectional approach to gender discrimination that recognizes and addresses the impact of multiple and intersecting forms of discrimination across many lines, including race, class, sexual orientation, age, ethnicity and gender identity, disability and other forms of historical and structural discrimination.

## **A. Impact on the rights to equality and to non-discrimination**

### **1. Rights to equality and to non-discrimination**

19. Underrepresentation of women in international bodies and mechanisms has a significant impact on the human rights to equality and to non-discrimination.

20. Article 1 of the Universal Declaration of Human Rights affirms that all human beings are born free and equal in dignity and rights. The Charter of the United Nations (preamble and art. 55 (c)), the Universal Declaration of Human Rights (art. 2), the International Covenant on Civil and Political Rights (art. 2) and the International Covenant on Economic, Social and Cultural Rights (art. 2) all recognize that individuals are entitled to the exercise of human rights without distinction or discrimination, including based on sex. Moreover, the rights to equality before the law and to equal protection of the law are set forth in the Universal Declaration of Human Rights (art. 7) and in the International Covenant on Civil and Political Rights (art. 26). The Convention on the Elimination of All Forms of Discrimination against Women specifically includes reference to the right of women to equal protection of the law (art. 2 (c)), equality of opportunity and treatment (art. 4), and the duty to ensure, through law and other appropriate means, the practical realization of the principle of equality of men and women (art. 2 (a)).

21. Under article 1 of the Convention on the Elimination of All Forms of Discrimination against Women, any distinction, exclusion or restriction made on the basis of sex may constitute discrimination against women if it has the effect or purpose of impairing or nullifying women's rights. According to the Committee on the Elimination of Discrimination against Women, direct discrimination constitutes different treatment explicitly based on grounds of sex and gender.<sup>23</sup> However, identical treatment of women and men may still be indirectly discriminatory if it has the effect of impairing or nullifying women's rights. This may occur when a law, policy, programme or practice appears to be neutral in so far as it relates to men and women, but has a discriminatory effect in practice on women because pre-existing inequalities are not addressed by the apparently neutral measure.<sup>24</sup>

22. The same Committee has explained that the purpose of eliminating all forms of discrimination against women is to achieve gender equality.<sup>25</sup> Human rights treaty bodies have recognized that the right to non-discrimination prohibits discrimination in law and in fact.<sup>26</sup> As such, to achieve equality, States may also need to take affirmative measures to ensure equality in fact, not just in law, as provided for in article 4 of the Convention on the Elimination of All Forms of Discrimination against Women.

23. Moreover, interventions to achieve gender equality must also be substantive and results-oriented, and not merely formal. Formal equality refers to equal legal treatment and requires that overtly discriminatory laws be replaced with gender-neutral laws. However, to

<sup>21</sup> The Human Rights Council has made efforts in considering an inclusive definition of gender (see Council resolutions 17/19 and 32/2). A growing number of Member States legally recognize non-binary gender identities and the human rights of non-binary persons, including with regard to equality and non-discrimination (OHCHR, *Living Free and Equal* (2016), pp. 97–98).

<sup>22</sup> General recommendation No. 28 (2010), para. 5.

<sup>23</sup> *Ibid.*, para. 16.

<sup>24</sup> *Ibid.*

<sup>25</sup> General recommendation No. 25 (2004), para. 4.

<sup>26</sup> See, e.g., Human Rights Committee, general comment No. 18 (1989), para 12.

achieve substantive equality, consideration of the actual impact and effect of laws and policies on women's lives is necessary.<sup>27</sup> Thus, the Committee on the Elimination of Discrimination against Women adopts a three-dimensional view of equality,<sup>28</sup> through which it examines the cultural values, sociopolitical institutions, and economic structures that shape discrimination.

## 2. Equal participation in international decision-making

24. The rights to equality and to non-discrimination extend to the right of women to equal participation in all spheres of life, including international decision-making. As decisions taken in international forums greatly influence national politics and, therefore, everyday life, women should have the opportunity to participate equally in these processes.<sup>29</sup> Commentators have explained that gender-balanced participation in international affairs can ensure that “the greatest possible plurality and diversity of views are brought into the deliberative process in international bodies to prevent gender-biased outcomes”.<sup>30</sup> The equality of rights thus requires that the overrepresentation of men in United Nations human rights bodies be remedied, and that women be enabled to influence the process of developing, implementing and administering international human rights law and policy. As the Committee on the Elimination of Discrimination against Women has recognized, a critical mass of women in such processes will make a difference, and it is imperative that a gender perspective is integrated into the agenda of all international bodies.<sup>31</sup> The appointment of women to international bodies is a prerequisite for women to influence, formulate, and implement international policy.<sup>32</sup>

25. International treaties and agreements make clear that access to decision-making includes the right to participate in political and public life, including at the international level. Article 25 of the International Covenant on Civil and Political Rights sets out the right to equal participation in public life, including public service, of all citizens. Article 7 of the Convention on the Elimination of All Forms of Discrimination against Women specifically states that women have the right to participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government. As discussed below, the obligations arising from the latter article are interwoven with those arising from article 8 of the same Convention.

26. Article 8 of the Convention on the Elimination of All Forms of Discrimination against Women specifically provides that States parties are to take all appropriate measures to ensure to women, on equal terms with men and without discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.<sup>33</sup> The reference to “international organizations” has been broadly interpreted. The International Law Commission defines the term as “an organization established by a treaty or other instrument governed by international law and possessing its own international legal personality”.<sup>34</sup> Commentators have explained that the term “international organization” extends not only to States and organizations in which they are members, but also regional organizations, courts, subsidiary bodies, funds and programmes, specialized agencies and

<sup>27</sup> See <https://asiapacific.unwomen.org/en/focus-areas/cedaw-human-rights/faq#substantive>.

<sup>28</sup> Ibid. See also United Nations Development Fund for Women, “CEDAW and the human rights based approach to programming: a UNIFEM guide” (May 2007), p. 7.

<sup>29</sup> See United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and International Gender Champions–Geneva, “Shaping the international agenda: raising women’s voices in intergovernmental forums” (March 2017).

<sup>30</sup> Marsha A. Freeman, Christine Chinkin and Beate Rudolf, *The UN Convention on the Elimination of All Forms of Violence Against Women: A Commentary* (2012), p. 222.

<sup>31</sup> General recommendation No. 23 (1997), paras. 39–40.

<sup>32</sup> Ibid., para. 5.

<sup>33</sup> See also Claudia Martin, “Article 8 of the Convention to Eliminate All Forms of Discrimination against Women: a stepping stone in ensuring gender parity in international organs and tribunals”, paper presented at the GQUAL Conference, The Hague, October 2017.

<sup>34</sup> Draft articles on responsibility of international organizations (A/66/10), para. 87, art. 2.

treaty bodies.<sup>35</sup> Article 8 thus includes the United Nations bodies and mechanisms covered in the present report.

27. The article 8 obligation has been interpreted as requiring States to achieve gender equality in three ways:

(a) Formal equality: intended to guarantee constitutional or legal equality in representing the State at the international level;

(b) Substantive equality: intended to create an enabling environment that makes de facto equality a viable possibility (by, for example, ensuring that recruitment and nomination policies take gender differences into account);

(c) Transformative equality: intended to eliminate gender stereotypes that form the basis of the continuing underrepresentation of women and the structural obstacles that originate from them. Article 8 requires States to address those stereotypes that tend to silo women into certain fields deemed suitable for women (such as human rights, children, women and health) and to prevent them from participating in male-dominated areas, such as international security, armed conflict, finance and trade.<sup>36</sup>

28. The Committee on the Elimination of Discrimination against Women has affirmed that States parties have a responsibility, where it is within their control, to appoint women to senior decision-making roles.<sup>37</sup> Also, according to the Committee, the appropriate measures that States are required to take under article 8 to promote women's equal participation in international decision-making include the creation of objective criteria and processes for the appointment and promotion of women to relevant positions;<sup>38</sup> and the adoption of temporary special measures aimed at accelerating substantive equality for women,<sup>39</sup> as provided for in article 4 of the Convention on the Elimination of All Forms of Discrimination against Women. In that light, some of the measures that States should consider adopting include:

(a) Taking proactive measures in recruitment to international posts to address women candidates specifically and, where appropriate, to give women preference over male candidates;

(b) Establishing goals and benchmarks for the selection, recruitment and promotion of women;<sup>40</sup>

(c) Addressing barriers women encounter in selection procedures;<sup>41</sup>

(d) When voting for individuals to be appointed to international bodies, voting in a way that is consistent with the international treaty obligations of States.<sup>42</sup>

29. Likewise, in accordance with the Beijing Platform for Action,<sup>43</sup> Governments are to take action aimed at gender balance in the lists of national candidates nominated for election or appointment to United Nations bodies, specialized agencies and other autonomous organizations of the United Nations system, particularly for posts at the senior level.

30. Women's equal participation in international decision-making requires the achievement of gender parity in international bodies.<sup>44</sup> The Working Group on discrimination against women and girls uses parity as the measure to assess whether States have complied

<sup>35</sup> Freeman, Chinkin and Rudolf, *The UN Convention on the Elimination of All Forms of Violence Against Women: A Commentary*, p. 224.

<sup>36</sup> *Ibid.*, p. 227–228.

<sup>37</sup> General recommendation No. 23 (1997), para. 26.

<sup>38</sup> *Ibid.*, paras. 38 and 50 (b).

<sup>39</sup> *Ibid.*, para. 43.

<sup>40</sup> Freeman, Chinkin and Rudolf, p. 230.

<sup>41</sup> "Achieving gender parity on international judicial and monitoring bodies", IHRLC Working Paper Series No. 4 (International Human Rights Law Clinic, University of California, Berkeley Law, October 2017), p. 9.

<sup>42</sup> *Ibid.*, p. 15.

<sup>43</sup> Para. 190 (j).

<sup>44</sup> See, for example, Organization of American States General Assembly resolution 2961, adopted on 21 October, sect. ii, and resolution 2941, adopted on 28 June 2019, sect. xvi.



with their international obligations to ensure women's political and public participation without discrimination.<sup>45</sup> It has considered gender parity as a measure of equality, and has established that: (a) parity in decision-making forums is a good practice standard for equal representation;<sup>46</sup> and (b) the adoption of parity laws or quotas is a good practice to combat barriers to women's political participation and ensure representation of women in political bodies.<sup>47</sup> The Commission on the Status of Women has defined gender parity as meaning no less than 50 per cent of a given body consisting of one gender.<sup>48</sup>

### 3. Right of access to equal opportunity in employment

31. The lack of gender parity in international bodies also has an impact on the right of access to equal opportunity in employment, which is recognized under international law.

32. Under article 7 (c) of the International Covenant on Economic, Social and Cultural Rights, States parties recognize the right to equal opportunity for everyone to be promoted in his (or her) employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; those protections are extended to women seeking to be promoted to, or to serve, on international bodies.<sup>49</sup>

33. Furthermore, the United Nations has recognized the importance of equal opportunity in employment within the United Nations system, for example through article 8 of the Charter.<sup>50</sup> Indeed, the United Nations has accepted that giving effect to article 8 requires addressing the selection, retention and promotion procedures that hinder women's fulfilment of their right to equal employment opportunity.<sup>51</sup>

## B. Impact on the effectiveness of United Nations bodies and mechanisms

34. As advanced in theories of parity democracy,<sup>52</sup> underrepresentation of women may erode the effectiveness of United Nations bodies and mechanisms at three levels.

35. First, gender parity is particularly important to the legitimacy of human rights bodies' policies and decisions, which stem from the principle of equality.<sup>53</sup> The perception that victims, States, civil society and other relevant stakeholders have of the bodies' composition is key to the implementation of their standards.

36. Second, the consistent underrepresentation of women on such bodies, when not caused by limitations in the pool of available candidates, may suggest bias in selection procedures.<sup>54</sup> Diverse representation can also help to mitigate a perceived democratic deficit in the authority of international bodies, and thus enhance their legitimacy.<sup>55</sup>

<sup>45</sup> A/HRC/23/50, para. 19.

<sup>46</sup> A/HRC/35/29, para. 31.

<sup>47</sup> *Ibid.*, para. 39.

<sup>48</sup> Anja Papeñfue and Sabine von Schorlemer, "Organs, Article 8", in *The Charter of the United Nations: A Commentary*, 3rd ed., vol. 1, Bruno Simma et al., eds. (2012) p. 426, para. 53.

<sup>49</sup> "Achieving gender parity", p. 36, citing Committee on Economic, Social and Cultural Rights, general comment No. 18 (2005), para. 6.

<sup>50</sup> For a discussion on whether article 8 is limited only to the hiring practices for United Nations staff, or whether it extends also to the exercise by States of their authority over the nominating and voting processes for appointed positions to international institutions, see "Achieving gender parity", p. 37.

<sup>51</sup> Freeman, Chinkin and Rudolf, *The UN Convention on the Elimination of All Forms of Violence Against Women: A Commentary*, p. 229.

<sup>52</sup> See Will Kymlicka and Ruth Rubio-Marín, "The participatory turn in gender equality and its relevance for multicultural feminism", in Ruth Rubio-Marín and Will Kymlicka, eds., *Gender Parity and Multicultural Feminism: Towards a New Synthesis* (New York, Oxford University Press, 2018).

<sup>53</sup> Viviana Krsticevic, "Gender equality in international tribunals and bodies: an achievable step with global impact", GQUAL Concept Paper (2016) p. 7.

<sup>54</sup> Nienke Grossman, "Achieving sex-representative international court benches", *American Journal of International Law*, vol. 110, No. 1, pp. 88–89.

<sup>55</sup> Vera Shikhelman, "Diversity and decision-making in international judicial institutions: the United Nations Human Rights Committee as a case study", *Berkeley Journal of International Law*, vol. 36,

37. Third, the normative role of the United Nations bodies may gain legitimacy only if those potentially affected by the norms of those bodies are adequately represented throughout relevant decision-making processes.<sup>56</sup> Even if a decision could be considered substantively “fair”, to be normatively legitimate it should also be made by decision makers who represent the people who will be affected by it.<sup>57</sup>

### C. Impact on the range of issues and perspectives considered by United Nations bodies

38. Without gender parity, United Nations bodies risk overlooking matters and perspectives that should be part of their political and legal agenda.<sup>58</sup> A balanced representation of women is therefore necessary for their lives and experiences to be accounted for in all aspects of the work of the United Nations.<sup>59</sup>

39. The United Nations already recognizes the importance of incorporating women’s perspectives through its system-wide strategy on gender parity. Since the adoption of the Vienna Declaration and Programme of Action, the strategy has included the mainstreaming of a gender perspective in all United Nations activities and organs.<sup>60</sup> Importantly, this mainstreaming is the process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas and at all levels,<sup>61</sup> in recognition that such measures may affect men and women differently. Gender mainstreaming, consequently, requires the adoption of a gender perspective in all United Nations activities and programmes.

40. Gender mainstreaming does not eliminate the need for gender parity in United Nations decision-making bodies; rather, it makes such gender parity even more crucial.<sup>62</sup> If women are not equally represented, gender mainstreaming may be seen as accentuating the legitimacy risks described above by treating women only as beneficiaries – and not as agents – of the international law decision-making and development processes.<sup>63</sup> The underrepresentation of women, together with gender mainstreaming, could lead a group representing only one gender to decide, from its sole perspective, on the particular impact of certain international law norms and policies on other genders, and the concerns those genders may have, without those genders having a say. In sum, achieving full, effective and equal participation of women is critical to shaping an inclusive international agenda.

41. The United Nations has already recognized at the highest levels that women’s participation is crucial, and that women have unique and direct interests in the policies and programmes of the United Nations.<sup>64</sup>

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No. 1 (2017). See also Stéphanie Hennette Vauchez, “Gender balance in international adjudicatory bodies”, in Rüdiger Wolfrum, ed., *Max Planck Encyclopedia of International Procedural Law* (2019), para. 35.

<sup>56</sup> See Nienke Grossman, “The normative legitimacy of international courts”, *Temple Law Review*, vol. 86 (2013), p. 104.

<sup>57</sup> Shikhelman, “Diversity and decision-making”.

<sup>58</sup> See Hilary Charlesworth, “The Gender of International Institutions”, *Proceedings of the Annual Meeting (American Society of International Law)* vol. 89 (1995), pp. 81–82.

<sup>59</sup> *Ibid.*, p. 83.

<sup>60</sup> See, e.g., para. 7 above.

<sup>61</sup> Economic and Social Council resolution 2017/9.

<sup>62</sup> Cecilia Bailliet, “A Nordic approach to promoting women’s rights within international law: internal v. external perspectives”, *Nordic Journal of International Law*, vol. 85, No. 4 (2016), p. 389.

<sup>63</sup> Vienna Declaration and Programme of Action, part II, para. 36.

<sup>64</sup> See, e.g., Security Council resolution 1325 (2000); UN-Women, *Preventing Conflict, Transforming Justice, Securing the Peace – A Global Study on the Implementation of United Nations Security Council resolution 1325* (2015), p. 41; United Nations, “Shared responsibility, global solidarity: responding to the socioeconomic impacts of COVID-19”, March 2020, p. 17; United Nations, “The impact of COVID-19 on women”, 9 April 2020, p. 3; and UN-Women, “COVID-19 and women’s leadership: from an effective response to building back better”, policy brief No. 18, 2020.

