



人权理事会
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议程项目 5
人权机构和机制

目前妇女在人权机构和机制中的代表性水平：确保性别平衡

人权理事会咨询委员会的报告***

* 因提交方无法控制的情况，经协议，本报告迟于标准发布日期发布。

** 附件不译，原文照发。



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一. 导言、目的和方法

1. 人权理事会第 41/6 号决议请人权理事会咨询委员会与歧视妇女和女童问题工作组和消除对妇女歧视委员会密切合作，编写一份报告，说明目前妇女在人权机构和机制，例如咨询委员会、条约机构和人权理事会设立的特别程序中的代表性现状，并向理事会第四十七届会议提交报告。
2. 理事会还要求，报告应包括各国遵循全系统性别均等战略，在提名、选举和任命候选人方面确保性别代表性平衡的良好做法，并提出建议，以便在这方面协助理事会和会员国。¹
3. 就方法而言，理事会请咨询委员会以包容方式征求相关利益攸关方，包括会员国、国际和区域组织、联合国人权事务高级专员办事处(人权高专办)、特别程序、国家人权机构、民间社会和学术机构的意见、投入和有意义的参与。
4. 咨询委员会第二十三届会议设立了一个起草小组，目前成员有：白凡锡、米莱娜·科斯塔斯·特拉斯卡萨斯、若泽·奥古斯托·林德格伦·阿尔维斯、阿贾伊·马尔霍特拉、中井伊都子、莫纳·奥马尔(主席)、哈维尔·帕鲁莫、伊丽莎白·萨尔蒙(报告员)、帕特雷茨娅·萨斯纳尔和卡特琳纳·范德黑宁。起草小组编写了一份征求意见的问卷，收到了多个利益攸关方的答复。² 报告员还组织了四次区域磋商：在曼谷举行的磋商(2019 年 12 月 3 日)，在日内瓦举行的磋商(2020 年 2 月 21 日)，以及两次远程磋商，一次是与拉丁美洲的利益攸关方磋商(2020 年 7 月 15 日)，一次是与非洲的利益攸关方磋商(2020 年 10 月 20 日)。此外，报告员纳入了歧视妇女和女童问题工作组的书面意见，还出席了与工作组的会议(2020 年 1 月 29 日)以及与消除对妇女歧视委员会提名的联络人 Lia Nadaraia 的会议。

二. 目前妇女在联合国人权机构和机制中的代表性水平

5. 一段时间以来，妇女不仅在人权机构和机制中代表性不足，整体在联合国系统中也是如此。³ 2003 年，大会鼓励秘书长加紧努力，制定任命妇女担任秘书长特别代表和特使的具体目标，以便到 2015 年实现 50/50 性别均衡之目标。⁴ 可持续发展目标之具体目标 5.5 呼吁各国确保妇女全面有效地参与各级政治、经济和公共生活的决策，并享有进入以上各级决策领导层的平等机会。此外，对于实现《2030 年可持续发展议程》而言，性别平等已经成为交叉问题，并且有助于确保教育、卫生和消除贫困等领域的有效进展。
6. 2019 年，秘书长报告称，联合国系统内尚未实现性别均等。2016-2017 年报告所述期间，妇女在系统中专业及以上职类中的代表性仅略有增加，从 2015 年

¹ 秘书长于 2017 年 9 月 13 日启动了全系统性别均等战略。见 www.un.org/gender/sites/www.un.org/gender/files/gender_parity_strategy_october_2017.pdf。

² 截至 2020 年 12 月 18 日，咨询委员会共收到来自 23 个国家、7 个非政府组织、1 个国家人权机构、11 名学术界成员和 1 个国际组织的 43 份答复。这些答复将发布在 www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/LevelsRepresentationWomen.aspx。

³ 见大会第 70/133 号决议。

⁴ 见大会第 58/144 号决议。

12 月 31 日的 42.8% 增至 2017 年 12 月 31 日的 44.2%。⁵ 2017 年 1 月设立了联合国系统性别均等和平等工作队，负责制定包含基准和时限的明确路线图，以便在全系统实现性别均等。自此，联合国领导层实现了性别均等。自 2018 年起，驻地协调员实现了性别均等；2020 年初，驻地协调员中有 90 名女性和 90 名男性担任全职高层领导，受冲突影响国家的驻地协调员也实现了性别均等。目前人权高专办副秘书长和助理秘书长级别的领导 100% 为女性。⁶

7. 尽管作出了努力，联合国人权系统内仍然存在妇女代表性不足的问题。人权理事会长期以来一直寻求实现平衡的性别代表性，这也是现有的全系统性别均等战略和理事会第 6/30 号决议执行工作的内容。过去十年中，甚至自更早时候起，理事会及其咨询委员会一贯努力执行性别均等战略并将性别视角纳入其工作。例如，2009 年，咨询委员会向理事会提交了关于将性别平等观念纳入主流的运作方法的准则草案，其中包括着重行动的机制。⁷

8. 然而在实践中，联合国人权机构和机制的组成严重缺乏性别均等。附件二中的统计数字表明，一些联合国机构实现了性别均等(一些机构最近刚刚实现)，但条约机构、特别程序任务负责人和咨询委员会中妇女的代表性普遍不足。这些数字还显示，妇女的代表性主要集中在专门处理妇女或儿童相关问题的机构或任务中。

A. 条约机构

9. 2015 年，秘书长对人权条约机构成员中严重的性别不平衡表示极为关切。⁸ 秘书长于 2016 年、⁹ 2018 年¹⁰ 和 2020 年¹¹ 报告称，多数条约机构中妇女的代表性仍然不足。

10. 消除对妇女歧视委员会中，妇女的代表性历来都在 90% 以上。截至 2021 年 5 月 1 日，只有三个条约机构的妇女代表性达到了 50% 以上：儿童权利委员会实现了性别均等，防范酷刑和其他残忍、不人道或有辱人格待遇或处罚小组委员会的成员 52% 是妇女，残疾人权利委员会的成员 67% 是妇女。其余六个条约机构中，妇女的代表性平均为 31%，保护所有移民工人及其家庭成员权利委员会妇女成员人数最少(14 人中 2 人为妇女)。多年来，一些条约机构在组成方面改善了性别平衡，但这一平均水平远不能说明实现了性别均等，而是表明，缔约国对实现条约机构性别平衡的承诺仍未实现。¹²

⁵ A/74/220, 第 13 段。

⁶ 联合国，“性别均等看板”。可查阅 www.un.org/gender/content/un-secretariat-gender-parity-dashboard。

⁷ 可查阅 www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Session2/Pages/Index.aspx。

⁸ A/70/257, 第 27 段。

⁹ A/71/118, 第 80 段和附件十八。

¹⁰ A/73/309, 第 87 段和附件二十四。

¹¹ A/74/643, 附件二十三。

¹² 关于条约机构系统的性别组成，见本文件附件二。

B. 人权理事会特别程序

11. 2020 年 7 月，人权理事会在第 43/117 号决定中关切地注意到，目前任务负责人中缺少性别平衡。

12. 截至 2021 年 5 月 1 日，共有 44 个专题任务：6 个工作组(共 30 名成员)和 38 个人任务。工作组的 30 个职位中 17 个由女性担任，包括歧视妇女和女童问题工作组的全部 5 个职位，个人任务中 16 个职位由女性担任(42.1%)。有 11 个国别任务；其中两个任务(18.2%)由女性担任负责人。¹³

13. 1980 年以来的 297 名前和现任特别程序任务负责人中，107 名是女性(36.0%)。具体而言，这期间任命的 120 名特别报告员中，47 名是女性(39.2%)。任命的 15 名独立专家中，5 名是女性(33.3%)；108 名工作组成员中，45 名是女性(41.7%)。由此，专题任务中妇女参与的历史比例为 39.9%，国别任务中这一比例为 18.5%。¹⁴

14. 个人任务中，有 11 个任务从未由女性担任负责人。¹⁵ 此外，除歧视妇女和女童问题工作组外，大多数工作组中妇女都是少数群体。某一工作组的五名成员中只有一名女性专家。¹⁶

C. 人权理事会咨询委员会

15. 2008 年 3 月当选的咨询委员会首批 18 名成员中有 4 名女性，¹⁷ 这一数字在 2009 年和 2010 年没有变化。2011 年，妇女的比例上升到三分之一(6 名女性)并保持在这一水平，直到 2013 年降至 5 名女性(27.8%)。2014/15 年度，咨询委员会中妇女的人数再次增至 6 人，但 2017 年又降至 4 人，2018 年降至最低比例，只有 3 人(16.7%)。2019 年，妇女人数再度增至 4 名(22.2%)。¹⁸

16. 2018 年 3 月，时任咨询委员会主席致函人权理事会，对咨询委员会中只有四名女性人权专家表示关切。¹⁹

17. 截至 2020 年 10 月 1 日，委员会 18 名成员中有 7 名女性(38.9%)，这是咨询委员会有史以来最高的女性代表水平。²⁰

¹³ 人权高专办，“2020 年 11 月 1 日现有任务的现任和前任负责人”。可查阅 www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx。

¹⁴ 同上。另见 GQUAL，“Composition of international organizations and tribunals – UN special procedures”。参阅 www.gqualcampaign.org/Current-Composition/。

¹⁵ 本文件附件二，第 54 段。

¹⁶ 见 www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDStatements.aspx。

¹⁷ A/HRC/AC/21/2，第 28 页。

¹⁸ 见咨询委员会的相关报告，可查阅 www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Sessions.aspx，和 www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/Elections.aspx。

¹⁹ A/HRC/AC/20/2，附件三，第 16 页。

²⁰ 见 www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/RightToDevelopment.aspx。

三. 妇女在国际机构中代表性不足产生的影响

18. 报告中审议的禁止的性别歧视理由依据的是消除对妇女歧视委员会和人权理事会提供的指南。²¹ 消除对妇女歧视委员会将性别界定为社会为妇女与男性构建的身份、属性和角色，以及社会赋予生物学差异的社会含义和文化含义，其结果是造成男女之间的等级关系以及有利于男性而不利女性的权力和权利分配。²² 因此需要采用交叉方法应对性别歧视，在诸多不同方面承认并处理多重交叉形式歧视的影响，包括种族、阶级、性取向、年龄、族裔和性别认同、残疾以及其他形式的历史和结构性歧视。

A. 平等和不受歧视的权利所受影响

1. 平等和不受歧视的权利

19. 妇女在国际机构和机制中的代表性不足对平等和不受歧视的人权有重大影响。

20. 《世界人权宣言》第一条申明，人人生而自由，在尊严和权利上一律平等。《联合国宪章》(序言和第五十五条(寅)项)、《世界人权宣言》(第二条)、《公民及政治权利国际公约》(第二条)《经济社会文化权利国际公约》(第二条)都承认，人人有权行使人权，不加区别，不受歧视，包括基于性别的区分和歧视。此外，《世界人权宣言》(第七条)和《公民及政治权利国际公约》(第二十六条)规定了法律面前平等以及平等享有法律保护的权利。《消除对妇女一切形式歧视公约》特别提及妇女平等享有法律保护的权利(第二条(c)项)，机会和待遇平等(第四条)，还提及以法律或其他适当方法保证实现男女平等原则的义务(第二条(a)项)。

21. 根据《消除对妇女一切形式歧视公约》第一条，基于性别而加以任何区别、排斥或限制，其影响或目的足以妨碍或否认妇女权利的，均可能构成对妇女的歧视。消除对妇女歧视委员会认为，直接歧视构成明显基于性和性别的不平等待遇。²³ 然而，男女的相同待遇，其影响足以妨碍或否认妇女权利的，仍然可能是间接歧视。可能构成这种歧视的情况是，一项法律、政策、方案或做法看似对男性和女性无任何倾向，但由于明显中性的措施没有考虑原本存在的不平等状况，因而在实际中有歧视妇女的效果。²⁴

22. 消除对妇女歧视委员会解释称，消除对妇女的一切形式歧视的目的是为了实现性别平等。²⁵ 人权条约机构承认，不受歧视的权利禁止法律上和事实上的歧

²¹ 人权理事会已开展工作，审议包容各方的性别定义(见理事会第 17/19 号和第 32/2 号决议)。越来越多的会员国在法律上承认非二元性别认同和非二元性别者的人权，包括平等和不受歧视的权利(人权高专办，《自由而平等地生活》(2016 年)，第 97-98 页)。

²² 第 28 号一般性建议(2010 年)，第 5 段。

²³ 同上，第 16 段。

²⁴ 同上。

²⁵ 第 25 号一般性建议(2004 年)，第 4 段。

视。²⁶ 因此，为了实现平等，各国或许还需要采取平权措施，按照《消除对妇女一切形式歧视公约》第四条的规定，确保事实上而不仅是法律上的平等。

23. 此外，实现性别平等的干预还必须是实质的并以结果为导向，而不仅是形式上的。形式上的平等指法律待遇平等，要求以性别中性的法律取代明显歧视的法律。然而，要实现实质平等，必须考虑对妇女的生活而言法律和政策有何实际影响和效果。²⁷ 因此，消除对妇女歧视委员会采用三维的平等观，²⁸ 本着这种观点审视形成歧视的文化价值观、社会政治体制和经济结构。

2. 平等参与国际决策

24. 平等和不受歧视的权利涵盖妇女平等参与生活的所有领域，包括参与国际决策的权利。国际论坛上作出的决定对国家政治影响很大，因此对日常生活影响也很大，妇女应当有机会平等参与这些进程。²⁹ 评论人士解释道，以性别平衡的方式参与国际事务可以确保“国际机构在审议过程中尽可能多地采纳多元化意见，以防止具有性别偏见的结果”。³⁰ 因此，权利平等要求纠正联合国人权机构中男性代表性偏高的问题，并让妇女能够影响制定、执行和管理国际人权法律与政策的进程。消除对妇女歧视委员会曾肯定道，如果这类进程中妇女人数足够多，则能够产生影响，还肯定道，务必将性别视角纳入所有国际机构的议程。³¹ 在国际机构中任用妇女是妇女影响、制定和执行国际政策的先决条件。³²