## IV. Main challenges for achieving a balanced gender representation in United Nations treaty bodies and special procedures

### A. Treaty bodies

42. Obstacles hindering women's participation in United Nations treaty bodies exist at both stages of the election process: (a) at the national level, when States identify candidates for nomination as treaty body members; and (b) at the international level, when the relevant assembly or conference of States parties elects, by secret ballot, the preferred nominees.

#### 1. Challenges at the national level

43. At the national level, States generally do not nominate sufficient numbers of women to enable the achievement of gender parity in treaty bodies,<sup>65</sup> which may be (partially) explained by the factors described below.

44. First, States do not always provide a formal, transparent, and public procedure for selecting candidates. The lack of such a procedure means that candidate selection may be made as a matter of political discretion, which often favours nominations of men.<sup>66</sup> In response to the questionnaire transmitted by the Advisory Committee, multiple States confirmed that they lacked consistent and formal nominating procedures. In some cases, the selection process was generally not made public.

45. In its response, International Women's Rights Action Watch Asia Pacific observed that the selection of candidates at the national level was often driven by an ad hoc process largely led by States' executive branches. In the absence of transparency or a formal process, the identities of candidates are rarely disclosed before the official nomination. According to the same non-governmental organization, such opacity is problematic given that it "leaves the issue of gender balance to the good will of government officials, with minimal opportunity for monitoring and accountability relating to gender representation, qualifications, and other relevant factors".

46. Second, national-level selection processes generally do not require that consideration be given to gender balance, and achieving gender parity is not generally recognized as an explicit goal. Additionally, even where gender balance is a specific selection criterion, it does not necessarily translate into mandatory targets to nominate female candidates. In their questionnaire responses, even States that do take into account gender balance when nominating candidates generally did not indicate whether they had a national instrument or how their current processes for the nomination, election and appointment for human rights organs took into consideration gender balance.<sup>67</sup>

47. Additionally, some States recognized that gender parity was simply not considered a priority as a matter of law or practice. For example, Mexico explained that, to make gender balance a priority in selection processes, it would be necessary to change the applicable legal frameworks. In referring to the practice in Spain, some institutions (for example, the Clínica Jurídica de la Facultad de Derecho de la Universidad de Murcia and Fundación Cepaim, Acción Integral con Migrantes) explained that the lack of State agreements on that matter, combined with successive changes in government and the fact that gender balance was not a priority for some political actors, limited (and even prevented) the application of standards

<sup>65</sup> For example, in recent elections to appoint seven members of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, States nominated nine men and only one woman for membership. The woman was elected, along with six of the men. See [www.ohchr.org/EN/HRBodies/CMW/Pages/Elections2019.aspx](http://www.ohchr.org/EN/HRBodies/CMW/Pages/Elections2019.aspx).

<sup>66</sup> See, e.g., the study of the Advisory Committee on current levels of representation of women in human rights organs and mechanisms (2020), para. 25. Available at [www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Session24/Pages/Index.aspx](http://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Session24/Pages/Index.aspx). The issue was also raised at the regional consultation with stakeholders in Africa.

<sup>67</sup> Study of the Advisory Committee, para. 15.

and recommendations aimed at ensuring a gender-balanced approach in the nomination of candidates to human rights bodies.

48. Third, the lack of a transparent and public procedure for identifying candidates at the national level makes it difficult for women to become aware of available vacancies and compete fairly.<sup>68</sup> For example, Guatemala explained that it lacked an institutionalized system for disseminating information about the presentation of candidatures for United Nations treaty bodies. Due to the informal and ad hoc nature of national-level selection processes, few interested parties have access to relevant information, and there is often no deliberate strategy for approaching underrepresented groups – including women – to identify potential candidates (let alone for tracking candidacies based on gender).

49. Fourth, States generally do not engage with civil society organizations and other non-State actors (such as women’s groups) in selecting candidates,<sup>69</sup> which is problematic given that such actors could play an important role in identifying qualified candidates from underrepresented groups, including women. The exclusion of civil society organizations and other non-State actors from these processes might also reinforce the view that State nominations are meant to reward political connections.

50. Fifth, societal notions of appropriate gender roles can hold women back. For example, in its response to the questionnaire, Mexico suggested that the lack of conciliation between family and work life prevented women from seeking, among others, public office positions at the international level and other time-consuming positions.<sup>70</sup> According to the Clínica Jurídica de la Facultad de Derecho de la Universidad de Murcia and Fundación Cepaim, Acción Integral con Migrantes, the failure to prioritize gender parity in selection processes stemmed from the persistence of structural gender inequality, which was reinforced by gender stereotypes, traditional (and modernized) notions of gender roles, and misogynist and sexist beliefs rooted in society that made it difficult for women to access decision-making positions. These societal notions act as de facto barriers for women, who are less likely to be seen as viable candidates for membership in United Nations treaty bodies.

## 2. Challenges at the international level

51. At the international level, barriers to achieving a balanced gender representation at United Nations treaty bodies include those described below.

52. First, the election of candidates at the United Nations level is frequently subject to an exchange of votes where gender balance is not given proper consideration.<sup>71</sup>

53. Second, the selection requirements established under most United Nations treaties do not specifically require the consideration of gender balance in the selection of individuals to their membership. Even where the relevant treaty explicitly refers to the importance of adequate gender balance in the treaty body’s composition,<sup>72</sup> gender has not been a defining factor in the selection process for those bodies and women often remain underrepresented.<sup>73</sup> In addition, although selection processes are often fine-tuned to account for balanced geographical representation, this is not usually the case yet regarding gender representation.

<sup>68</sup> This issue was raised at the regional consultations with stakeholders in Africa and in Latin America.

<sup>69</sup> This issue was raised at, *inter alia*, the regional consultation with stakeholders in Africa.

<sup>70</sup> See also Study of the Advisory Committee, para. 21.

<sup>71</sup> GQUAL response, citing Jan Linehan, “Women and public international litigation: a background prepared for the Project on International Courts and Tribunals” (2002), p. 6. This concern was also raised at the regional consultations with stakeholders in Africa and in Latin America.

<sup>72</sup> Convention on the Rights of Persons with Disabilities, art. 34 (4); International Convention for the Protection of All Persons from Enforced Disappearance, art. 26 (1); Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 5 (4).

<sup>73</sup> For information on gender representation on those bodies, see annex II, figures 17 and 18 (Committee on the Rights of Persons with Disabilities), figures 19 and 20 (Committee on Enforced Disappearances), and figures 15 and 16 (Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment).

54. Third, even if women candidates are selected at the national level, States need to promote and provide support to their candidates so that they have a realistic chance of winning an election at the international level. States also need to garner support for their female candidates within the relevant regional groups, as obtaining endorsement at the regional level may be crucial for succeeding in elections at the United Nations level.<sup>74</sup>

55. Fourth, some of the requirements for positions on United Nations treaty bodies are often seen as obstacles for women candidates. For example, the unpaid nature of treaty body memberships narrows the pool of available candidates and is a barrier for women who are unable to afford unpaid employment.<sup>75</sup>

## B. Special procedures of the Human Rights Council

56. Even though certain aspects of the selection process for United Nations special procedure mandate holders are noteworthy in promoting gender parity, there are still significant challenges preventing women from being appointed as special procedure mandate holders. Barriers to achieving gender parity across special procedures are described below.

57. First, there is ample room to increase transparency in the appointment process, as the Human Rights Council recognized in its decision 43/117, pursuant to which methods of work were approved for the Consultative Group of the Human Rights Council.

58. Second, although the Consultative Group often refers to gender as a selection criterion in its final reports, it is not bound by a specific gender quota in selecting candidates for interviews or in drawing up shortlists for the President of the Human Rights Council. Moreover, although the 2015 Consultative Group adopted, for the first time, guidelines on gender parity,<sup>76</sup> in subsequent years the Consultative Group chose not to adopt such guidelines but committed to uphold the principle of gender parity and to strictly follow the spirits and recommendations of the guidelines to the extent possible.<sup>77</sup>

59. Third, the Consultative Group, which plays an important role in the selection of special procedure mandate holders, is often itself not gender-balanced. Of the compositions of the five-member Consultative Group since 2007, three did not include any women; seven included only one woman; three included two women and three men; and only one included more women than men (i.e., three women and two men).<sup>78</sup> As at 1 May 2021, of the four current members (the nomination of the fifth member is outstanding), only one is a woman.

60. Fourth, special procedure mandate holders serve pro bono in their personal capacities. This financial burden, coupled with time requirements, precludes many women from applying and, even if appointed, may ultimately force them to resign.

61. To achieve gender-balanced representation among special procedure mandate holders, there are also challenges that States need to overcome at the national level. Insufficient State efforts to systematically publicize and widely disseminate information on available vacancies constitutes a challenge for women candidates.<sup>79</sup>

<sup>74</sup> This point was raised at the regional consultation with stakeholders in Africa.

<sup>75</sup> This point was raised at the regional consultation with stakeholders in Latin America.

<sup>76</sup> See the letter dated 23 December 2015 from the Consultative Group addressed to the President of the Human Rights Council, and the annex thereto. Available at [www.unwatch.org/wp-content/uploads/2016/01/CGlettertransmittedtoPresidentHRC-23dec15.pdf](http://www.unwatch.org/wp-content/uploads/2016/01/CGlettertransmittedtoPresidentHRC-23dec15.pdf).

<sup>77</sup> 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-fourth session of the Human Rights Council, 3 June 2020, para. 14. Available at [www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC44/CG\\_REPORT\\_HRC44\\_FINAL\\_to\\_HRC\\_President\\_2020-06-03.pdf](http://www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC44/CG_REPORT_HRC44_FINAL_to_HRC_President_2020-06-03.pdf).

<sup>78</sup> See OHCHR, “Consultative Group (former and current membership per term)”. Available at [www.ohchr.org/EN/HRBodies/HRC/SP/Pages/Nominations.aspx](http://www.ohchr.org/EN/HRBodies/HRC/SP/Pages/Nominations.aspx).

<sup>79</sup> This point was raised at the regional consultations with stakeholders in Africa and in Latin America.

## V. Good practices and comparative experiences

62. As the Working Group on discrimination against women and girls has recognized, the identification of good or promising practices can serve as creative inspiration for the implementation of women's human rights in multiple contexts, and to open an ongoing engagement process of collective knowledge-building in this area.<sup>80</sup> The identification of such practices also shows that whatever nomination, election or selection process is applied, every aspect of that system must work well, at both the national and international levels, for gender parity to be achieved.

### A. Good practices identified by States

63. Good practices identified by States in their responses to the questionnaire include those described below.

64. States recognized the importance of making national selection processes more open and transparent to increase the number of women applicants and their chances of getting nominated. In particular, their recommendations included:

(a) Publishing information about available vacancies in a systematic and timely way. For example, Guatemala suggested that such information be drafted in a way that encourages women to apply, while Mali emphasized the importance of publishing practical information, such as submission deadlines, information about available mandates and instructions on how to apply;

(b) Adopting a multi-agency/multisectoral nomination and selection process. For example, Switzerland explained that, while its Ministry of Foreign Affairs was responsible for coordinating the search for appropriate candidates, it consulted a wide range of competent offices before any candidate was nominated. Mali noted the importance of ensuring structured and formal coordination between all ministries that could be involved in the nomination and selection process. Guatemala recommended that civil society organizations advocating for women's rights be involved in the selection process. It also emphasized the usefulness of involving human rights experts in the selection of candidates for international human rights positions;

(c) Proactively identifying female candidates. For example, Switzerland explained that if a relevant government department involved in the nomination process knew of a qualified female candidate, it would reach out to her and encourage her to stand as a candidate. It also stated that as long as women were underrepresented, Switzerland would make an extra effort to find a qualified candidate of the underrepresented gender, and if there were two potential candidates with the same qualifications, it would opt for the woman candidate. In its response, Mali recommended that the relevant ministries work together to create a national database of potential candidates with experience in the areas of competence of the relevant United Nations bodies, so that those candidates could be contacted when a vacancy became available.

65. Some States emphasized the importance of making clear, in their foreign policy positions, that achieving gender parity in United Nations bodies was important.<sup>81</sup> They recommended encouraging other States to nominate women to United Nations positions and incorporating gender parity as an explicit objective in voting practices. In terms of concrete

<sup>80</sup> A/HRC/35/29, para. 15.

<sup>81</sup> A relevant example is the feminist foreign policy recently adopted by Spain, in which the Government endorsed the active promotion of gender equality as a cross-cutting principle and a priority of the country's external action. Consistent with promoting the participation of women at all levels of global decision-making, Spain has made a commitment to promote candidacies and appointments of women in international agencies and organizations. Spain, Ministry of Foreign Affairs, "Spain's feminist foreign policy: promoting gender equality in Spain's external action" (2021), pp. 7 and 14. Available at [www.exteriores.gob.es/Portal/es/SalaDePrensa/Multimedia/Publicaciones/Documents/2021\\_02\\_POLITICA%20EXTERIOR%20FEMINISTA\\_ENG.pdf](http://www.exteriores.gob.es/Portal/es/SalaDePrensa/Multimedia/Publicaciones/Documents/2021_02_POLITICA%20EXTERIOR%20FEMINISTA_ENG.pdf).

steps, Mexico reported that it was developing a new feminist foreign policy that would prioritize the goals of achieving women's empowerment, gender equality and gender parity in every document, resolution and position Mexico was part of. Ireland reported that it had made known to all candidate countries its preference for gender parity on treaty bodies and its priority support for candidates who would maintain or achieve gender parity.

66. Some States recognized that women's underrepresentation in public office – both in the national and international contexts – was partly due to societal notions of appropriate gender roles. Italy reported that to tackle the cultural problem of women's underrepresentation, it was instituting multi-annual training projects, entitled “Women, politics and institutions”.

67. Some States have emphasized the importance of incorporating gender issues into policy design generally, in the hope that such incorporation could lead nomination processes for international positions to be designed with a view to achieving gender parity. For example, Japan has established a dedicated “Council for Gender Equality” within its Cabinet Office, which acts as a policymaking unit responsible for ensuring that gender is considered by each administrative agency. Honduras has developed a gender equality and equity plan, through which it aims to incorporate the goal of achieving gender equality in State planning and budgeting. The plan specifically includes a policy of promoting women's equal participation in the State's decision-making processes, including at the international level.

## **B. Good practices identified within United Nations selection processes, especially in relation to special procedures**

68. A comprehensive identification of good practices in the United Nations system is outside the scope of this report. Of particular relevance, however, are noteworthy practices applied in the selection process for special procedures. The practices identified below evidence good progress, although such steps alone are insufficient to effect systemic change.

69. The consideration of gender balance is an explicit criterion in the selection of special procedure mandate holders, as stated in Human Rights Council resolution 5/1 and reaffirmed in Council decision 43/117. The reference to gender balance in selection criteria sends an important signal that gender parity is a priority.

70. OHCHR regularly publishes information about current and future vacancies for special procedure mandate holders on its website,<sup>82</sup> which helps to ensure that women are aware of available vacancies and can therefore apply. However, publication itself is not sufficient to promote gender balance; it is also important to ensure wide dissemination of this information so as to reach potential women candidates.

71. OHCHR keeps regular track of the percentage of men and women holding special procedure mandates, by geographic region.<sup>83</sup> Gender-segregated statistics are key to monitoring whether gender balance is being achieved in the selection process. Yet, while the statistics reflect the current composition of mandate holders, they should also show the historical gender composition for each mandate over time in order to draw attention to positions that have significant gender parity issues.

72. The reports of the Consultative Group are publicly available on the OHCHR website. In considering such reports and carrying out his or her own consultations, the President of the Human Rights Council expressly states whether due consideration has been given to gender balance.<sup>84</sup>

73. Fifth, in 2015, the Consultative Group adopted guidelines on gender parity to address gender diversity in the selection of special procedure mandate holders, recommending gender

<sup>82</sup> See [www.ohchr.org/EN/HRBodies/HRC/SP/Pages/Nominations.aspx](http://www.ohchr.org/EN/HRBodies/HRC/SP/Pages/Nominations.aspx).

<sup>83</sup> Ibid.

<sup>84</sup> See, e.g., letter dated 21 February 2020 from the President of the Human Rights Council, p. 2.

Available at [www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC43/20200221\\_Letter\\_President\\_HRC43\\_appointments\\_mandate\\_holders.pdf](http://www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC43/20200221_Letter_President_HRC43_appointments_mandate_holders.pdf).

targets for the Consultative Group in selecting candidates for interviews and in preparing shortlists for the President of the Human Rights Council.

### **C. Good practices from other regional and international courts and mechanisms**

74. Best practices for the nomination and election of judges to regional and international courts and mechanisms can provide valuable guidance for the selection procedures at the United Nations. As outlined in annex III, States that recognize the competency of those courts and mechanisms have adopted useful measures, including:

- (a) Ensuring that shortlists include candidates of both genders, except where shortlists comprising candidates of only one gender are composed of candidates of the underrepresented gender (or if exceptional circumstances are present);
- (b) Requiring selection panels to reflect a balanced gender composition;
- (c) Establishing minimum voting requirements, which set targets to ensure a balanced gender representation in the composition of such courts and mechanisms;
- (d) Including a requirement on gender representation in the foundational treaties of such courts and mechanisms;
- (e) Committing to gender parity through resolutions adopted at the highest political level.

### **D. Good practices identified from comparative experiences**

75. The underrepresentation of women in leadership and decision-making roles is a problem in both public and private sectors around the world. As discussed in further detail in annex III, good practices applied in these comparable contexts offer useful insights that may be transferable to the United Nations context. A number of good practices are common across other employment contexts, including:

- (a) Setting aspirational or mandatory targets for achieving greater female representation;
- (b) Holding decision makers accountable for achieving these targets by requiring explanations where such targets are not being achieved;
- (c) Ensuring that selection committees are themselves gender diverse and that selection committee members understand that seeking diverse candidates is part of their mandate;
- (d) Designing recruitment material using gender-neutral and inclusive language that attracts gender-diverse candidates.