25. 国际条约和协定明确规定，参与决策包括参与政治和公共生活，包括在国际层面这样做的权利。《公民及政治权利国际公约》第二十五条规定，所有公民均有权平等参与公共生活；《消除对妇女一切形式歧视公约》第七条明确规定，妇女有权参加政府政策的制订及其执行，并担任各级政府公职，执行一切公务。如下文所述，后者产生的义务与该公约第八条产生的义务相互交织。

26. 《消除对妇女一切形式歧视公约》第八条专门规定，缔约各国应采取一切适当措施，保证妇女在与男子平等不受任何歧视的条件下，有机会在国际上代表本国政府和参加各国际组织的工作。³³ 对“国际组织”的所指已有广泛解读。国际法委员会将之定义为“根据条约或受国际法制约的其他文书建立的具有独立国际法律人格的组织”。³⁴ 评论人士曾解释称，“国际组织”一词不仅涵盖国家

²⁶ 例如，见人权事务委员会，第 18 号一般性意见(1989 年)，第 12 段。

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

²⁸ 同上。另见联合国妇女发展基金，《〈消除对妇女一切形式歧视公约〉和立足人权拟定方案：联合国妇女发展基金的指南》(2007 年 5 月)，第 7 页。

²⁹ 见联合国促进性别平等和增强妇女权能署(妇女署)和日内瓦国际性别平等倡导者，《塑造国际议程：在政府间论坛提高妇女的声音》(2017 年 3 月)。

³⁰ 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.

³¹ 第 23 号一般性建议(1997 年)，第 39-40 段。

³² 同上，第 5 段。

³³ 另见 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”, GQUAL 大会上提交的文件，海牙，2017 年 10 月。

³⁴ 关于国际组织的责任的条款草案(A/66/10)，第 87 段，第 2 条。

和国家所属的组织，也涵盖区域组织、法院、附属机构、基金和方案、专门机构和条约机构。³⁵ 因此，第八条所指包括本报告所述联合国机构和机制。

27. 第八条义务被解释为要求国家通过三种方式实现性别平等：

(a) 形式平等：意在保证在国际上代表国家方面宪法或法律上的平等；

(b) 实质平等：意在创造有利环境，使事实上的平等成为可能(例如，确保招聘和提名政策顾及性别差异)；

(c) 转变平等：意在消除性别刻板印象，这些刻板印象构成了妇女代表性持续不足的基础，并消除由刻板印象产生的结构障碍。第八条要求各国消除那些倾向于将妇女限定于某些被认为适合妇女的领域(如人权、儿童、妇女和卫生)并阻碍她们参与男性主导的领域(如国际安全、武装冲突、金融和贸易)的刻板印象。³⁶

28. 消除对妇女歧视委员会确认，缔约国有责任在其控制范围内任命妇女担任高级决策职务。³⁷ 委员会还认为，根据第八条，各国必须采取的促进妇女平等参与国际决策的适当措施包括：制定任命和晋升妇女担任相关职位的客观标准和程序；³⁸ 以及按照《消除对妇女一切形式歧视公约》第四条的规定，采取旨在加快实现妇女实质平等的暂行特别措施。³⁹ 有鉴于此，各国应考虑采取的部分措施包括：

(a) 在国际职位招聘中面向女性应聘者采取积极措施，并酌情在女性和男性应聘者中优先考虑女性；

(b) 确定选拔、招聘和晋升妇女的目标和基准；⁴⁰

(c) 消除妇女在甄选过程中遇到的障碍；⁴¹

(d) 投票选举担任国际机构职位的个人时，遵循本国的国际条约义务进行投票。⁴²

29. 同样，根据《北京行动纲要》，⁴³ 各国政府应采取行动，争取在为联合国各机构、专门机构和联合国系统其他自主组织的选举和选任提名的本国候选人，特别是高级职位候选人名单中实现性别平衡。

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

³⁶ 同上，第 227 – 228 页。

³⁷ 第 23 号一般性建议(1997 年)，第 26 段。

³⁸ 同上，第 38 和 50(b)段。

³⁹ 同上，第 43 段。

⁴⁰ Freeman, Chinkin and Rudolf, p. 230.

⁴¹ “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.

⁴² 同上，第 15 页。

⁴³ 第 190(j)段。

30. 为实现妇女平等参与国际决策，需要在国际机构中实现性别平等。⁴⁴ 歧视妇女和女童问题工作组以均等作为衡量标准，评估各国是否履行了确保妇女参与政治和公共生活不受歧视的国际义务。⁴⁵ 该工作组将性别均等视为平等的衡量标准，并确定：(a) 决策论坛中的均等是平等代表的良好做法标准；⁴⁶ (b) 通过均等法律或实行员额制是为妇女的政治参与消除障碍和确保妇女在政治机构中的代表性的良好做法。⁴⁷ 妇女地位委员会将性别均等界定为一个机构的人员构成中某一性别比例不低于 50%。⁴⁸

3. 获得平等就业机会的权利

31. 国际机构中缺乏性别均等对国际法所承认的获得平等就业机会的权利也有影响。

32. 根据《经济社会文化权利国际公约》第七条(寅)项，缔约国承认，人人有平等机会于所就职业升至适当之较高等级，不受年资才能以外其他考虑之限制；这些保护涵盖寻求晋升入国际机构或在国际机构任职的妇女。⁴⁹

33. 此外，联合国承认联合国系统内就业机会平等的重要性，例如，《宪章》第八条就承认了这一点。⁵⁰ 联合国确已承认，为实施第八条，需要处理妨碍妇女实现平等就业机会权利的甄选、保留和晋升程序。⁵¹

B. 联合国机构和机制的效力所受影响

34. 关于均等民主的各种理论提出，⁵² 妇女代表性不足可能在三个层面削弱联合国机构和机制的效力。

⁴⁴ 例如，见美洲国家组织大会 10 月 21 日通过的第 2961 号决议，第二节，以及 2019 年 6 月 28 日通过的第 2941 号决议，第十六节。

⁴⁵ A/HRC/23/50, 第 19 段。

⁴⁶ A/HRC/35/29, 第 31 段。

⁴⁷ 同上，第 39 段。

⁴⁸ Anja Papenfuß 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.

⁴⁹ “Achieving gender parity”, p. 36, 引自经济、社会及文化权利委员会第 18 号一般性意见(2005 年)，第 6 段。

⁵⁰ 关于第八条是否仅限于联合国工作人员的聘用工作，或是否也涵盖国家在国际机构职位选任提名和投票程序方面行使职权的讨论，见 “Achieving gender parity”，第 37 页。

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

⁵² 见 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)。

35. 首先，人权机构的政策和决定源自平等原则，对于这些政策和决定的合法性而言，性别均等尤为重要。⁵³ 受害者、国家、民间社会和其他相关利益攸关方如何看待人权机构的组成对于人权机构的标准之执行情况至关重要。

36. 其次，这类机构中妇女的代表性一向不足，如果并非由于候选人构成的局限，则可能表明甄选程序存在偏见。⁵⁴ 多元的代表性还有助于缓解国际机构权威中所见的民主赤字，从而提升国际机构的合法性。⁵⁵

37. 第三，只有当可能受到联合国机构规范影响的各方在相关决策进程中全程得到充分代表时，这些机构的规范作用才可能具有合法性。⁵⁶ 某一决定即便可以认为实质上“公平”，也应当由代表将受该决定影响的人的决策者做出，才能在规范上合法。⁵⁷

C. 联合国机构审议的一系列问题和视角所受影响

38. 联合国机构如果做不到性别均等，则可能忽视本应在其政治和法律议程之中的事项和视角。⁵⁸ 因此，需要平衡的妇女代表性，才能在联合国工作的各个方面顾及妇女的生活和体验。⁵⁹

39. 联合国已认识到将妇女的视角纳入关于性别均等的全系统战略的重要性。

《维也纳宣言和行动纲领》通过后，联合国所有活动和机构中的性别平等主流化成为了该战略的内容。⁶⁰ 重要的是，性别平等主流化是评估任何规划的行动，包括立法、政策或方案在各个领域和层面对妇女和男性的影响的过程，⁶¹ 因为此类措施对男性和妇女的影响可能有所不同。因此，为了实现性别平等主流化，需要在联合国所有活动和方案中采用性别视角。

40. 性别平等主流化并不意味着不再需要在联合国决策机构实现性别均等，而是令性别均等变得更为关键。⁶² 如果妇女得不到平等代表，性别平等主流化可能

⁵³ Viviana Krsticevic, “Gender equality in international tribunals and bodies: an achievable step with global impact”, GQUAL Concept Paper (2016) p. 7.

⁵⁴ Nienke Grossman, “Achieving sex-representative international court benches”, *American Journal of International Law*, vol. 110, No. 1, pp. 88–89.

⁵⁵ 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, No. 1 (2017). 另见 Stéphanie Hennette Vauchez, “Gender balance in international adjudicatory bodies”, in Rüdiger Wolfrum, ed., *Max Planck Encyclopedia of International Procedural Law* (2019), para. 35.

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

⁵⁷ Shikhelman, “Diversity and decision-making”.

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

⁵⁹ 同上，第 83 页。

⁶⁰ 例如，见上文第 7 段。

⁶¹ 经济及社会理事会第 2017/9 号决议。

⁶² 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.

被视为加剧上文所述之合法性风险，因为妇女仅被视作国际法决策和发展进程的受益者而非主体。⁶³ 妇女代表性不足，加之性别平等主流化，可能导致的结果是，代表某一性别的群体只从自身视角出发，在其他性别群体没有发言权的情况下，就某些国际法规范和政策对其他性别群体的特定影响以及这些性别群体可能的关切做出决定。总之，实现妇女充分、有效和平等的参与对于制定包容的国际议程至关重要。

41. 联合国最高层已认识到，妇女的参与至关重要，妇女在联合国的政策和方案中具有独特和直接的重要性。⁶⁴

四. 联合国条约机构和特别程序实现性别代表性平衡的主要挑战

A. 条约机构

42. 甄选进程的两个阶段都存在阻碍妇女参与联合国条约机构的障碍：(a) 国家层面，国家确定条约机构成员的提名人选；(b) 国际层面，相关大会或缔约国会议以无记名投票方式选择被提名人。

1. 国家层面的挑战

43. 国家层面，整体上各国提名的女性人数不足，无法实现条约机构的性别均等，⁶⁵ 其原因(部分)包括以下因素。

44. 首先，各国并非总是有正式、透明和公开的候选人甄选程序。如果没有这样的程序，则候选人的甄选可能属于政治酌处权，这往往有利于男性获得提名。⁶⁶ 诸多国家在答复咨询委员会发出的调查问卷时确认，本国缺乏一贯的正式提名程序。有些国家的甄选过程一般不公开。

45. 国际妇女权利行动观察亚太分会在答复中指出，国家层面甄选候选人往往通过主要由国家行政部门主导的专设程序进行。在没有透明度或正式程序的情况下，正式提名之前极少披露候选人的身份。该非政府组织认为，这种不透明存在问题，因为“这样一来，性别平衡问题取决于政府官员的意愿，在性别代表性、资历和其他相关因素方面开展监督和问责的机会极少”。

46. 其次，国家层面的甄选过程一般不要求考虑性别平衡，一般不将实现性别平衡确认为明确的目标。此外，性别平衡即便是一项具体的甄选标准，也未必转化

⁶³ 《维也纳宣言和行动纲领》，第二部分，第 36 段。

⁶⁴ 例如，见安全理事会第 1325(2000)号决议；妇女署，《预防冲突、改造正义、确保和平——关于联合国安全理事会第 1325(2015)号决议执行情况的全球研究》，第 41 页；联合国，《共担责任，全球团结：共同应对 2019 冠状病毒病的社会经济影响》，2020 年 3 月，第 17 页。联合国，《COVID-19 对妇女的影响》，2020 年 4 月 9 日，第 3 页；妇女署，《COVID-19 与妇女的领导：从有效应对到更好地复苏》，第 18 号政策简报，2020 年。

⁶⁵ 例如，最近选任保护所有移民工人及其家庭成员权利委员会七名成员的过程中，各国提名的成员有九名男性，但仅有一名女性。获选任的是这位女性以及男性被提名者中的六位。见 www.ohchr.org/EN/HRBodies/CMW/Pages/Elections2019.aspx。

⁶⁶ 例如，见咨询委员会关于当前人权机构和机制中妇女的代表性的研究报告(2020 年)，第 25 段。可查阅 www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Session24/Pages/Index.aspx。与非洲利益攸关方举行的区域磋商中也提出了这个问题。

为提名女性候选人的强制目标。在问卷答复中，即便是提名候选人时确实考虑到性别平衡的国家一般也没有说明本国是否有国家文书，或者目前人权机构成员的提名、选举和任命程序如何考虑性别平衡。⁶⁷

47. 此外，一些国家承认，性别均等并不被视为法律或实践中的优先事项。例如，墨西哥解释称，为使性别平衡成为甄选过程中的优先事项，需要改变适用的法律框架。谈及西班牙的做法，一些机构(例如穆尔西亚大学法学院法律诊所和与移民开展综合行动 Cepaim 基金会)解释称，关于这一问题缺乏国家协议，加之政府内部连续变动，以及性别平衡于一些政治行为体而言并非优先事项，限制(甚至阻止)了旨在确保提名人权机构候选人时采用性别平衡办法的标准和建议的适用。

48. 第三，国家层面缺乏确定候选人的透明公开的程序，令妇女难以认识到现有职位空缺并公平竞争。⁶⁸ 例如，危地马拉解释称，该国缺乏制度化系统，用于传播为联合国条约机构提名候选人的相关信息。由于国家层面的甄选过程属于非正式和临时性质，能够获得相关信息的有关方很少，并且通常没有专门的战略用于接触代表性不足的群体，包括妇女，以便发现潜在候选人，更无法基于性别跟踪候选情况。