## **VI. Recommendations**

### **A. Human Rights Council and its organs**

#### **1. General recommendations**

**76. The Human Rights Council should publish on its website data on the gender composition of the special procedures, and adopt measures to tackle the underrepresentation of women. A dashboard similar to the Gender Parity Dashboard of the United Nations, which sets out gender-segregated data for international staff in the Secretariat, could be effective.**



**2. Recommendations to ensure gender parity among holders of special procedure mandates**

77. The Human Rights Council should consider adopting guidelines on achieving gender parity for the Consultative Group.

78. The President of the Human Rights Council should consider systematically informing the Council about the efforts made to achieve gender parity in recommending candidates.

79. Where two candidates are of equal merit, the President of the Human Rights Council should recommend the candidate of the underrepresented gender.

80. Regional groups invited to appoint members to the Consultative Group should ensure gender parity in making such appointments.

81. Members of the Human Rights Council and the coordinators of the five regional groups should actively support the selection of women candidates while underrepresentation persists.

82. Finally, and especially where a position requires spending time abroad, the Human Rights Council, working closely with States, should provide appropriate financial and logistical support to special procedure mandate holders, to ensure the independence and proper implementation of the mandate, and its compatibility with family and other personal obligations.

83. The Consultative Group should:

(a) Continue to list candidates' gender in its reports, and provide information on how it has taken into account gender parity in selecting candidates for interviews and in drawing up shortlists for the President of the Human Rights Council;

(b) Consider, when appropriate, a women-only list of candidates for special procedure mandates that have never been held by a woman;

(c) Ensure gender parity in the composition of working groups, including by considering women-only lists of candidates for special procedure mandates that lack parity (doing so on an alternate basis if the number of positions is uneven). Mandates focused specifically on women's issues should be recognized as exceptions, since they are the only ones specifically dedicated to addressing issues concerning women, who make up half the world's population and who remain grossly underrepresented and disadvantaged in all fields. In any case, candidates should hold a proven record of working on women's right to equality and meet the fundamental requirement of commitment and expertise on the issue of discrimination against women. Criteria for this should be drafted by the Consultative Group in consultation with the Working Group on discrimination against women and girls;

(d) Provide a written justification where it makes a decision that results in a lack of gender parity or fails to address the gender-representation gap, in the interest of transparency and so that such impediments may be addressed in a timely manner in future selection processes;

(e) Extend the deadline for calls for applications when not enough women candidates have applied;

(f) Shortlist the candidate of the underrepresented gender, where two candidates are of equal merit, unless exceptional circumstances justify shortlisting the candidate of the overrepresented gender;

(g) Ensure that it is presented with an up-to-date, detailed breakdown of the gender composition of the special procedures at each meeting;

(h) In accordance with paragraph 77 above, implement guidelines on gender representation so that they are considered by every composition of the Consultative Group.

**3. Recommendations to ensure gender parity in the membership of the Advisory Committee**

84. The Human Rights Council should call on States to nominate members to the Advisory Committee taking into account gender parity, and address a reminder to the regional groups in that regard ahead of elections. In particular, the Council should encourage States to engage with national human rights institutions, civil society organizations and other relevant non-State actors in identifying strong female candidates.

**B. Member States**

85. When negotiating and drafting new or existing treaties, statutes, mechanisms or guidelines, States should pursue the inclusion of processes that ensure gender parity in the composition of the relevant monitoring bodies.

86. States should make commitments, at the national level, to: (a) identify more female candidates; (b) promote public and participatory selection processes that include gender as a specific criteria; and (c) promote research and mentoring to ensure that obstacles for full participation are overcome. At the international level, they should make commitments to: (a) nominate and elect more female candidates to fill vacancies in United Nations human rights organs and mechanisms; and (b) report regularly on implementing these recommendations, to ensure compliance with their obligations on gender equality.

**1. Recommendations to ensure that more female candidates are identified**

87. With regard to proactively seeking female candidates, States should:

(a) Consider maintaining publicly available databases of potential candidates for United Nations positions, and should encourage women to put themselves forward for inclusion in such databases;

(b) Work with relevant civil society organizations and other non-State actors to collect profiles of qualified women for United Nations human rights positions;

(c) Make use of every means (including social media) to disseminate information regarding vacancies, being proactive to ensure that such information reaches qualified women;

(d) Also engage with civil society organizations and other non-State actors to disseminate information regarding vacancies;

(e) Ensure that vacancy notifications are drafted using gender-neutral language and include an acknowledgement of the commitment of the United Nations to gender parity in its recruitment and selection processes.

**2. Recommendations to ensure more female candidates are nominated**

88. States should develop and adopt formal, open and transparent national nomination procedures.

89. The formal nomination procedures should include gender parity as a specific selection criterion and goal.

90. As part of the nomination procedure, States should consider the actual and historical gender composition of the respective United Nations body and commit themselves to nominating a candidate of the underrepresented gender for each vacancy.

**3. Recommendations to ensure that more women are elected or appointed**

91. States should consider undertaking firm commitments to guarantee gender parity in the election of candidates to fill vacancies in United Nations human rights bodies and mechanisms.

92. **Affirmative steps to ensure gender parity during the elections could include:**
- (a) **Incorporating gender parity in voting practices;**
  - (b) **Adopting policies requiring:**
    - (i) **The nomination of both men and women;**
    - (ii) **That the actual and historic gender composition of organs be considered when voting, especially in relation to bodies and mechanisms that have not yet achieved gender parity or adequate gender representation;**
  - (c) **Implementing target measures, for example by encouraging States to commit to electing members only of the gender that is currently underrepresented in the body, or non-binding targets (the target could vary depending on the current composition of the body);**
  - (d) **Encouraging States to vote for women candidates in consecutive voting rounds if the minimum targets for parity are not achieved in the first round of votes.**

**4. Recommendations on reporting, monitoring and ensuring compliance**

93. States are encouraged to include all measures adopted in light of the present recommendations in the national reports presented within the framework of the universal periodic review.

94. Civil society organizations and other non-State actors should be invited to submit information regarding the implementation of the present recommendations as part of the summary of other stakeholder information submitted in the universal periodic review process.

95. States should include their progress or difficulties in implementing the present recommendations in their periodic reports under article 18 of the Convention on the Elimination of All Forms of Discrimination against Women, relevant reports to the Working Group on discrimination against women and girls, and reports to other procedures or mechanisms that monitor equality and access to justice. Information regarding the implementation (or not) of the recommendations should form part of the measures adopted to give effect to article 8 of the Convention on the Elimination of All Forms of Discrimination against Women and to the wide array of provisions on equality and access to justice in other relevant treaties, and should also be assessed during country visits by the Working Group.

96. States should also collect and disseminate data disaggregated by gender on candidates nominated and elected to international positions.

**C. Office of the United Nations High Commissioner for Human Rights**

97. OHCHR should broadly disseminate announcements of upcoming elections of the United Nations bodies for which it serves as the secretariat, namely treaty bodies and special procedures, and develop mechanisms and collaborations to that end, including by reaching out to relevant women's networks.

98. OHCHR should assist States, the Human Rights Council and the Consultative Group in developing mechanisms for achieving gender parity in the nomination and election of members to United Nations bodies.

99. OHCHR should periodically prepare a report on the existing nomination policies, practices and mechanisms, highlighting best practices. The report should include indicators of progress and results, as well as a proposal for an evaluation system. The report could also include an exploration of the obstacles to achieving gender parity, a study on election practices by Member States in treaty bodies, and proposed recommendations.

100. OHCHR should continue collecting and tracking gender-balance data for the United Nations bodies it serves. In that regard:

(a) The information could be made more prominent and public, linking it to other data collection efforts (for example, the United Nations system-wide strategy on gender parity);

(b) The data collected should also be presented to States and United Nations bodies in annual reports, and included in the communication sent to Member States ahead of a nomination or election;

(c) Efforts should be made to promote research to overcome barriers to the full participation of women in United Nations bodies. A survey addressed to women currently serving as independent experts on United Nations bodies could be undertaken in order to collect personal experiences and to identify the main obstacles encountered in the nomination process and while carrying out the mandate;

(d) Efforts should continue to integrate a gender perspective in OHCHR briefings for experts, and to produce practical guidance tools for country visits, situation analysis and report writing.

## Annex I

### Abbreviations and acronyms used in the annexes

<i>Acronym</i>	<i>Description</i>
ACHPR	African Commission on Human and Peoples' Rights
ACtHPR	African Court on Human and Peoples' Rights
Advisory Committee	Advisory Committee of the United Nations Human Rights Council
CAT	United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CAT Committee	United Nations Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CCPR Committee	United Nations Human Rights Committee
CED	International Convention for the Protection of All Persons from Enforced Disappearances
CED Committee	United Nations Committee on Enforced Disappearances
United Nations CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CEDAW Committee	United Nations Committee on the Elimination of Discrimination Against Women
CERD Committee	United Nations Committee on the Elimination of Racial Discrimination
CESCR Committee	United Nations Committee on Economic, Social and Cultural Rights
CMW Committee	United Nations Committee on the Protection of the Rights of all Migrant Workers and Members of their Families
CRC	United Nations Convention on the Rights of the Child
CRC Committee	United Nations Committee on the Rights of the Child
CRPD	United Nations Convention on the Rights of Persons with Disabilities
CRPD Committee	United Nations Committee on the Rights of Persons with Disabilities
ECOSOC	United Nations Economic and Social Council
ERA	Equal Representation in Arbitration
ECHR	European Court of Human Rights
Guidelines on Gender Parity	Guidelines on gender parity adopted on 23 December 2015 by the HRC's Consultative Group (available <a href="#">here</a> )

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<i>Acronym</i>	<i>Description</i>
HRC	United Nations Human Rights Council
IACHR	Inter-American Commission on Human Rights
IACtHR	Inter-American Court of Human Rights
ICC	International Criminal Court
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Court of Justice
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ILC	International Law Commission
ITLOS	International Tribunal for the Law of the Sea
IWRAW	International Women's Rights Action Watch Asia-Pacific
JAC	Judicial Appointments Commission (UK)
OAS	Organisation of American States
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the United Nations High Commissioner for Human Rights
OP	Operative paragraph
PACE	Council of Europe Parliamentary Assembly
Pledge	Equal Representation in Arbitration Pledge (available <a href="#">here</a> )
Questionnaire	Public questionnaire prepared by the drafting group established to prepare this Report
SPT Subcommittee	United Nations Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment
UDHR	Universal Declaration of Human Rights
UN	United Nations
UN Charter	Charter of the United Nations
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
WGDAW	Working Group on Discrimination against Women and Girls
WHA	United Nations World Health Assembly

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## Annex II

### Gender underrepresentation in United Nations bodies and mechanisms

1. This **Annex** focuses on the United Nations human rights bodies and mechanisms that are the subject of the present report, in particular to: (i) describe their function; composition; nomination and election processes; selection criteria; and term of membership; and (ii) present data on their current and historic levels of gender representation. These human rights bodies and mechanisms are treaty bodies, the special procedures of the Human Rights Council and the Human Rights Council Advisory Committee.

2. As demonstrated by the statistics below, although some bodies achieve or have recently achieved gender parity, women generally remain underrepresented in UN human rights bodies and mechanisms.

#### A. Treaty bodies

3. *Function:* There are 10 treaty bodies that monitor the implementation of core international human rights treaties.

4. Nine of the ten UN treaty bodies (i.e., all with the exception of the SPT Subcommittee) may, under certain conditions, receive and consider individual complaints alleging violations of the respective treaty.<sup>1</sup> Seven of them (i.e., all with the exception of the SPT, CEDAW and CRPD Committees) may also consider inter-State complaints.<sup>2</sup> The CAT,<sup>3</sup> CESCR,<sup>4</sup> CRPD,<sup>5</sup> CRC<sup>6</sup> and CEDAW<sup>7</sup> Committees may also initiate inquiries, and CED visits,<sup>8</sup> if they have received reliable information indicating serious or systematic violations of the relevant treaties. With the exception of the procedure under article 33 of the CED, States may opt out of all other inquiry procedures.<sup>9</sup>

5. *Composition:* Treaty bodies are composed of independent human rights experts (also referred to as “members”).

6. *Nomination and election process:* States parties to the relevant treaty nominate and elect experts to the relevant treaty bodies.<sup>10</sup> States nominate candidates among their nationals.

<sup>1</sup> Article 14 ICERD; article 22, CAT; article 31, CED; Optional Protocol to ICESCR; Optional Protocol to ICCPR; Optional Protocol to CEDAW and Optional Protocol to CRPD. The CRC Committee may also consider individual communications alleging violations of the Convention on the Rights of the Child or its Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict by States parties to the Optional Protocol to the Convention on the Rights of a Child on a communications procedure. The individual complaint mechanism of the CMW Committee under article 77 of the ICRMW has not yet entered into force.

<sup>2</sup> Articles 11–13, ICERD; Article 10, Optional Protocol to the ICESCR; Articles 41–43, ICCPR; Article 21, CAT; Article 76, ICRMW; Article 12, Optional Protocol on a communications procedure to CRC; Article 32, CED.

<sup>3</sup> Article 20, CAT.

<sup>4</sup> Article 11, Optional Protocol to the ICESCR.

<sup>5</sup> Article 6, Optional Protocol to the CRPD.

<sup>6</sup> Article 13, Optional Protocol on a communications procedure to CRC.

<sup>7</sup> Article 8, Optional Protocol to the CEDAW.

<sup>8</sup> Article 33, CED.

<sup>9</sup> Article 28, CAT; Article 10, Optional Protocol to CEDAW; Article 8, Optional Protocol to CRPD; Article 13 (7), Optional Protocol on a communications procedure to CRC; Article 11 (8), Optional Protocol to ICESCR.

<sup>10</sup> Article 8, ICERD; Article 17, CEDAW; Article 17, CAT; Article 43, CRC; Article 72.2 (a), ICRMW; Articles 6–7, Optional Protocol to the CAT; Article 34.5, CRPD; Article 26.2, CED; Article 29 ICCPR. In the case of CESCR, its members are elected by ECOSOC Member States from the list of candidates nominated by the States parties to ICESCR, see ECOSOC resolution 1985/17 on the composition, organization and administrative arrangements of the Sessional Working Group of

The UN Secretary-General compiles these nominees and then submits them to a vote by all States parties to a specific treaty.<sup>11</sup>

7. Elections for UN treaty bodies take place during meetings of States parties of each treaty body, and experts are elected by secret ballot.<sup>12</sup> The elected nominees are those “who obtained the largest number of votes and an absolute majority of the votes of the representatives of States parties present and voting”.<sup>13</sup>

8. *Selection criteria:* Pursuant to the General Assembly resolution 68/268, States are encouraged to give due consideration to “balanced gender representation”, as well as other factors such as “equitable geographical distribution” and “the participation of experts with disabilities” when nominating and electing independent experts for UN treaty bodies.<sup>14</sup> Resolution 68/268 also reiterates the importance of equitable gender representation within the composition of UN treaty bodies, as stipulated in the human rights instruments.<sup>15</sup>

9. In addition, all treaties specifically provide that equitable geographical distribution and representation of different legal systems be considered in the selection of the experts,<sup>16</sup> as well as their qualifications in the form of high moral standing, impartiality, and competence. However, only three treaties expressly provide that due consideration be given to the need for “balanced gender representation”: (a) the CRPD;<sup>17</sup> (b) the CED;<sup>18</sup> and (c) the Optional Protocol to the Convention against Torture (OPCAT).<sup>19</sup>

## 1. Committee on the Elimination of Racial Discrimination (CERD)

10. CERD monitors the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination by its States parties. It is made up of 18 members. They elect a Chairperson, three Vice-Chairpersons and a Rapporteur.<sup>20</sup> The term of each member is four years. However, the term of nine of the members elected at the first election expired after two years.<sup>21</sup> Consequently, nine members of CERD are renewed every two years, and they can be re-elected.

11. Gender representation: As shown in Figure 1, as at 1 May 2021, eight of its 18 members were women (44.44%). The Chairperson is a woman, as are one of the three Vice-Chairpersons and the Rapporteur.<sup>22</sup>

12. As reflected in Figure 2, between 1970–1978, CERD had only one female member (5.56%) and, in 1979, there were no women serving on the Committee. Between 1980 and 2013, the number of female members fluctuated between one and three (5.56%–16.67%), and it increased to four women in 2014–2015 (22.22%), seven in 2016–2017 (39%), and eight women in 2018–2019 (44.44%), before achieving gender parity for the first time in

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Governmental Experts on the Implementation of the International Covenant on Economic, Social and Cultural Rights, 28 May 1985, UN Doc E/RES/1985/17, OP (c).

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> OHCHR, “Elections – Frequently asked questions”, available at <https://www.ohchr.org/EN/HRBodies/Pages/ElectionsFAQ.aspx>.

<sup>14</sup> General Assembly resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system, 21 April 2014, UN Doc A/RES/68/268, para 13. See also OHCHR, “Elections of Treaty Body Members”, available at <https://www.ohchr.org/EN/HRBodies/Pages/ElectionsofTreatyBodiesMembers.aspx>.

<sup>15</sup> Ibid.

<sup>16</sup> Article 8.1, ICERD; Article 31, ICCPR; Article 17.1, CEDAW; Article 17.1, CAT; Article 43.2, CRC; Article 72.2 (a), ICRMW; Article 5.3, Optional Protocol to CAT; Article 34.4, CRPD; Article 26.1, CED; ECOSOC resolution 1985/17, OP (b).

<sup>17</sup> Article 34.4, CRPD. The CRPD is the only treaty also providing for the “participation of experts with disabilities”.

<sup>18</sup> Article 26.1, CED.

<sup>19</sup> Article 5.4, Optional Protocol to the CAT.

<sup>20</sup> Rule 15 of the Rules of Procedure (CERD/C/35/Rev.3).

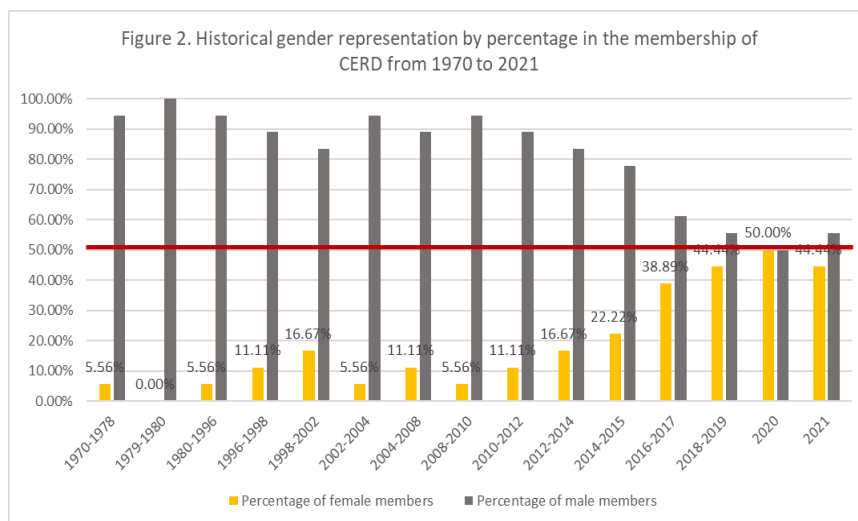
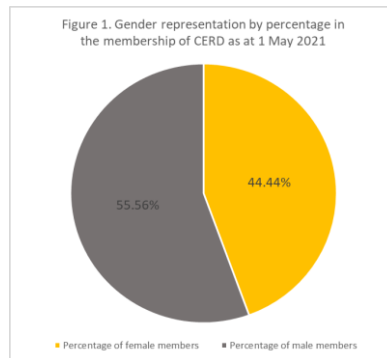
<sup>21</sup> Article 8.5 (a), ICERD.

<sup>22</sup> See OHCHR, “Membership of the Committee on the Elimination of Racial Discrimination”, available at <https://www.ohchr.org/EN/HRBodies/CERD/Pages/Membership.aspx>.

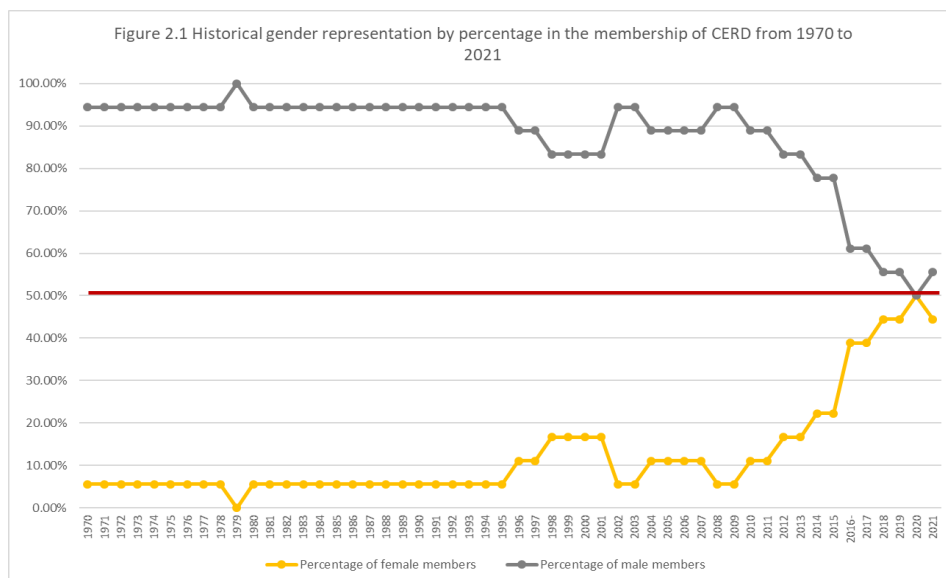


2020.<sup>23</sup> As at 1 May 2021, the number of women on the Committee decreased again to 8 of 18 (44.44%).

The figures below reflect the composition of CERD as at 1 May 2021



<sup>23</sup> See A-K Holmlund, “Gender parity in the United Nations Treaty Bodies – a historical overview”, GQUAL Campaign Discussion Paper, 25 October 2017, p. 2; UN General Assembly, Report of the Secretary General, “Status of the human rights treaty body system”, 18 July 2016, UN Doc A/71/118, Annex XVIII, “Gender composition of treaty bodies on 1 January 2016” (*UNSG Report, Annex on gender composition of treaty bodies, 2016*); UN General Assembly, Report of the Secretary General, “Status of the human rights treaty body system”, 6 August 2018, UN Doc A/73/309, Annex XXIV, “Gender composition of treaty bodies on 31 January 2018” (*UNSG Report, Annex on gender composition of treaty bodies, 2018*); UN General Assembly, Report of the Secretary General, “Status of the human rights treaty body system”, 10 January 2020, UN Doc A/74/643, Annex XXIII, “Gender composition of treaty bodies as at 31 October 2019” (*UNSG Report, Annex on gender composition of treaty bodies, 2019*).



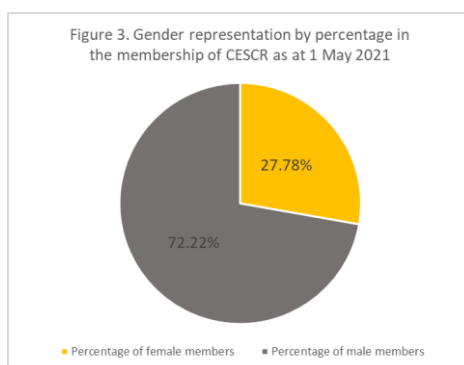
**2. Committee on Economic, Social and Cultural Rights (CESCR)**

13. CESCR monitors the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and its Optional Protocol. It comprises 18 members.<sup>24</sup> The members elect a Chair, three Vice-Chairs and a Rapporteur, respecting the criterion of proportional geographic distribution described below.<sup>25</sup> The term of each member is four years. One-half of the membership of the Committee shall be renewed every two years.<sup>26</sup> Each member can be re-elected.<sup>27</sup>

14. *Gender representation:* As shown in Figure 3, as at 1 May 2021, five of its 18 members were women (27.78%). The highest female membership in CESCR was six women, i.e. 33.33%. As at 1 May 2021, one of the Vice-Chairs was a woman, and election of new officers (Chair, three Vice-Chairs and a Rapporteur) was expected to take place later in 2021. In 2020, two of the three Vice-Chairs were women, therefore women held two of the five leadership positions.

15. As reflected in Figure 4, historically, women representation in CESCR ranged between two (lowest percentage: 11.11% in 1986–1990 and in 1996–2002) and six women (highest percentage: 33.33% in 1992–1994, and in 2019–2020).<sup>28</sup>

*The figures below reflect the composition of CESCR as at 1 May 2021*



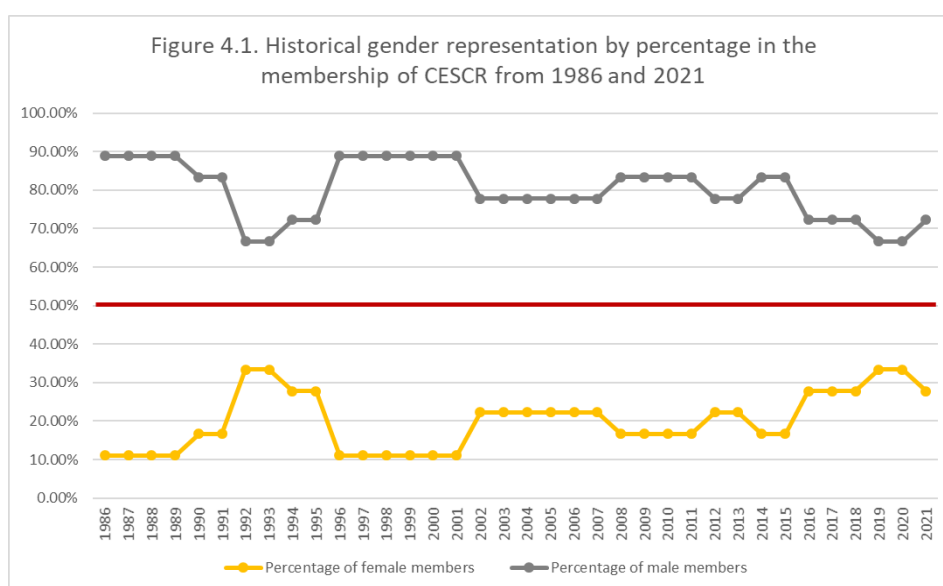
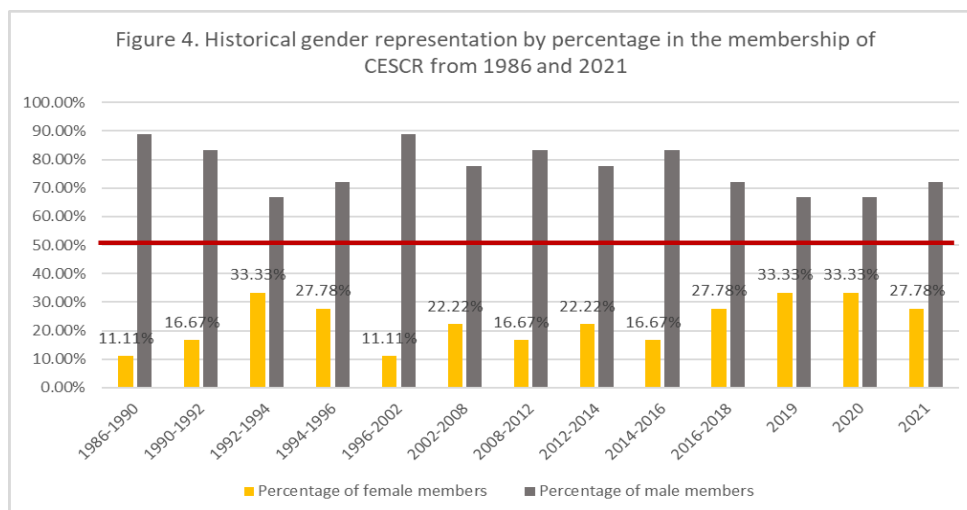
<sup>24</sup> ECOSOC resolution 1985/17, OP (b).

<sup>25</sup> Rule 14 of the Rules of procedure (E/C.12/1990/4/Rev.1).

<sup>26</sup> ECOSOC resolution 1985/17, OP (c)(ii).

<sup>27</sup> *Ibid.*, OP (c)(i) and (c)(ii).

<sup>28</sup> See A-K Holmlund, *op. cit.*, p 3; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.



### 3. Human Rights Committee (CCPR)

16. The Human Rights Committee monitors implementation of the International Covenant on Civil and Political Rights (ICCPR) and its Optional Protocols. It comprises 18 members.<sup>29</sup> Its members elect a Chair, three Vice-Chairs and a Rapporteur<sup>30</sup> responsible for preparing the annual report on the activities of the Committee for the General Assembly. The term of each member is four years and each member is eligible for re-election if re-nominated. Nine members of the Committee are elected every two years.<sup>31</sup>

17. *Gender representation:* As shown in Figure 5, as at 1 May 2021, seven of its 18 members were women (38.89%). The positions of Chairperson and one of the three vice-chairpersons were held by women.<sup>32</sup>

18. As reflected in Figure 6, the first female member joined the Committee in 1984 (5.56%); before, it had operated with an all-male composition since 1977. The number of women gradually increased to two in 1987 (11.11%), three in 1993 (16.67%), four in 1995 (22.22%) and five in 1997 (27.78%), only to fall again to four women in 1999 (22.22%), and just two women in 2001 (11.11%). In 2005, women representation started to increase

<sup>29</sup> Article 28, ICCPR.

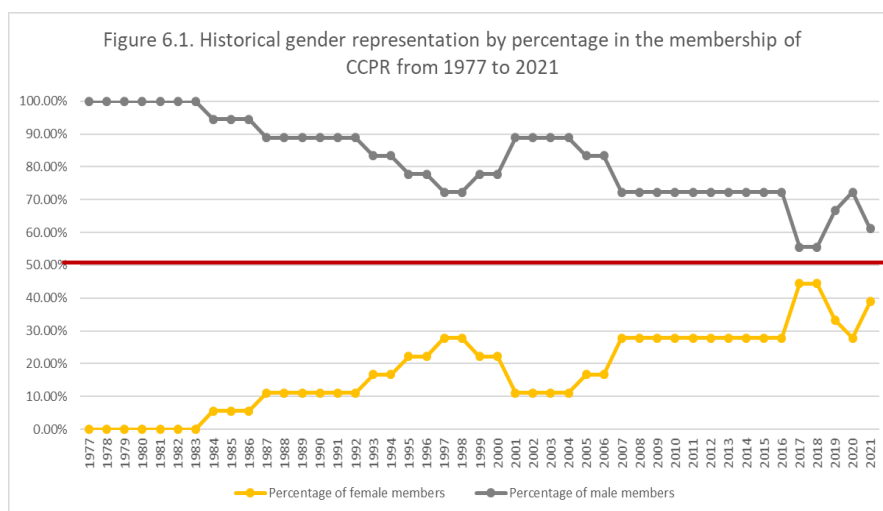
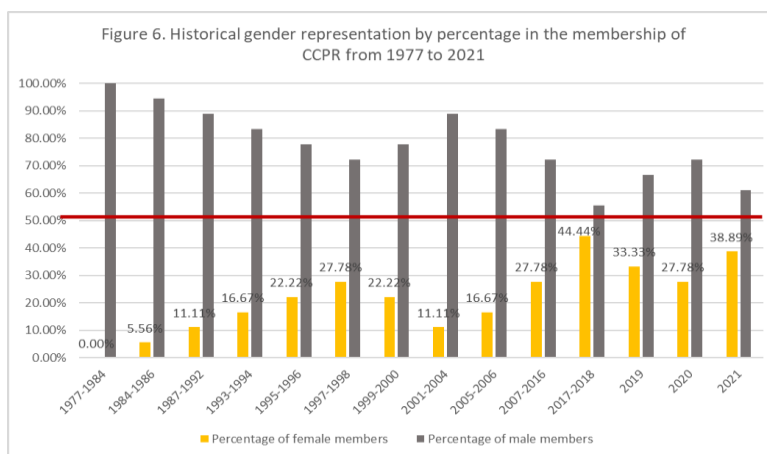
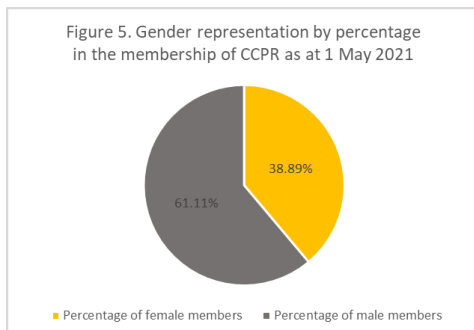
<sup>30</sup> Rule 16 of the Rules of procedure (CCPR/C/3/Rev.12).

<sup>31</sup> Article 32, ICCPR.

<sup>32</sup> See OHCHR, "Membership of the Human Rights Committee", available at <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/Membership.aspx>.

gradually and reached near gender parity in 2017, with eight women of the 18 members (44.44%). Yet it quickly fell to just six women in 2019 (33.33%) and even further to five women in 2020 (27.78%).<sup>33</sup> However, the number of women increased from five to seven following the last elections held on 17 September 2020, therefore the percentage of women representation stood at 38.89 % as at 1 May 2021.