49. 第四，各国在选择候选人时一般不与民间社会组织和其他非国家行为体(例如妇女团体)接触，⁶⁹ 这种做法存在问题，因为这些行为体可以发挥重要作用，在妇女等代表性不足的群体中发现合格候选人。将民间社会组织和其他非国家行为体排除在这些进程之外还可能强化一种观点，即有政治关系才能获得国家提名。

50. 第五，关于适当性别角色的社会观念可能阻碍妇女参选。例如，墨西哥在调查问卷的答复中表示，除其他外，无法协调家庭和工作有碍妇女谋求国际层面的公职和其他耗时的职位。⁷⁰ 穆尔西亚大学法学院法律诊所和与移民开展综合行动 Cepaim 基金会认为，甄选过程中不优先考虑性别均等的根源在于长期的结构性性别不平等，而性别刻板印象、传统(和现代化的)性别角色观念以及根植于社会中的令妇女难以担任决策职位的厌女和性别歧视观念加剧了这种不平等。这些社会观念给妇女造成了事实上的障碍，导致她们不太可能被视为联合国条约机构成员的合适候选人。

2. 国际层面的挑战

51. 国际层面，联合国条约机构实现性别代表性平衡的障碍包括以下方面。

52. 首先，联合国层面甄选候选人的过程经常出现选票交易，其中并不适当考虑性别平衡。⁷¹

⁶⁷ 咨询委员会的研究报告，第 15 段。

⁶⁸ 与非洲和拉丁美洲的利益攸关方进行的区域磋商中也提出了这个问题。

⁶⁹ 除其他外，与非洲的利益攸关方进行的区域磋商中也提出了这个问题。

⁷⁰ 另见咨询委员会的研究报告，第 21 段。

⁷¹ GQUAL 的答复，引自“Women and public international litigation: a background prepared for the Project on International Courts and Tribunals” (2002), p. 6。与非洲和拉丁美洲的利益攸关方进行的区域磋商中也提出了这个问题。

53. 其次，多数联合国条约规定的甄选要求并未专门要求在甄选个体成员时考虑性别平衡。即便相关条约明文提及条约机构的组成中适足性别平衡的重要性，⁷² 性别也并非这些机构甄选过程中的决定因素，通常妇女的代表性仍然偏低。⁷³ 此外，甄选过程常有微调以顾及地域代表性的平衡，但在性别代表性方面却通常并非如此。

54. 第三，即便女性候选人在国家层面当选，各国还需要促进和支持本国候选人，以便她们有真实的机会在国际层面当选。各国还需要在相关区域组内争取对本国女性候选人的支持，因为在区域层面获得支持对于在联合国层面的选举中成功当选可能至关重要。⁷⁴

55. 第四，联合国条约机构职位的一些要求经常被视为女性候选人的障碍。例如，条约机构成员为无偿性质，从而缩小了参选的候选人的范围，并成为无法负担无薪就业的女性的障碍。⁷⁵

B. 人权理事会特别程序

56. 尽管在促进性别均等方面，联合国特别程序任务负责人甄选过程的某些方面表现突出，但仍然存在重大挑战，有碍妇女被任命为特别程序任务负责人。阻碍各个特别程序实现性别均等的障碍如下。

57. 首先，据以批准人权理事会咨商小组工作方法的人权理事会第 43/117 号决定确认，任命过程还有充分的提高透明度的空间。

58. 其次，虽然咨商小组在最后报告中经常谈及，性别是一项甄选标准，但它在甄选参加面试的候选人或拟定向人权理事会主席提出的候选人名单时并不受到具体的性别员额制的约束。此外，2015 年咨商小组首次通过了关于性别均等的准则，⁷⁶ 但随后几年中，咨商小组选择不采用这些准则，而是致力于奉行性别均等原则，并尽可能严格遵守准则的精神和建议。⁷⁷

59. 第三，咨商小组在特别程序任务负责人甄选过程中发挥重要作用，但它自身通常并未做到性别平衡。自 2007 年以来，五人咨商小组有三届无一名女性成员；七届只有一名女性；三届有两名女性和三名男性；只有一届女性人数多于男

⁷² 《残疾人权利公约》，第三十四条第四款；《保护所有人免遭强迫失踪国际公约》，第二十六条第一款；《禁止酷刑和其他残忍、不人道或有辱人格的待遇或处罚公约任择议定书》第 5 条第 4 款。

⁷³ 关于这些机构的性别代表性的资料，见附件二，图 17 和 18(残疾人权利委员会)，图 19 和 20(强迫失踪问题委员会)，以及图 15 和 16(防范酷刑和其他残忍、不人道或有辱人格待遇或处罚小组委员会)。

⁷⁴ 与非洲的利益攸关方进行的区域磋商中也提出了这一点。

⁷⁵ 与拉丁美洲的利益攸关方进行的区域磋商中也提出了这一点。

⁷⁶ 见咨商小组 2015 年 12 月 23 日致人权理事会主席的信函及其附件。可查阅 www.unwatch.org/wp-content/uploads/2016/01/CGlettertransmittedtoPresidentHRC-23dec15.pdf。

⁷⁷ 咨商小组就人权理事会第四十四届会议上将要任命的任务负责人空缺向人权理事会主席提交的报告，2020 年 6 月 3 日，第 14 段。可查阅 www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC44/CG_REPORT_HRC44_FINAL_to_HRC_President_2020-06-03.pdf。

性(三名女性和两名男性)。⁷⁸ 截至 2021 年 5 月 1 日,四名现任成员中(第五名成员的提名尚未完成)只有一名女性。

60. 第四,特别程序任务负责人以个人身份无偿任职。这种经济负担,加上时间要求,令许多女性无法申请,她们即使获得任命,也可能因此最终被迫辞职。

61. 各国还需要在国家层面克服一些挑战,才能在特别程序任务负责人中实现性别代表性平衡。国家在系统地宣传和广泛传播现有空缺相关信息方面力度不够,给女性候选人造成了困难。⁷⁹

五. 良好做法和比较经验

62. 歧视妇女和女童问题工作组确认,确定良好或有前景的做法可以为多重背景下落实妇女人权提供创意,并在这一领域开启集体知识建设的持续参与进程。⁸⁰ 确定这类做法的过程中还可以看出,无论采用何种提名、选举或甄选程序,该体系的每一方面都必须在国家和国际两级运作良好,才能实现性别均等。

A. 各国确认的良好做法

63. 各国在调查问卷的答复中确认的良好做法如下。

64. 各国认识到,务必使国家甄选过程更加公开透明,以便增加妇女申请人的数量和她们获得提名的机会。具体而言,各国的建议包括:

(a) 系统、及时地发布空缺信息。例如,危地马拉建议,这类信息在撰写方式上应鼓励妇女申请,马里则强调,务必公布实用信息,例如申请截止日期、关于现有任务的信息以及关于如何申请的说明;