*The figures below reflect the composition of the Human Rights Committee as at 1 May 2021*



#### 4. Committee on the Elimination of Discrimination against Women (CEDAW)

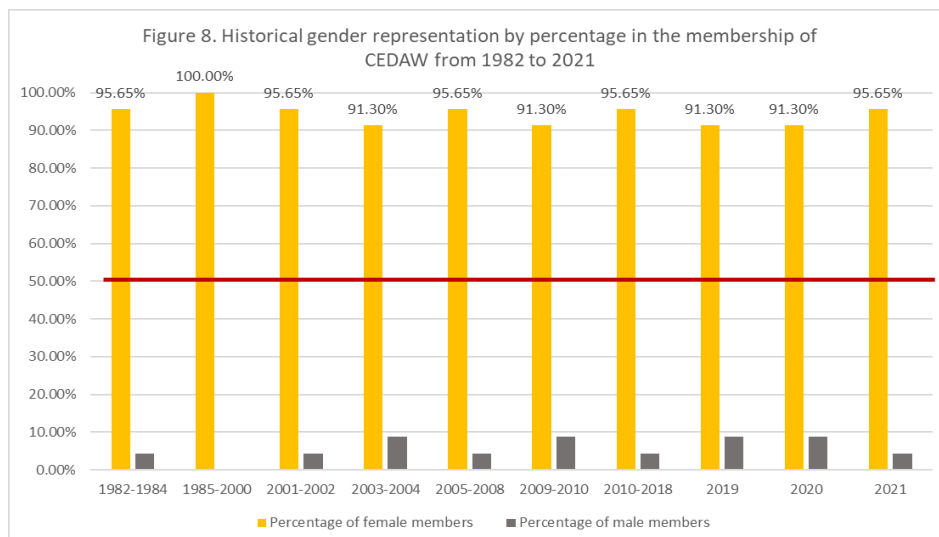
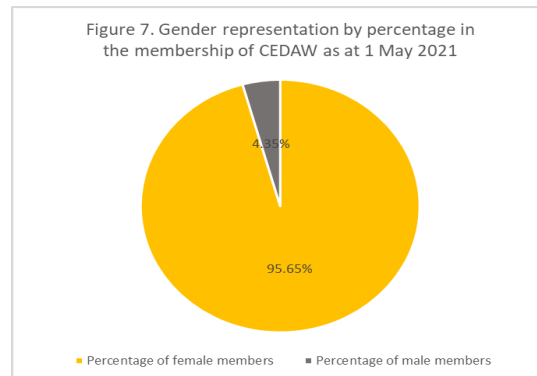
19. CEDAW monitors the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol. It is made up of 23

<sup>33</sup> See A-K Holmlund, op. cit., p. 3; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.

members. Its members elect a Chairperson, three Vice-Chairpersons and a Rapporteur.<sup>34</sup> The mandate of each member is four years. Half of its members are elected every two years.<sup>35</sup>

20. *Gender representation:* As shown in Figure 7, as at 1 May 2021, 22 of the 23 members of the CEDAW Committee were women (95.65%). Four of the five leadership positions were held by women.<sup>36</sup> As reflected in Figure 8, CEDAW has never had more than two men among its 23 members (and it had two men only in 2003–2004, 2009–2010 and 2019–2020).<sup>37</sup>

The figures below reflect the composition of CEDAW as at 1 May 2021

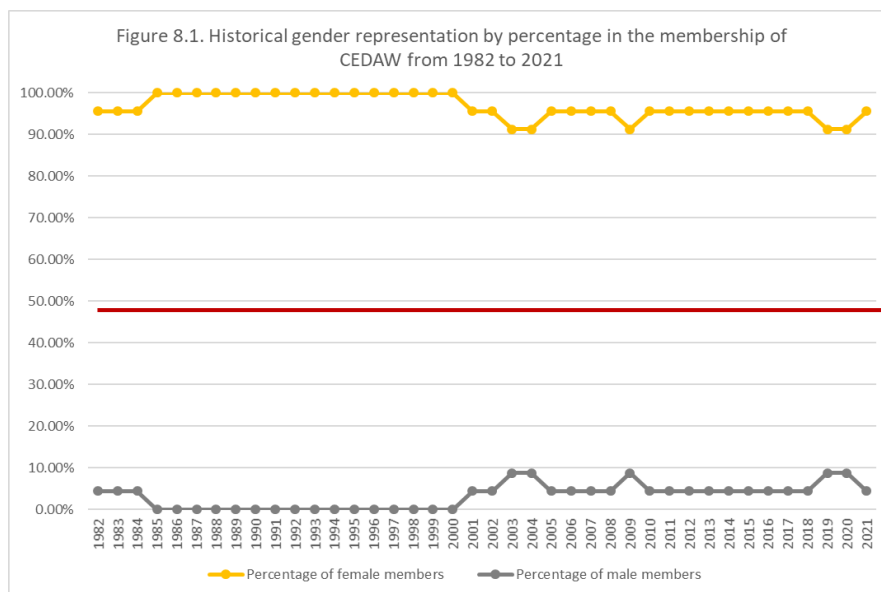


<sup>34</sup> Rule 16 of the Rules of procedure (HRI/GEN/3/Rev.3, p. 102).

<sup>35</sup> Article 17.5, CEDAW.

<sup>36</sup> See OHCHR, “Membership of the Committee on the Elimination of Discrimination against Women”, available at <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Membership.aspx>.

<sup>37</sup> See OHCHR, “Information on membership of the CEDAW Committee from 1982 to present”, undated, available at <https://www.ohchr.org/en/hrbodies/cedaw/pages/membership.aspx>. See also A-K Holmlund, *op. cit.*, p. 6; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.



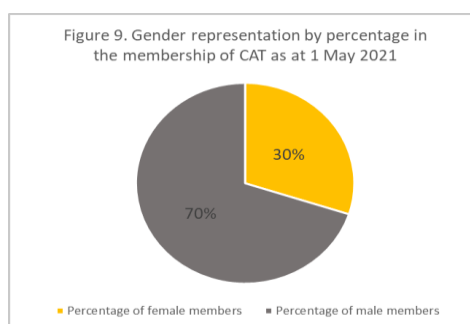
## 5. Committee against Torture (CAT)

21. CAT was established by Article 17 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment to supervise and monitor the implementation of the provisions of that Convention. It comprises 10 members.<sup>38</sup> Like the other Committees, CAT shall elect a Chairperson, three Vice-Chairpersons and a Rapporteur.<sup>39</sup> The mandate of each member is four years, and the members may be re-elected.<sup>40</sup> Half of the members of CAT are renewed every two years.

22. *Gender representation:* As shown in Figure 9, as at 1 May 2021, three of its ten members were women (30%). One of the five leadership positions was held by a woman, namely one of the three positions of Vice-Chairperson.<sup>41</sup>

23. As reflected in Figure 10, between 1988–1991, two women and eight men were serving on CAT (20%). In 1992–1993, CAT operated as an all-male committee; one woman was elected as member in 1994, but women representation returned to 0% in 1998. Between 2000–2005, only one of its ten members was a woman (10%). In 2006, the number of women increased to three (30%), and to four women in 2008 (40%), which is the highest female membership CAT has ever seen. Since then, women representation has fluctuated between 30% and 40%.<sup>42</sup>

*The figures below reflect the composition of CAT as at 1 May 2021*



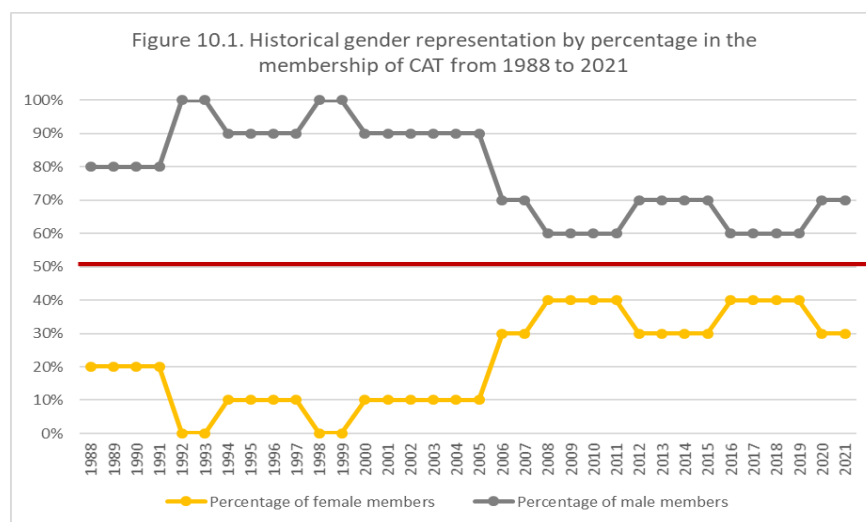
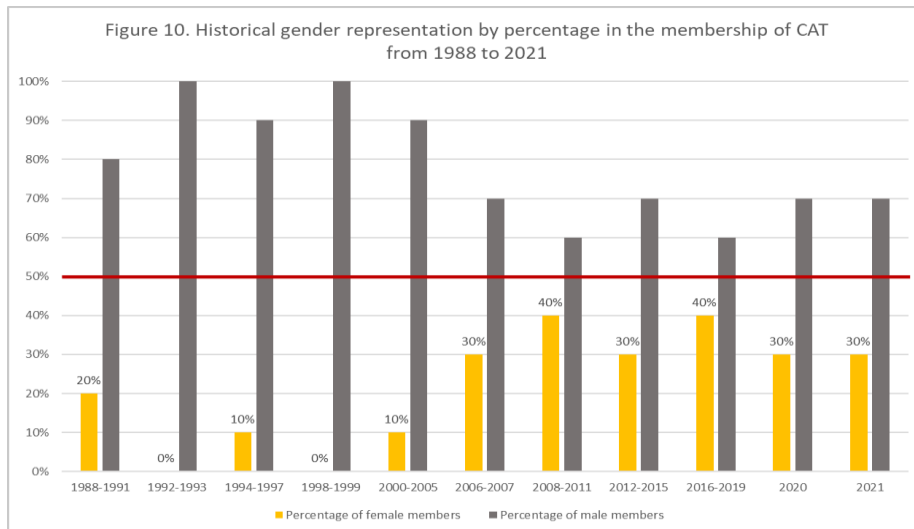
<sup>38</sup> Article 17.1, CAT; Article 11, CAT Committee Rules of Procedure.

<sup>39</sup> Rule 16 of the Rules of procedure (CAT/C/3/Rev.6).

<sup>40</sup> Article 17.5, CAT.

<sup>41</sup> See OHCHR, “Membership of the Committee against Torture”, available at <https://www.ohchr.org/EN/HRBodies/CAT/Pages/Membership.aspx>.

<sup>42</sup> See A-K Holmlund, *op. cit.*, p. 4; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.



## 6. Committee on the Rights of the Child (CRC)

24. CRC monitors the implementation of the Convention on the Rights of the Child and of its Optional Protocols. It comprises 18 members. CRC shall elect a Chair and four Vice-Chairs, one of which serves as Rapporteur.<sup>43</sup> The mandate of each member is four years, and half of the members are renewed every two years, and they can be re-elected.<sup>44</sup>

25. *Gender representation:* As shown in Figure 11, as at 1 May 2021 nine of CRC's 18 members were women (50%) following the November 2020 elections for the replacement of half the Committee's experts, whose term expired on 28 February 2021.<sup>45</sup> One of the five leadership positions, namely one of the Vice-Chairs (acting also as Rapporteur), was held by a woman.<sup>46</sup>

26. As reflected in Figure 12, CRC began in 1991 with ten members and equal gender representation. In 1993, the number of women increased and fluctuated between six and seven of its ten members until 2001. Between 2003–2005, even following the increase in the total number of experts to 18, women remained the majority (11 of 18, i.e. 61.11%). CRC achieved gender parity in its membership between 2005–2011, and again in 2016–2018.

<sup>43</sup> Rule 17 (1) of the Rules of procedure (CRC/C/4/Rev.5).

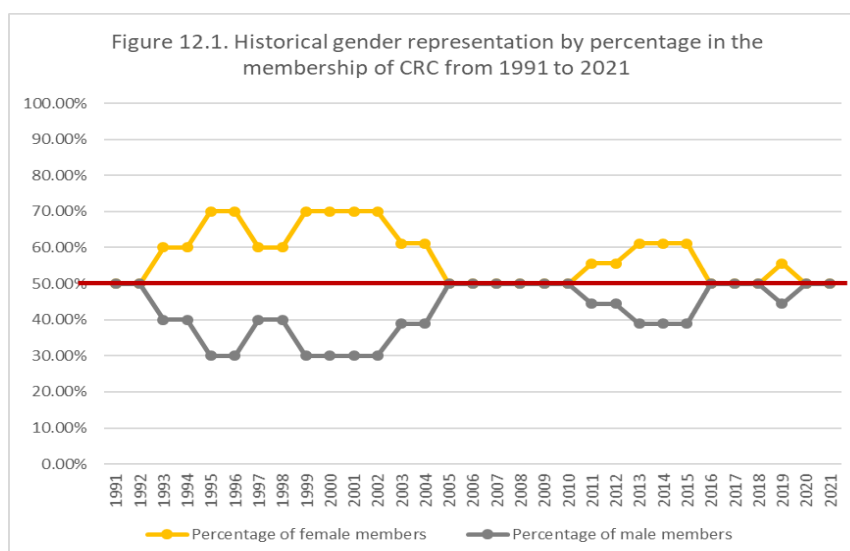
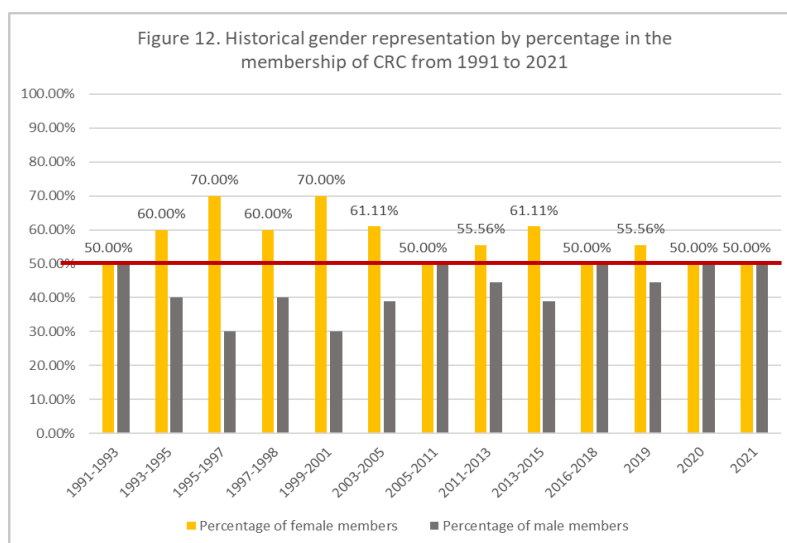
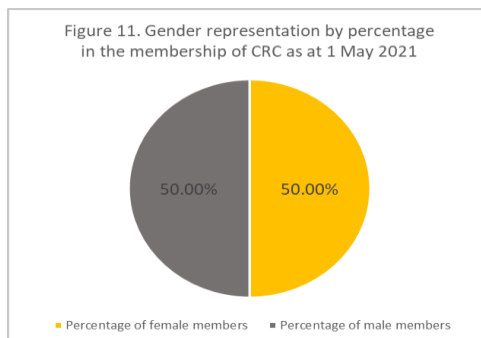
<sup>44</sup> Article 43.6, CRC.

<sup>45</sup> See OHCHR, CRC, "18th Meeting of States parties to the Convention - Elections 2020", available at <https://www.ohchr.org/EN/HRBodies/CRC/Pages/Elections2020.aspx>.

<sup>46</sup> See OHCHR, "Membership of the Committee of the Rights of the Child", available at <https://www.ohchr.org/EN/HRBodies/CRC/Pages/Membership.aspx>.

Following a slight increase in female membership to ten (55.55%),<sup>47</sup> the Committee returned to gender parity with nine female and nine male members.

The figures below reflect the composition of CRC as at 1 May 2021



**7. Committee on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW)**

27. CMW monitors implementation of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It comprises 14 members.

<sup>47</sup> See A-K Holmlund, op. cit., p. 4; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.

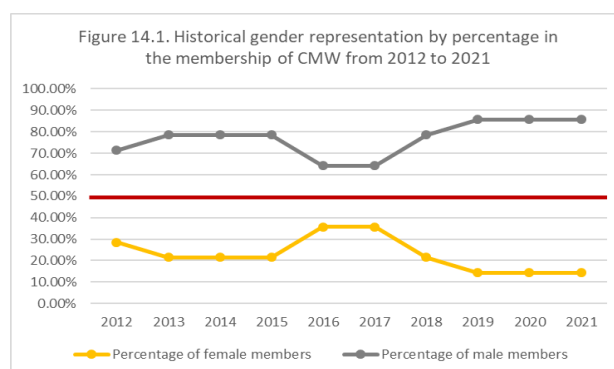
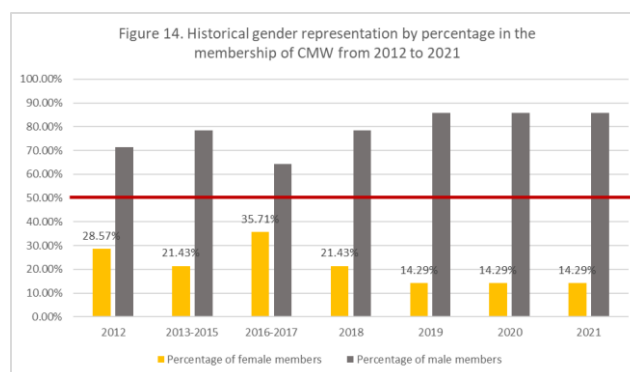
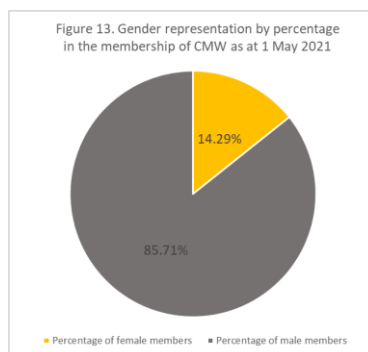


The mandate of each member is four years. Each member is eligible for re-election if re-nominated. Half of the members are elected every two years.<sup>48</sup>

28. *Gender representation:* As shown in Figure 13, as at 1 May 2021, 2 of the 14 members were women (14.29%).<sup>49</sup>

29. As reflected in Figure 14, historically, the percentage of women representation was slightly higher, with four women in 2012 (28.57%), three in 2013–2015 and 2018 (21.43%), and five in 2016–2017 (35.71%). CMW fell to its lowest female membership in 2019, with only two women on the Committee (14.29%).<sup>50</sup>

*The figures below reflect the composition of CMW as at 1 May 2021*



## 8. Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment (SPT)

30. *Function:* The SPT is a subcommittee of the CAT Committee.<sup>51</sup> It was established under the Optional Protocol to the Convention against Torture (OPCAT) to carry out the

<sup>48</sup> Article 72.5, ICRMW.