(b) 采用多机构/多部门提名和甄选程序。例如,瑞士解释称,该国由外交部负责协调寻找合适的候选人,但在提名任何候选人之前,仍将广泛征询主管部门的意见。马里指出,务必确保所有可能参与提名和甄选过程的部委进行系统的正式协调。危地马拉建议,请倡导妇女权利的民间社会组织参与甄选过程。危地马拉还强调,请人权专家参与甄选国际人权职位候选人将有所帮助;

(c) 积极发现女性候选人。例如,瑞士解释称,参与提名过程的相关政府部门如果知晓某位女性候选人符合资格,就会联系她并鼓励她参选。瑞士还指出,如果妇女代表性不足,该国额外努力寻找合格的女性候选人,如有两名资质相同的潜在候选人,则将选择女性候选人。马里在答复中建议,有关部委应当共同努力,为在联合国相关机构职权范围内具有经验的潜在候选人建立一个国家数据库,以便出现空缺时联系这些候选人。

⁷⁸ 见人权高专办,“咨商小组(每个周期的前任和现任成员)”。可查阅 www.ohchr.org/EN/RBodies/HRC/SP/Pages/Nominations.aspx。

⁷⁹ 与非洲和拉丁美洲的利益攸关方进行的区域磋商中也提出了这个问题。

⁸⁰ A/HRC/35/29, 第 15 段。

65. 一些国家强调，务必在本国外交政策立场中表明联合国机构实现性别均等的重要性。⁸¹ 他们建议鼓励其他国家提名妇女担任联合国职位，并在投票做法中将性别均等作为明确宗旨。至于具体步骤，墨西哥报告称，该国正在制定一项新的女权主义外交政策，根据该政策，墨西哥将在本国参与的每一份文件、决议和本国的立场中优先考虑实现增强妇女权能、性别平等和性别均等的目标。爱尔兰报告称，该国已向所有候选国表明，该国希望在条约机构中实现性别均等，并优先支持能够保持或实现性别均等的候选人。

66. 一些国家承认，妇女在本国和国际公职岗位上代表性不足的部分原因是关于适当性别角色的社会观念。意大利报告称，为解决妇女代表性不足的文化问题，该国正在设置题为“妇女、政治和体制”的多年期培训项目。

67. 一些国家强调了将性别问题整体纳入政策设计的重要性，希望这样做能够引导国际职位的提名过程，以便实现性别均等。例如，日本内阁内部专设了“性别平等理事会”作为决策单位，负责确保每个行政机构都考虑性别问题。洪都拉斯制定了一项性别平等计划，希望通过这项计划将实现性别平等的目标纳入国家计划和预算。该计划专门包括一项促进妇女平等参与国家决策，包括国际层面决策进程的政策。

B. 联合国甄选程序中确认的良好做法，特别是与特别程序相关的良好做法

68. 全面确认联合国系统内的良好做法不在本报告的范围之内。但是确认特别程序甄选过程中采用的较好做法尤为重要。下列确认的做法已取得良好进展，尽管仅有这些步骤并不足以实现系统的变革。

69. 人权理事会第 5/1 号决议称，性别均衡的考量是甄选特别程序任务负责人的一项明确标准，理事会第 43/117 号决定重申了这一点。在甄选标准中提到性别平衡发出的重要信号是，性别均等是优先事项。

70. 人权高专办定期在其网站上公布关于目前和未来特别程序任务负责人空缺的信息，⁸² 这有助于确保妇女了解现有空缺从而递交申请。但公布信息本身并不足以促进性别平衡；还须确保广泛传播这一信息，以便潜在的女性候选人能够获得信息。

71. 人权高专办定期按地理区域跟踪特别程序任务负责人的男女比例。⁸³ 按性别分列的统计数据是监测甄选过程是否实现了性别平衡的关键。然而，统计数字虽然反映了任务负责人目前的构成，但还应显示每项任务历来的历史性别构成，以便提示存在明显性别均等问题的职位。

⁸¹ 一个相关实例是西班牙最近采取的女权主义外交政策，其中政府支持积极促进性别平等，将之作为一项贯穿各领域的原则和该国对外行动的优先事项。西班牙促进妇女参与各层面全球决策，同时承诺促进妇女在国际机构和组织中的候选人资格和任命。西班牙外交部，“Spain’s feminist foreign policy: promoting gender equality in Spain’s external action” (2021), pp. 7 and 14. 可查阅

www.exteriores.gob.es/Portal/es/SalaDePrensa/Multimedia/Publicaciones/Documents/2021_02_POLITICA%20EXTERIOR%20FEMINISTA_ENG.pdf。

⁸² 见 www.ohchr.org/EN/HRBodies/HRC/SP/Pages/Nominations.aspx。

⁸³ 同上。

72. 咨商小组的报告在人权高专办网站上公布。人权理事会主席在审议这类报告以及自己开展协商后明确表示性别平衡是否得到了适当考虑。⁸⁴

73. 第五，2015 年，咨商小组通过了关于性别均等的准则，以解决特别程序任务负责人甄选中的性别多样性的问题，其中建议咨商小组在甄选参加面试的候选人以及拟定向人权理事会主席提交的候选人名单的工作中制定性别目标。

C. 其他区域和国际法院与机制的良好做法

74. 区域和国际法院与机制的法官提名和选举最佳做法可以为联合国的甄选程序提供宝贵指导。如附件三所述，承认这些法院和机制之职权的国家采取的有益措施包括：

- (a) 确保入围名单既包括男性也包括女性候选人，除非入围名单上候选人只有一个性别，但正是代表性不足的性别(或者如果存在特殊情况)；
- (b) 要求甄选小组性别构成平衡；
- (c) 规定最低投票要求，在要求中确定目标，以确保此类法院和机制的组成中性别代表均衡；
- (d) 在此类法院和机制的基本条约中加入关于性别代表性的要求；
- (e) 最高政治层面通过的决议应致力于性别均等。

D. 比较经验中确认的良好做法

75. 世界各地的公共和私营部门都有领导和决策岗位上妇女代表性不足的问题。对此附件三有进一步详细讨论，这些可比较的背景下适用的良好做法提供了有益见解，或许可以转用于联合国的背景。其中多项良好做法也常见于其他就业环境，包括：

- (a) 为实现提高女性的代表性而设定鼓励或强制性的目标；
- (b) 请决策者对实现这些目标负责，目标没有实现时要求他们作出解释；
- (c) 确保甄选委员会本身性别多样，并确保甄选委员会成员知晓，甄选多样化的候选人是其任务之一；
- (d) 使用性别中性和包容性的语言设计招聘材料，以吸引性别多样的候选人。

⁸⁴ 例如，见人权理事会主席 2020 年 2 月 21 日的信函，第 2 页。可查阅 www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC43/20200221_Letter_President_HRC43_appointments_mandate_holders.pdf。

六. 建议

A. 人权理事会及其机构

1. 一般性建议

76. 人权理事会应在其网站上公布特别程序性别构成的数据，并采取措施解决妇女代表性不足的问题。使用一个类似“联合国性别均等看板”的看板列出秘书处国际工作人员的性别分列数据可能是有效做法。

2. 关于确保特别程序任务负责人性别均等的建议

77. 人权理事会应考虑采用关于实现咨商小组性别均等的准则。

78. 人权理事会主席应考虑系统地向理事会通报为在推荐候选人过程中实现性别均等所作的努力。

79. 如果两名候选人资质同等，则人权理事会主席应推荐代表性不足的性别的候选人。

80. 受邀任命咨商小组成员的区域组在任命工作中应确保性别均等。

81. 如果长期存在代表性不足，则人权理事会成员和五个区域组的协调员应积极支持选择女性候选人。

82. 最后，特别是如果职位需要前往国外，人权理事会应与各国密切合作，向特别程序任务负责人提供适当的财政和后勤支援，以确保任务的独立性及其适当执行，并确保任务与家庭义务和其他个人义务相容。

83. 咨商小组应：

(a) 继续在其报告中列出候选人的性别，并提供资料说明甄选参加面试的候选人和拟定向人权理事会主席提出的候选人名单时如何顾及性别均等；

(b) 对于从未由妇女担任负责人的特别程序任务，酌情只考虑女性候选人；

(c) 确保工作组成员性别均等，包括对于性别不均等的特别程序任务只考虑女性候选人(如果职位数量为单数，则在各次甄选中间隔采取这种做法)。专注于妇女问题的任务应视为例外，因为只有它们是专门处理与妇女有关的问题的任务，妇女占世界人口的一半，她们在所有领域的代表性仍然严重不足并且处于不利地位。任何情况下，候选人都应当具备经证实的从事妇女平等权工作的履历，还应当符合敬业以及具备歧视妇女问题方面专业知识的基本要求。这方面的标准应当由咨商小组与歧视妇女和女童问题工作组协商起草；

(d) 如果所作之决定导致性别不均等或未能解决性别代表性的差距，则应提供书面理由，以便确保透明并且在今后的甄选过程中及时解决这些障碍；

(e) 如果申请的女性候选人人数不足，应延长申请开放时间；

(f) 如果两名候选人资质同等，应将代表性不足的性别的候选人列入入围名单，除非特殊情况证明有理由将代表性偏高的性别的候选人列入入围名单；

(g) 确保每次会议收到一份关于特别程序性别构成的最新明细报告；

(h) 根据上文第 77 段，落实关于性别代表性的准则，使这些准则在每届咨询小组的构成中得到考虑。

3. 关于确保咨询委员会成员性别均等的建议

84. 人权理事会应呼吁各国在提名咨询委员会成员时考虑到性别均等，并就此在选举前向各区域组发出提醒。具体而言，理事会应鼓励各国与国家人权机构、民间社会组织和其他相关的非国家行为体接触，发现优秀的女性候选人。

B. 会员国

85. 各国在谈判和起草新的或现有的条约、法律、机制或准则时，应争取纳入确保相关监督机构组成中的性别均等的进程。

86. 各国应承诺，在国家层面：(a) 发现更多女性候选人；(b) 推行将性别作为具体标准的公开的参与式甄选进程；(c) 促进研究和指导，以确保克服充分参与的障碍。在国际层面，各国应承诺：(a) 提名并选择更多女性候选人担任联合国人权机构和机制的空缺职位；(b) 定期报告这些建议的落实情况，以确保履行本国关于性别平等的义务。

1. 关于确保发现更多女性候选人的建议

87. 在积极寻找女性候选人方面，各国应：

(a) 考虑运行可公开查阅的联合国职位潜在候选人数据库，还应当鼓励妇女毛遂自荐，将自己的信息列入此类数据库；

(b) 与相关民间社会组织和其他非国家行为体合作，收集有资格担任联合国人权职位的女性人选；

(c) 利用一切方法(包括社交媒体)传播有关职位空缺的信息，积极确保符合资格的妇女接收到此类信息；

(d) 还应当与民间社会组织和其他非国家行为体接触，以便传播有关空缺的信息；

(e) 确保使用性别中性的语言起草空缺通知，并在通知中声明，联合国致力于在其征聘和甄选过程中实现性别均等。

2. 关于确保提名更多女性候选人的建议

88. 各国应制定并采用正式、公开、透明的国家提名程序。

89. 正式提名程序中，应将性别均等作为具体的甄选标准和目标。

90. 各国在提名程序中，应考虑各个联合国机构的当前和历史性别构成，并承诺为每个空缺提名一位代表性不足的性别的候选人。

3. 关于确保选举和任命更多女性候选人的建议

91. 各国应考虑作出坚定承诺，在选举担任联合国人权机构和机制空缺职位的候选人时保证实现性别均等。

92. 选举过程中确保性别均等的积极步骤可包括：

- (a) 在投票做法中纳入性别均等；
- (b) 采取政策，要求：
 - (一) 既提名男性也提名女性；
 - (二) 投票时考虑各机构的当前和历史性别构成，尤其是为尚未实现性别均等或性别代表性适足的机构和机制投票时；
- (c) 实行针对措施，例如鼓励各国承诺只选举当前在机构中代表性不足的性别的成员，或制定不具约束力的目标(目标可因机构当前组成情况而异)；
- (d) 鼓励各国在第一轮投票未能实现最低均等目标的情况下连续进行几轮投票，在后续几轮投票中为女性候选人投票。

4. 关于报告、监测和确保合规的建议

93. 鼓励各国在普遍定期审议框架内提交的国家报告中列入根据本建议采取的所有措施。

94. 应当邀请民间社会组织和其他非国家行为体提交关于本建议执行情况的资料，作为普遍定期审议进程中提交的其他利益攸关方信息摘要的一部分。

95. 各国应在其根据《消除对妇女一切形式歧视公约》第十八条提交的定期报告、向歧视妇女和女童问题工作组提交的相关报告以及向监测平等和诉诸司法的其他程序或机制提交的报告中说明执行本建议过程中的进展或困难。为落实《消除对妇女一切形式歧视公约》第八条和其他相关条约中关于平等和诉诸司法的广泛条款而采取的措施中应包含关于执行(或未执行)建议的资料，工作组在国别访问时也应评估这些资料。

96. 各国还应收集和传播关于被提名和选举担任国际职位的候选人的按性别分列的数据。

C. 联合国人权事务高级专员办事处

97. 人权高专办应广泛传播关于其担任秘书处的联合国机构(即条约机构和特别程序)即将进行的选举的公告，并为此建立机制，开展合作，包括与相关妇女网络进行接触。

98. 人权高专办应协助各国、人权理事会和咨商小组发展在联合国机构成员提名和选举过程中实现性别均等的机制。

99. 人权高专办应定期编写一份关于现有提名政策、做法和机制的报告，其中应突出最佳做法。报告应包括进度和成果指标，并提议一个评估制度。报告中还可探讨实现性别均等的障碍，研究会员国在条约机构中的选举做法并提出建议。

100. 人权高专办应继续为其所服务的联合国机构收集和跟踪性别平衡数据。这方面：

- (a) 可更加突出并公开这些信息，将之与其他数据收集工作相关联(例如联合国全系统性别均等战略)；

(b) 还应在年度报告中向各国和联合国机构提供所收集的数据，并在提名或选举前致会员国的函件中列入这些数据；

(c) 应努力促进研究工作，以克服阻碍妇女充分参与联合国机构的障碍。可以面向目前担任联合国机构独立专家的妇女开展调查，以便收集个人经验，并发现提名以及执行任务过程中遇到的主要障碍；

(d) 应继续努力，将性别视角纳入人权高专办向专家所做的简报，并为国别访问、情况分析和报告撰写提供实用的指导工具。

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 here)

<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 here)
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

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.¹ Seven of them (i.e., all with the exception of the SPT, CEDAW and CRPD Committees) may also consider inter-State complaints.² The CAT,³ CESCR,⁴ CRPD,⁵ CRC⁶ and CEDAW⁷ Committees may also initiate inquiries, and CED visits,⁸ 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.⁹

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

¹ 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.