<sup>49</sup> See OHCHR, “Membership of the Committee on Migrant Workers”, available at <https://www.ohchr.org/EN/HRBodies/CMW/Pages/Membership.aspx>.

<sup>50</sup> See A-K Holmlund, op. cit., p. 5; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.

<sup>51</sup> Article 2.1 of the Optional Protocol to the Convention against Torture (OPCAT).

functions laid down in the Protocol. The objective of the Protocol is “to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment”.<sup>52</sup>

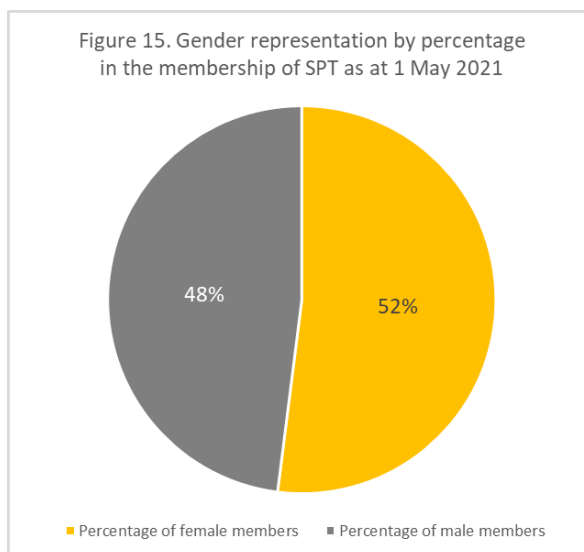
31. The SPT is a new kind of treaty body in the UN human rights system. It has a preventive mandate focused on an innovative, sustained, and proactive approach to the prevention of torture and ill-treatment.<sup>53</sup>

32. At its inception, the SPT comprised 10 members. Once it obtained 50 ratifications, its membership increased to 25 members.<sup>54</sup> Its members elect a Chair and four Vice-Chairs, one of which acts as Rapporteur.<sup>55</sup> The term of each member is four years, and they can be re-elected once.<sup>56</sup>

33. *Gender representation:* As shown in Figure 15, as at 1 May 2021, 13 of the 25 members were women (52%). The Chair and one of the Vice-Chairs (who also acted as Rapporteur) were women.<sup>57</sup>

34. As reflected in Figure 16, the SPT membership comprised only two women of ten experts in 2007 (20%) and had just one woman as an expert in 2009 (10%). In 2011, following the increase in the number of SPT experts to 25, the ratio of female experts also increased to eight (32%), and to 13 women (52%) in 2014. In 2017, this proportion was reversed (12 women and 13 men),<sup>58</sup> and the ratio of 2014, i.e. 13 women (52%) and 12 men, has been reached again since 2020.

*The figures below reflect the composition of SPT as at 1 May 2021*



<sup>52</sup> Article 1, OPCAT.

<sup>53</sup> See OHCHR, “Optional Protocol to the CAT – Introduction”, available at <https://www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIntro.aspx>.

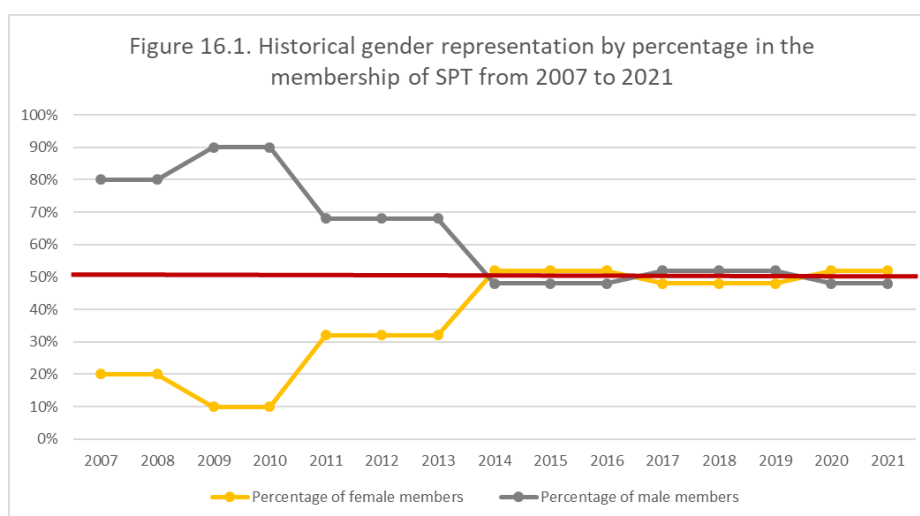
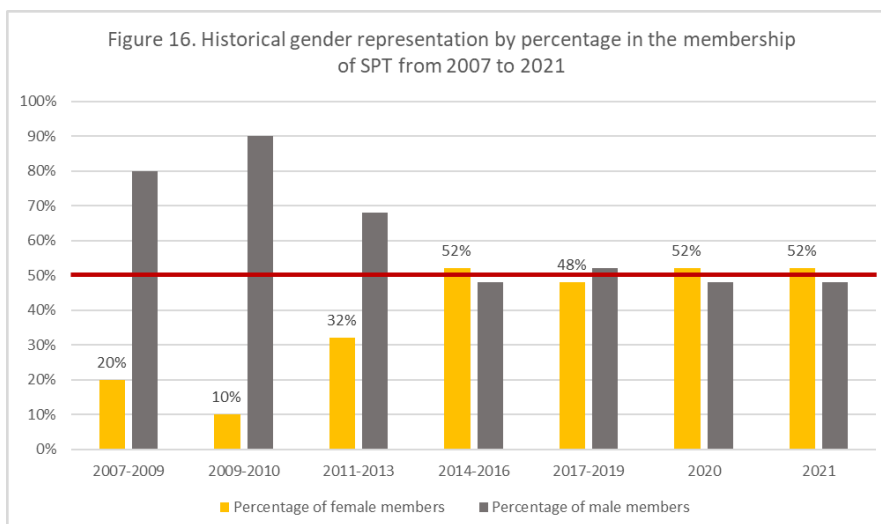
<sup>54</sup> Article 5.1 OPCATT.

<sup>55</sup> Rule 16 of the Rules of procedure (CAT/OP/3/Rev.2).

<sup>56</sup> Article 9 OPCAT.

<sup>57</sup> See OHCHR, “Membership of the Optional Protocol to the Convention against Torture”, available at <https://www.ohchr.org/EN/HRBodies/OPCAT/Pages/Membership.aspx>.

<sup>58</sup> See A-K Holmlund, *op. cit.*, p. 6; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.



## 9. Committee on the Rights of Persons with Disabilities (CRPD)

35. The CRPD Committee monitors implementation of the Convention on the Rights of Persons with Disabilities and of its Optional Protocol. It comprised 12 experts at its inception. Once the Convention reached 60 ratifications, the membership was increased to 18.<sup>59</sup> The term of each member is four years. Each member may be re-elected once if re-nominated. Half of the members are elected every two years.<sup>60</sup>

36. *Gender representation:* As shown in Figure 17, as at 1 May 2021, 12 of its 18 experts were women (66.67%).<sup>61</sup> The Chair, two out of the three Vice-Chairs and the Rapporteur were women.<sup>62</sup>

37. As reflected in Figure 18, the CRPD initially included five women and seven men experts (41.67% and 58.33%, respectively in 2009–2010). Following the increase in the number of its members, CRPD included eight women (44.44%) and ten men. In 2013, the number of women experts decreased to seven (38.89%). In 2015, it further decreased to six women (33.33%), and in 2017 there was just one woman amongst its 18 members (5.56%).

<sup>59</sup> Article 34.2, CRPD.

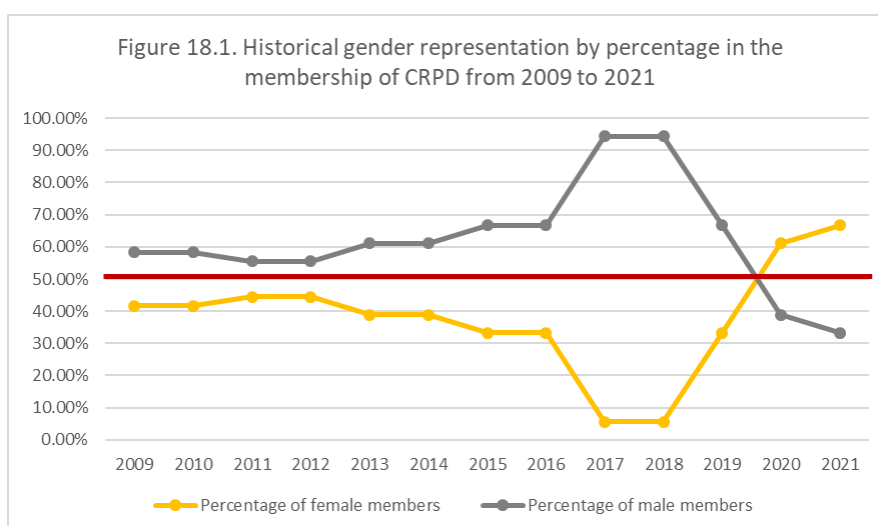
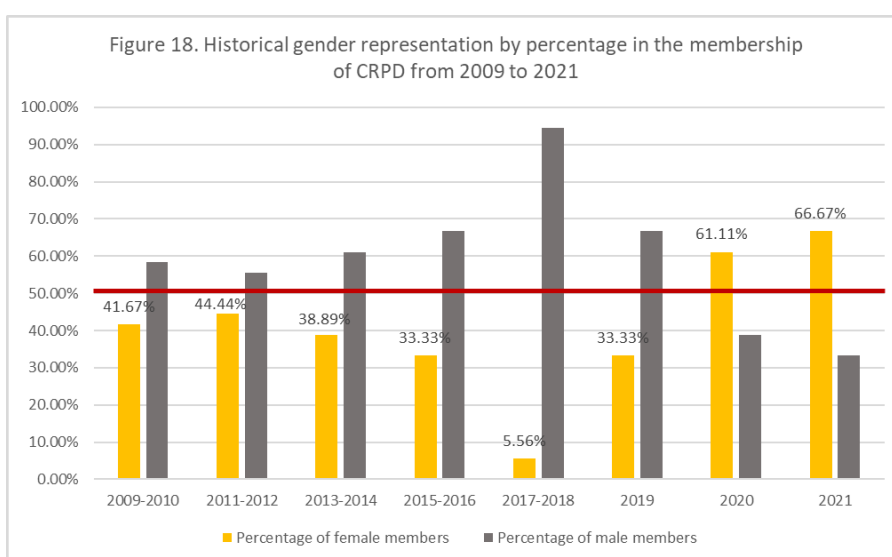
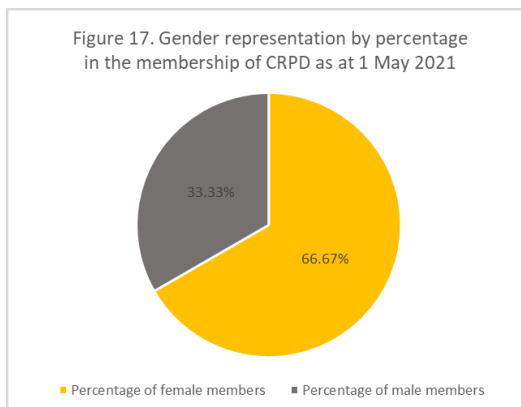
<sup>60</sup> Article 34.7, CRPD.

<sup>61</sup> See OHCHR, CRPD, “Election of nine Members of the Committee on the Rights of Persons with Disabilities to replace those whose terms are due to expire on 31 December 2020”, available at <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/Elections2020.aspx>.

<sup>62</sup> See OHCHR, “Membership of the Committee on the Rights of Persons with Disabilities”, available at <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/Membership.aspx>.

In 2019, women representation rose again to six women (33.33%),<sup>63</sup> and to 12 in 2021 (66.67%).<sup>64</sup>

The figures below reflect the composition of CRPD as at 1 May 2021



<sup>63</sup> A-K Holmlund, op. cit., p. 5; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.

<sup>64</sup> See OHCHR, CRPD, “Election of nine Members of the Committee on the Rights of Persons with Disabilities to replace those whose terms are due to expire on 31 December 2020”, available at <https://www.ohchr.org/EN/HRBodies/CRPD/Pages/Elections2020.aspx>.

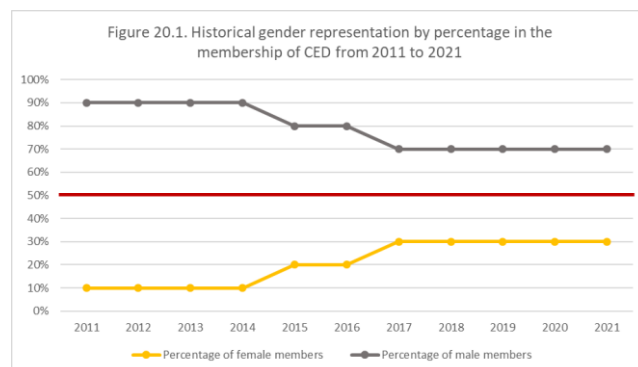
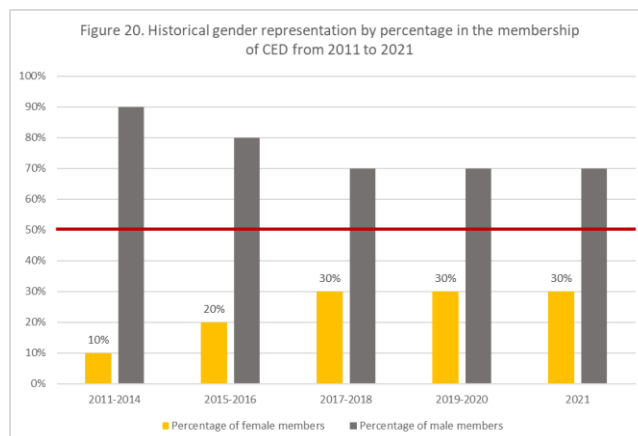
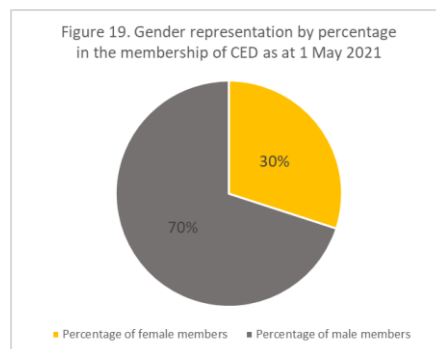
## 10. Committee on Enforced Disappearances (CED)

38. CED monitors the implementation of the International Convention for the Protection of All Persons from Enforced Disappearance. It comprises 10 members,<sup>65</sup> who are elected for a four-year term.<sup>66</sup>

39. *Gender representation:* As shown in Figure 19, as of 1 May 2021, three of the ten experts were women (30%). One of the five leadership positions was held by a woman, as Vice-Chair.<sup>67</sup>

40. As reflected in Figure 20, between 2011–2014, just one of the CED’s members was a woman (10%). Female membership increased to two in 2015 (20%) and to three in 2017 (30%), having so remained as at 1 May 2021.<sup>68</sup>

*The figures below reflect the composition of CED as at 1 May 2021*



<sup>65</sup> Article 26.1, CED. Article 10.1, CED Committee Rules of Procedure.

<sup>66</sup> Article 26.4, CED.

<sup>67</sup> See OHCHR, “Membership of the Committee on Enforced Disappearances”, available at <https://www.ohchr.org/EN/HRBodies/CED/Pages/Membership.aspx>.

<sup>68</sup> See A-K Holmlund, *op. cit.*, p. 6; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.

## B. Special procedures

41. *Function:* The UN special procedures are mandates to report and advise on human rights (for this reason they are also referred to as special mandates). Mandates are either thematic or country specific. Special procedures are either held by a special rapporteur or independent expert, or by a working group composed of five members (from each of the five UN regional groups.<sup>69</sup> Mandate holders serve *pro bono* in their personal capacity.

42. *Composition:* There are currently 44 thematic mandates and 11 country mandates.

43. *Selection process:* The mandate-holders of the special procedures are appointed by the HRC from the HRC President's list of candidates presented to the Council, drawn on the basis of the recommendations made by the Consultative Group and following broad consultations (for more details about the selection process, see para. 46 below).

44. A Consultative Group is formed for the purpose of proposing to the HRC President a list of candidates "who possess the highest qualifications for the mandates in question and meet the general criteria and particular requirements".<sup>70</sup> The Consultative Group comprises five members, "one from each of the regional groups, appointed by their regional groups to serve for one cycle/year".<sup>71</sup> The Consultative Group is assisted by the OHCHR.<sup>72</sup>

45. Unlike the UN treaty bodies, candidates for special procedure mandate-holders are not nominated exclusively by States. According to Council resolution 5/1, nominations may be made by: (a) individuals themselves; (b) Governments; (c) "Regional Groups operating within the United Nations human rights system"; (d) international organisations or their offices (e.g., the OHCHR); (e) nongovernmental organisations; and (f) other human rights bodies.<sup>73</sup>

46. Special procedure mandate-holders are appointed "through a competitive and transparent process, which involves an online written application in response to a call for candidates issued by the Secretariat".<sup>74</sup> The selection process is as follows:

(a) Individual candidates, and candidates nominated by entities, submit an application for a specific mandate.<sup>75</sup> The application usually includes an application form and motivation letter.

(b) Shortlisted candidates are interviewed by telephone by the Consultative Group.<sup>76</sup>

(c) The Consultative Group then recommends a list of candidates to the HRC's President through its published report.<sup>77</sup>

(d) On the basis of the Consultative Group's recommendations and "broad consultations", including with "regional coordinators", the HRC President then identifies an

<sup>69</sup> International Bar Association's Human Rights Institute, "How to achieve Gender Parity in the UN Special Procedures", GQUAL Campaign Discussion Paper, 25 October 2017, p. 1.

<sup>70</sup> HRC resolution 5/1 on institution-building of the United Nations Human Rights Council, 18 June 2007, UN Doc A/HRC/RES/5/1 (HRC resolution 5/1), para 47.

<sup>71</sup> GQUAL, "Current Levels of Representation of Women in Human Rights Organs and Mechanisms: Response of the GQUAL Campaign to the Questionnaire issued by the Human Rights Council Advisory Committee", 29 May 2020, p 4; HRC resolution 5/1, paras 91, 96.

<sup>72</sup> HRC resolution 5/1, para. 49.

<sup>73</sup> *Ibid.*, para 42; HRC resolution 16/21 on the review of the work and functioning of the Human Rights Council, 14 December 2007, UN Doc A/HRC/RES/16/21, para. 22 (a). See also HRC, "Basic information on the selection and appointment process for independent United Nations experts of the Human Rights Council", available at [www.ohchr.org/EN/HRBodies/HRC/SP/Pages/BasicInformationSelectionIndependentExperts.aspx](http://www.ohchr.org/EN/HRBodies/HRC/SP/Pages/BasicInformationSelectionIndependentExperts.aspx).

<sup>74</sup> HRC, "Basic information on the selection and appointment process for independent United Nations experts of the Human Rights Council".

<sup>75</sup> *Ibid.*

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

appropriate candidate for each vacancy.<sup>78</sup> This shortlist of candidates is presented to the HRC's Member States and observers.

(e) The appointment is finalised when the selected candidate put forward by the HRC President is approved and appointed by the HRC.<sup>79</sup>

47. *Selection criteria:* Resolution 5/1 specifies 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”.<sup>80</sup>

48. Pursuant to the same resolution, in nominating, selecting and appointing mandate-holders “[d]ue consideration should be given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems”.<sup>81</sup>

49. In June 2020, the HRC adopted decision 43/117, requesting that the HRC President conducts consultations to formulate draft methods of work of the Consultative Group and submit them to the HRC for consideration before the end of 2020.<sup>82</sup> It was the first time that the HRC President was requested to do so.

50. The decision 43/117 adopted in June 2020 led to the recently approved methods of work of the Consultative Group of the Human Rights Council,<sup>83</sup> which is the first document addressing comprehensively the role and function of the Consultative Group, including the application, selection and recommendation of special mandates candidates to the HRC President. The methods of work provide that due consideration should be given to gender balance throughout the selection process, i.e. while shortlisting of candidates for interview and at the final decision-making stage for the recommendations.<sup>84</sup> The Secretariat of the Consultative Group is also responsible to “prepare, maintain, regularly update and publish on its website, disaggregated statistics on mandate holders since the establishment of the Council, including on gender and geographic representation”.<sup>85</sup>

51. *Gender representation:* As at 1 May 2021, there were 44 thematic mandates, including 6 working groups with a combined total of 30 members (of which 17 were women, including all 5 positions of the WGDAW) and 38 individual mandates, as well as 11 country mandates. 16 of the 38 individual thematic mandate positions were held by women (42%).

52. With respect to country-specific mandates, only two of 11 positions (18.18%) were held by women: the Special Rapporteur on the situation of human rights in Belarus and the Independent Expert on the situation of human rights in Somalia.<sup>86</sup>

53. Out of the 297 former and current special mandate-holders since 1980, 107 have been women (36.03%). More specifically, of the 120 individual thematic mandate appointments throughout that period, 47 were of women (39.17%). Of the 15 independent expert appointments, five were of women (33.33%), and of the 108 working group members, 45 were women (41.66%). This amounts to a 39.92% rate of historical female participation in

<sup>78</sup> Ibid.

<sup>79</sup> Ibid.

<sup>80</sup> HRC resolution 5/1, para 51.

<sup>81</sup> Ibid, para 40. See also HRC, “Basic information on the selection and appointment process for independent United Nations experts of the Human Rights Council”.

<sup>82</sup> HRC decision 43/117 on methods of work of the Consultative Group of the Human Rights Council, 6 July 2020, UN Doc A/HRC/DEC/43/117, paras. 1, 4.

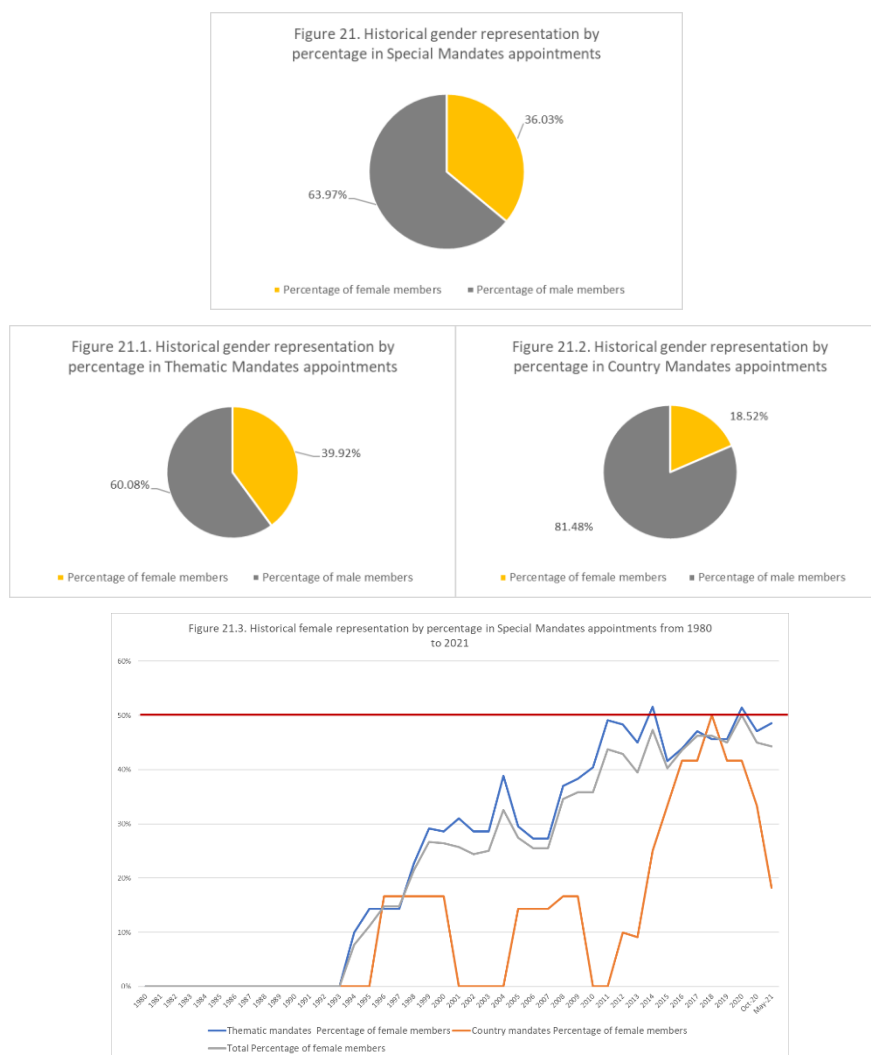
<sup>83</sup> See HRC, Statement by the President, “Methods of work of the Consultative Group of the Human Rights Council”, 17 December 2020, A/HRC/PRST/OS/14/2.

<sup>84</sup> Ibid, paras. 31, 48.

<sup>85</sup> Ibid, para. 29.

<sup>86</sup> See OHCHR, “Current and Former Mandate-Holders for Existing Mandates as of 1 November 2020”, available at <https://www.ohchr.org/EN/HRBodies/SP/Pages/Currentmandateholders.aspx>; HRC Office of the President, “Appointments at the 46th session of the Human Rights Council (22 February to 24 March 2021)”, 24 March 2021, available at <https://www.ohchr.org/EN/HRBodies/HRC/SP/Pages/HRC46.aspx>.

thematic mandates (women held 97 of 243 positions). As to country mandates, historically only ten of 54 appointments were of women (18.52%).<sup>87</sup>



54. Some special procedure mandates have never been held by a woman. In particular, among the individual mandates, as at 1 May 2021 there were 11 mandates that had never been held by a woman. Those concerned the following mandates (the number in parenthesis indicates the number of persons who held the specific mandate – all male):<sup>88</sup>

- (i) Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (6);
- (ii) Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (2);
- (iii) Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (2);

<sup>87</sup> Data retrieved from: OHCHR, “Current and Former Mandate-Holders for Existing Mandates as of 1 November 2020”; GQUAL, “Composition of International Organizations and Tribunals – UN Special Procedures”, available at <http://www.gqualcampaign.org/current-composition/>; HRC Office of the President, “Appointments at the 45th session of the Human Rights Council (14 September to 7 October 2020)”, 30 September 2020, available at [https://www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC45/20200930\\_Letter\\_President\\_HRC45.pdf](https://www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC45/20200930_Letter_President_HRC45.pdf); HRC Office of the President, “Appointments at the 46th session of the Human Rights Council (22 February to 24 March 2021)”, 24 March 2021, available at <https://www.ohchr.org/EN/HRBodies/HRC/SP/Pages/HRC46.aspx>.

<sup>88</sup> Ibid.



- (iv) Special Rapporteur on the right to privacy (1);
- (v) Special Rapporteur on the right to development (1);
- (vi) Independent Expert on the promotion of a democratic and equitable international order (2);
- (vii) Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity (2);
- (viii) Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 (7);
- (ix) Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea (3); and
- (x) Independent Expert on the situation of human rights in Mali (2);
- (xi) Special Rapporteur on the situation of human rights in the Syrian Arab Republic (1).

### C. The Advisory Committee

55. *Function:* The Advisory Committee was established in 2007 by the HRC through Resolution 5/1 to “function as a think-tank for the Council and work at its direction”.<sup>89</sup>

56. *Composition:* It comprises 18 members serving in their personal capacity.<sup>90</sup>

57. *Nomination and selection process:* Member States of the United Nations nominate candidates.

58. The members of the Advisory Committee are elected by the HRC by secret ballot from the list of candidates nominated by States. When electing the members, the HRC is required to give “[d]ue consideration ... to gender balance and appropriate representation of different civilizations and legal systems”.<sup>91</sup>

59. *Selection criteria:* When selecting their candidates, States should consult with national human rights institutions and civil society organisations.<sup>92</sup> States must choose candidates with: (a) “[r]ecognized competence and experience in the field of human rights”; (b) “[h]igh moral standing”; and (c) “[i]ndependence and impartiality”.<sup>93</sup>

60. *Term:* Members serve for a period of three years and are eligible for re-election once. Elections of new members are held once a year at the September session of the HRC.

61. *Gender representation:* As of 1 October 2020, out of the Advisory Committee’s 18 members, seven are women (38.89%), which is the highest female representation the Advisory Committee has ever seen.<sup>94</sup>

62. Historically, there were four women among the first 18 members of the Advisory Committee elected in March 2008,<sup>95</sup> a number that remained unchanged in 2009 and 2010. The ratio of women rose to one-third of the Advisory Committee (six women) in 2011 and stayed at this level until 2013, when it fell to five women (27.78%). The number of women experts in the Advisory Committee increased again to six women in 2014–2015, only to fall

<sup>89</sup> HRC resolution 5/1, para. 65.

<sup>90</sup> Ibid.

<sup>91</sup> Ibid, para. 72. See also HRC decision 6/102 on follow-up to Human Rights Council resolution 5/1, 27 September 2007, UN Doc A/HRC/DEC/6/102, section III(D).

<sup>92</sup> Ibid, para. 66.

<sup>93</sup> Ibid, para. 67. See also HRC decision 6/102 on follow-up to Human Rights Council Resolution 5/1, 27 September 2007, UN Doc A/HRC/DEC/6/102, section III.

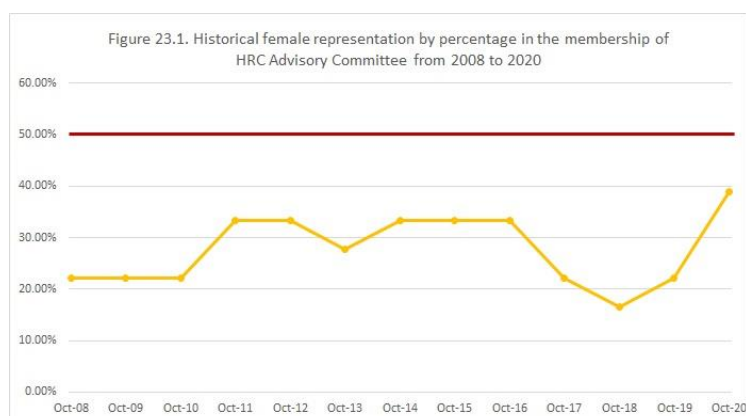
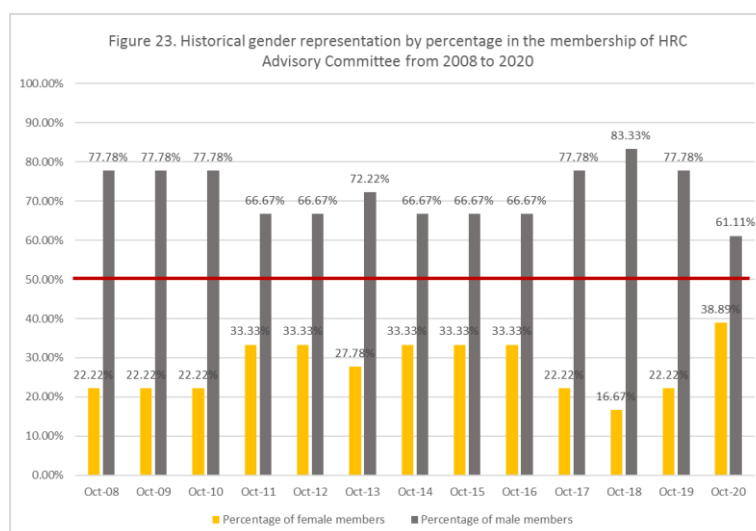
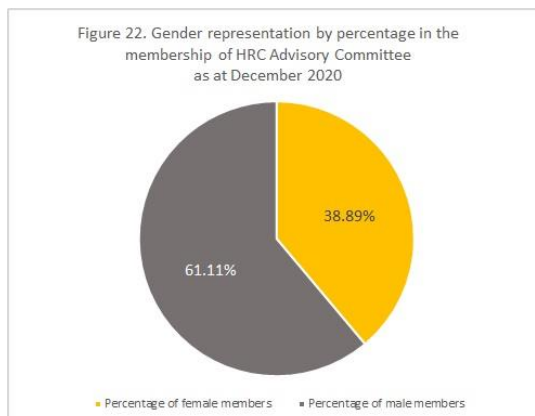
<sup>94</sup> Data retrieved from: HRC, “Elections of members of the Human Rights Council Advisory Committee”, available at

<https://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Elections.aspx>; HRC, Report of the Advisory Committee on its twenty-fourth session, UN Doc A/HRC/AC/24/2.

<sup>95</sup> HRC, Report of the Advisory Committee on its twenty-first session, A/HRC/AC/21/2, p. 28.

to four women in 2017, finally reaching its lowest percentage in 2018 with only three women on the Committee (16.67%). It then increased again to four women in 2019 (22.22%).<sup>96</sup>

The figures below reflect the composition of the Advisory Committee as of 1 October 2020



<sup>96</sup> Data retrieved from: HRC, Reports of the Advisory Committee, 2008–2020, available at <https://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Sessions.aspx>; HRC, “Elections of members of the Human Rights Council Advisory Committee”, available at <https://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Elections.aspx>.

## Annex III

### Good practices identified from other courts, mechanisms and comparative experiences

1. This **Annex** describes good practices applied in other regional and international courts, as well as in public and private sectors around the world, which may offer useful insights that may be transferable to the UN context.

#### A. Good practices from other regional and international courts and mechanisms

2. Best practices for the nomination and election of judges to regional and international courts and mechanisms may offer useful insights for selection procedures in the UN context. The brief survey below considers noteworthy good practices applied by select courts and commissions, though without providing a comprehensive review.

3. *ECHR*: PACE recommends that, in drawing up a list of three nominated candidates, Member States should select candidates of both genders.<sup>1</sup> Candidates' lists comprising only one gender will only be considered if they comprise candidates of the underrepresented gender (female) or if exceptional circumstances are met.<sup>2</sup> PACE recommends not only that there be gender balance in the nomination of candidates, but also that national selection panels and those advising on selection should also reflect a balanced gender composition.<sup>3</sup>

4. Additionally, the ECHR, as well as other courts, uses "screening committees" to "vet and recommend candidates for election".<sup>4</sup> As part of a two-tier screening mechanism, an Advisory Panel of Experts examines the candidates' suitability to fulfil the requirements under the ECHR and considers whether the national selection process was fair and transparent.<sup>5</sup> Gender balance is apparently taken into account by the Advisory Panel.<sup>6</sup> Also, a new Committee on the Election of Judges, established in 2015, is also charged with ensuring that the nominating State has complied with PACE's criteria for establishing candidates' lists.<sup>7</sup> One study suggests that the use of such screening committees may be correlated with greater representation of women on the bench, when compared with courts without effective (or any) screening mechanisms.<sup>8</sup> For example, the ECHR, the ICC, and the Court of Justice of the Economic Community of West African States, all use screening mechanisms and have relatively high female representation.<sup>9</sup>

5. *ICC*: The Rome Statute, the ICC's founding treaty, requires "States parties ... [to] take into account the need, within the membership of the Court, for ... [a] fair representation of female and male judges" in selecting them.<sup>10</sup> Research shows that the existence of a formal requirement to promote gender balance on a court has "a knock-on effect in the nomination

<sup>1</sup> PACE Resolution 1366 (2004), 30 January 2004, as modified by Resolutions 1426 (2005), 1627 (2008), 1841 (2011) and 2278 (2019).

<sup>2</sup> *Ibid.*

<sup>3</sup> PACE Resolution 1646 (2009), 27 January 2009, para. 5.

<sup>4</sup> Grossman, p. 91.

<sup>5</sup> PACE, Procedure for the election of judges to the ECHR: Memorandum prepared by the Secretary General of the Assembly, according to PACE Resolution 2248 (2018), SG-AS (2020) 03 rev 4, 4 December 2020, pp. 1–2, available at <http://www.assembly.coe.int/LifeRay/CDH/Pdf/ProcedureElectionJudges-EN.pdf>.

<sup>6</sup> Council of Europe, The Advisory Panel of Experts on Candidates for Election as Judge to the ECHR: A short guide on the Panel's role and the minimum qualifications required of a candidate (2020), p. 11, available at <https://assembly.coe.int/LifeRay/CDH/Pdf/GuideRoleQualification-EN.pdf>.

<sup>7</sup> See PACE Resolution 1842 (2011), 7 October 2011, as modified by Resolutions 2002 (2014) and 2278 (2019).

<sup>8</sup> Grossman, p. 91.

<sup>9</sup> *Ibid.*

<sup>10</sup> Article 36.8 (a) (iii), Rome Statute of the ICC.

stage and have increased the likelihood that women will be considered as potential candidates”.<sup>11</sup>

6. Although the Rome Statute does not set quotas for gender representation, voting requirements compel States to direct their votes in such a way as to guarantee that, at any given moment, the bench is composed of at least six women and six men.<sup>12</sup> States parties must vote in accordance with these minimum voting requirements in order for their ballots to be valid.<sup>13</sup> As the election progresses, adjustments are made to reflect the updated composition of the bench in light of previous voting rounds.<sup>14</sup> Interviews with relevant stakeholders suggest that minimum voting requirements designed to enhance diversity are not perceived as creating “shortcomings in terms of merit”.<sup>15</sup>

7. *IACHR and IACtHR*: The OAS General Assembly elects both judges and commissioners from a list of candidates proposed by Member States.<sup>16</sup> In 2016, the General Assembly referred to the need for “gender equity and balanced geographic and legal-system representation on the [IACHR] and the [IACtHR]”.<sup>17</sup> In addition, the Committee of Juridical and Political Affairs was asked to follow-up on the issue of composition by “holding a working meeting to share best practices” in the processes of nomination and selection of candidates “with a view to promoting in both institutions [the IACHR and the IACtHR] gender parity and balance among the different regions and legal systems of the Hemisphere”,<sup>18</sup> “including information on existing national procedures, policies, and practices”.<sup>19</sup> In 2020, States made a commitment to gender parity at the IACtHR acknowledging that, “since its installation in 1979, of the 39 judges to have sat on the [IACtHR], only five have been women and, in its current make-up, only one woman is serving on the Court”.<sup>20</sup>

8. *ACHPR and ACtHPR*: According to Article IX(2) of the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, State Parties “shall ensure increased and effective representation and participation of women at all levels of decision-making”.<sup>21</sup> In turn, Article 12(2) of the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of the ACtHPR provides that “[d]ue consideration shall be given to adequate gender representation in the nomination process”.<sup>22</sup> Article 14(3) of the same Protocol establishes that “[i]n the election of judges, the Assembly shall ensure that there is adequate gender representation”. Another important instrument is the Decision on the Modalities on Implementation of Criteria for Equitable Geographical and Gender

<sup>11</sup> R Mackenzie, K Malleson, P Martin, P Sands, *Selecting International Judges: Principle, Process, and Politics* (2010) (*Mackenzie, Malleson, Martin, Sands*), p 83.

<sup>12</sup> Open Society Justice Initiative, “Raising the Bar: Improving the Nomination and Election of Judges to the International Criminal Court” (2019), p 19. The presence of six women does not represent gender parity, however. At present, there are only the minimum six female judges serving on the Court (out of 18).

<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid.*

<sup>15</sup> Mackenzie, Malleson, Martin, Sands, p 135.

<sup>16</sup> International Commission of Jurists, Open Society Justice Initiative, *Strengthening from Within: Law and Practice in the Selection of Human Rights Judges and Commissioners* (November 2017), p 40.

<sup>17</sup> OAS General Assembly, Proceedings, Volume I, Forty-sixth Regular Session, 13–15 June 2016, Resolution 2887, Section xiv, p 157.

<sup>18</sup> OAS General Assembly, Proceedings, Volume I, Forty-eight Regular session, 4–5 June 2018, Resolution 2928, Section xviii, p 175.

<sup>19</sup> OAS General Assembly, Proceedings, Volume I, Forty-ninth Regular Session, 26–28 June 2019, Resolution 2941, Section xiii, p 145.

<sup>20</sup> OAS General Assembly, Declaration and Resolutions adopted by the General Assembly (Provisional version subject to review by the Style Committee), Fiftieth Regular Session, 20–21 October 2020, Resolution 2961, Section ii, p 152.

<sup>21</sup> African Union, Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, 11 July 2003, Article IX(2).

<sup>22</sup> African Union, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and People’s Rights, 9 June 1998, Article 12(2).

Representation in the African Union Organs,<sup>23</sup> adopted in 2016 by the African Union Executive Council. In this instrument, the Council decided that, for each of the African Union's organs and institutions, at least one member from each African region "shall be a woman".<sup>24</sup> However, "the [African Union] Charter does not prescribe national selection procedures for candidates, and there is no legal framework adopted by the [African Union] Assembly that regulates the procedures for the nomination of candidates to either the [ACtHPR] or the ACHPR at the national level".<sup>25</sup> Currently, in both the ACtHPR and the ACHPR, six out of the 11 members are women (54.54%).<sup>26</sup>

## B. Good practices identified from comparative experiences

9. This section identifies good practices in the contexts of international arbitration (1); domestic judiciaries (2); the public sector (3); and corporate boards and senior management (4).

### 1. International arbitration

10. Members of arbitral tribunals are usually appointed either by the parties themselves or by an arbitral institution. The lack of gender diversity among international arbitrators has been a "persistent feature of international arbitration".<sup>27</sup>

11. A particularly effective good practice to advance gender equality in international arbitration are aspirational commitments to improve gender diversity. The most notable example of this is the Equal Representation in Arbitration Pledge, which was drawn up in 2015 (*Pledge*).<sup>28</sup> Signatories (which include individuals, arbitral institutions, law firms and companies) who take the Pledge commit to take concrete and actionable steps to: (a) improve the profile and representation of women in international arbitration; and (b) promote the appointment of women as arbitrators on an equal opportunity basis.<sup>29</sup> These actionable steps include a commitment by signatories to ensure that, wherever possible, lists of potential arbitrators or tribunal presidents provided to or considered by parties, counsel, in-house counsel or otherwise, include a fair representation of female arbitrators.<sup>30</sup> Signatories also commit to collate and make publicly available gender statistics for appointment.

### 2. Domestic judiciaries

12. The extent of female representation in domestic judiciaries around the world is varied, although gender parity is not achieved in most countries.<sup>31</sup> Even in jurisdictions where more women have been appointed as judges, they tend to be underrepresented in top-ranking positions, for example, in higher and supreme courts.<sup>32</sup> Moreover, there is no correlation between domestic participation and gender parity in international representation.

<sup>23</sup> African Union Executive Council, Decision on the Modalities on Implementation of Criteria for Equitable Geographical and Gender Representation in the African Union Organs, Doc. EX.CL/953(XXVIII), Twenty-eight Ordinary Session, 23–28 January 2016, EX.CL/Dec.907(XXVIII)Rev.1.

<sup>24</sup> Ibid., para. 2(iii).

<sup>25</sup> International Commission of Jurists, Open Society Justice Initiative, *Strengthening from Within: Law and Practice in the Selection of Human Rights Judges and Commissioners* (November 2017), p 44.

<sup>26</sup> ACtHPR, "Current Judges", available at <https://www.african-court.org/en/index.php/judges/current-judges>; ACHPR, "Current Commissioners", available at <https://www.achpr.org/about/>.

<sup>27</sup> International Council for Commercial Arbitration, *Report of the Cross-Institutional Task Force on Gender Diversity in Arbitral Appointments and Proceedings* (2020) (*ICCA Report*), p 3.

<sup>28</sup> Available at [www.arbitrationpledge.com/](http://www.arbitrationpledge.com/).

<sup>29</sup> Ibid.

<sup>30</sup> ICCA Report, p 62.

<sup>31</sup> E Edroma, "Promoting gender equality in the judiciary", 5 July 2019, available at <https://www.undp.org/content/undp/en/home/blog/2019/promoting-gender-equality-in-the-judiciary.html>.

<sup>32</sup> Ibid.

13. A key good practice to promote gender diversity in domestic judiciaries is setting targets or quotas. For example, Jordan’s National Strategy for Women for 2013–2017 established a 20% target of women in the judiciary in 2015.<sup>33</sup> Having achieved this goal, Jordan’s Judicial Council has since set a target of 25%.<sup>34</sup>

14. Another way to achieve greater gender representation is to establish processes where women are given preference or monitoring to ensure that women candidates are given priority. In this sense:

(a) The Mexican Federal Judicial Council is implementing a gender parity policy through affirmative action.<sup>35</sup> The policy, which was carried out by Mexico’s Supreme Court of Justice and Federal Judicial Council, was explicitly aimed at “breaking the glass ceiling” by including more women in judicial roles. As part of such policy, two public competitions to appoint federal judges have been exclusively reserved to women.<sup>36</sup> The selected candidates in one of these competitions turned out to have the highest grades compared to all candidates from the previous nine years.

(b) In the UK, the Judicial Appointments Commission was established in 2005 to ensure that candidates for judicial positions were selected solely on merit, while also encouraging diversity in the range of people available for selection.<sup>37</sup> The Commission is responsible for running selection exercises for judicial posts. The diversity of candidates is officially monitored at several stages of recruitment, including application, shortlisting, and recommendation for appointment.<sup>38</sup>

(c) In the US, the Center for American Progress has explained how the push for parity must come from the top and noted in particular the significant influence of US Presidents in ensuring that judicial diversity is made a priority.<sup>39</sup> For example, the Center’s report describes how US President Carter, during his tenure, issued a series of executive orders aimed at improving diversity among federal judges.<sup>40</sup>

### 3. The public sector

15. Women also tend to be underrepresented in leadership and decision-making roles in the public sector.<sup>41</sup>

16. Some of the most detailed guidelines and good practices applicable to the public sector have been developed by the OECD.<sup>42</sup> A key recommendation is to establish “clear accountability mechanisms in public sector institutions for promoting and respecting gender

<sup>33</sup> UNDP, UNFPA, UN Women, ESCWA Centre for Women, “Gender Justice & Equality Before the Law: Analysis of Progress and Challenges in the Arab States Region”, Regional Report, 2019, p 19.

<sup>34</sup> Ibid.

<sup>35</sup> See note titled “*Política para la integración paritaria del Poder Judicial de la Federación*”, submitted by the Federal Judicial Council of Mexico (*Consejo de la Judicatura Federal de México*) to the Advisory Committee.

<sup>36</sup> Federal Judicial Council of Mexico, “*Acuerdo General del Pleno del Consejo de la Judicatura Federal, que establece el Procedimiento y Lineamientos Generales para acceder al cargo de Juezas de Distrito, mediante concursos internos de oposición*”, Official Gazette, 3 July 2019.

<sup>37</sup> Judicial Appointments Commission, “Equality and diversity”, available at [www.judicialappointments.gov.uk/equality-and-diversity](http://www.judicialappointments.gov.uk/equality-and-diversity).

<sup>38</sup> UK Ministry of Justice, “Judicial Selection and Recommendations for Appointment Statistics: April 2016 to March 2017”, 1 June 2017, p 2, available at <https://www.gov.uk/government/statistics/judicial-selection-and-recommendations-for-appointment-statistics-april-2016-to-march-2017>.

<sup>39</sup> D Root, J Faleschini, G Oyenubi (Center for American Progress), “Building a More Inclusive Federal Judiciary”, 3 October 2019, p 36, available at <https://www.americanprogress.org/issues/courts/reports/2019/10/03/475359/building-inclusive-federal-judiciary/>.

<sup>40</sup> Ibid.

<sup>41</sup> See Ernst & Young, *Think Governments are achieving gender diversity in the workforce? Think again. How five disconnects are holding back gender parity* (2017), p. 4.

<sup>42</sup> See OECD, *OECD Toolkit for Mainstreaming and Implementing Gender Equality – Implementing the 2015 OECD Recommendation on Gender Equality in Public Life* (2018), p 4.

balance and diversity in recruitment and hiring processes”.<sup>43</sup> The guidelines also emphasise the need to “develop [] concrete measures to ensure the effective removal of the systematic barriers within hiring and staffing processes”.<sup>44</sup>

#### 4. Corporate boards and senior management

17. Women remain underrepresented on corporate boards and senior management teams worldwide.<sup>45</sup> For example, a recent McKinsey’s report found that, in nearly all 15 countries analysed, women were underrepresented on executive teams (the average percentage of female representation on these teams was 15%).<sup>46</sup>

18. Noteworthy good practices to promote gender parity in this context include the following.

19. *First*, it is effective to set appropriate diversity targets and to tailor recruitment processes accordingly. For example, the 30% Club (a global campaign group of chairs and chief executive officers) sets a key diversity benchmark (30% of women on all boards and C-suites) for all organisations to achieve.<sup>47</sup> More granular diversity targets are also important. For example, some companies have identified specific roles where women are especially underrepresented and targeted recruitment of female talent for those roles specifically.<sup>48</sup> Effective recruitment methods have included non-traditional recruiting channels in order to access “diverse talent whose profiles likely differ from the *status quo*—or who may be re-entering the labor market after a long break”.<sup>49</sup>

20. *Second*, requiring companies to comply with statutory targets for female representation (or to explain why they have failed to so comply) has also proven to be effective in some States. For example, the Finnish Corporate Governance Code recommends that listed companies have both genders represented on their boards on a comply-or-explain basis<sup>50</sup> and, as of 2019, only 2% of such listed companies have all-male boards.<sup>51</sup> Other States similarly require companies to disclose their progress towards achieving gender parity on boards.<sup>52</sup>

<sup>43</sup> Ibid, p 79.

<sup>44</sup> Ibid.

<sup>45</sup> H Mensi-Klarbach, C Seierstad, “Gender Quotas on Corporate Boards: Similarities and Differences in Quota Scenarios” (2020) *European Management Review*, p 1.

<sup>46</sup> McKinsey & Company, *Diversity Wins: How Inclusion Matters* (19 May 2020), p 16. The 15 countries were (in order of most female representation to least): Norway (28%); Australia (27%); Sweden (24%); United States (21%); Singapore (19%); United Kingdom (18%); South Africa (18%); Nigeria (17%); Denmark (13%); France (13%); Brazil (8%); Germany (8%); Mexico (8%); India (5%); and Japan (3%).

<sup>47</sup> Ibid, p 17.

<sup>48</sup> Ibid, p 42.

<sup>49</sup> Ibid.

<sup>50</sup> Deloitte, *Data-driven change: Women in the boardroom – a global perspective* (2019), p 99.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid. For example, Denmark has had a policy, since 2013, requiring companies with gender underrepresentation on boards to disclose their progress in reaching equality, which is defined as at least 40% of both genders on the board (p. 93). Another example is Australia, where the Australian Securities Exchange requires ASX 200 companies to “submit a monthly report of the number of women on their boards”. It has been reported that, “[i]mprovements were achieved without regulatory intervention or quotas, making Australia the first country to attain this level of gender diversity without compulsory measures” (p 243).

21. *Third*, recruitment practices should be carefully reviewed to eliminate in-built bias.<sup>53</sup> This means, for example, removing gendered language from job descriptions and advertisements.<sup>54</sup> Studies have shown that certain language and information appeals more to certain groups.<sup>55</sup>

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<sup>53</sup> Shape Talent, “The 3 Barriers to Women’s Progression and What Organisations Can Do About Them”, 2019, p 28, available at [https://30percentclub.org/assets/uploads/UK/Third\\_Party\\_Reports/Real\\_Barriers\\_Whitepaper\\_191011\\_UPDATED.pdf](https://30percentclub.org/assets/uploads/UK/Third_Party_Reports/Real_Barriers_Whitepaper_191011_UPDATED.pdf).

<sup>54</sup> Ibid.

<sup>55</sup> Bain & Company, *Take Action, Gain Traction: Inclusion and Diversity in the UK Workplace* (27 March 2019), p 11.