² 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.

³ Article 20, CAT.

⁴ Article 11, Optional Protocol to the ICESCR.

⁵ Article 6, Optional Protocol to the CRPD.

⁶ Article 13, Optional Protocol on a communications procedure to CRC.

⁷ Article 8, Optional Protocol to the CEDAW.

⁸ Article 33, CED.

⁹ 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.

6. *Nomination and election process:* States parties to the relevant treaty nominate and elect experts to the relevant treaty bodies.¹⁰ States nominate candidates among their nationals. The UN Secretary-General compiles these nominees and then submits them to a vote by all States parties to a specific treaty.¹¹

7. Elections for UN treaty bodies take place during meetings of States parties of each treaty body, and experts are elected by secret ballot.¹² 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”.¹³

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.¹⁴ 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.¹⁵

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,¹⁶ 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;¹⁷ (b) the CED;¹⁸ and (c) the Optional Protocol to the Convention against Torture (OPCAT).¹⁹

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.²⁰ 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.²¹ Consequently, nine members of CERD are renewed every two years, and they can be re-elected.

¹⁰ 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 CESC, 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 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).

¹¹ Ibid.

¹² Ibid.

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

¹⁴ 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>.

¹⁵ Ibid.

¹⁶ 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).

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

¹⁸ Article 26.1, CED.

¹⁹ Article 5.4, Optional Protocol to the CAT.

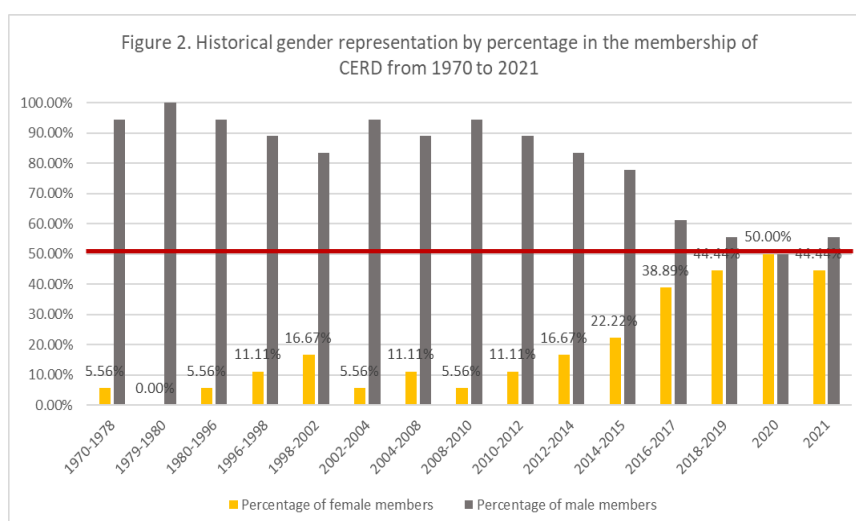
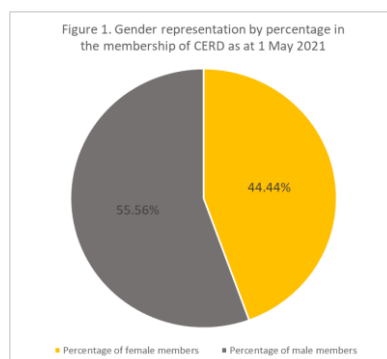
²⁰ Rule 15 of the Rules of Procedure (CERD/C/35/Rev.3).

²¹ Article 8.5 (a), ICERD.

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.²²

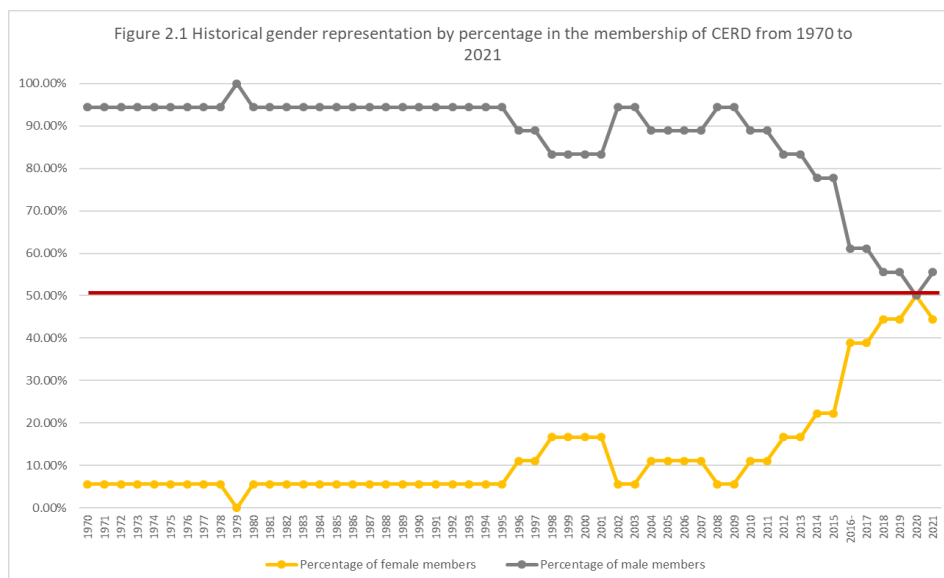
12. As reflected in Figure 2, between 1970–1978, CERD had only one female member (5.56%) and, in 1979, there were no women serving on the Committee. Between 1980 and 2013, the number of female members fluctuated between one and three (5.56%–16.67%), and it increased to four women in 2014–2015 (22.22%), seven in 2016–2017 (39%), and eight women in 2018–2019 (44.44%), before achieving gender parity for the first time in 2020.²³ 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



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

²³ 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*).



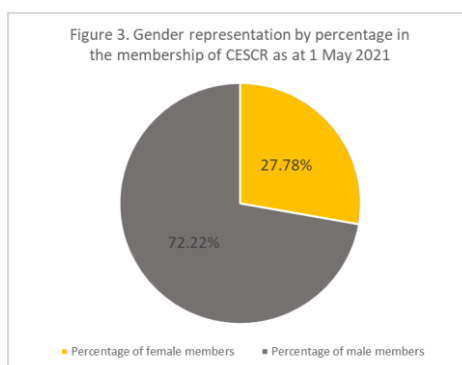
2. Committee on Economic, Social and Cultural Rights (CESCR)

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

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).²⁸

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



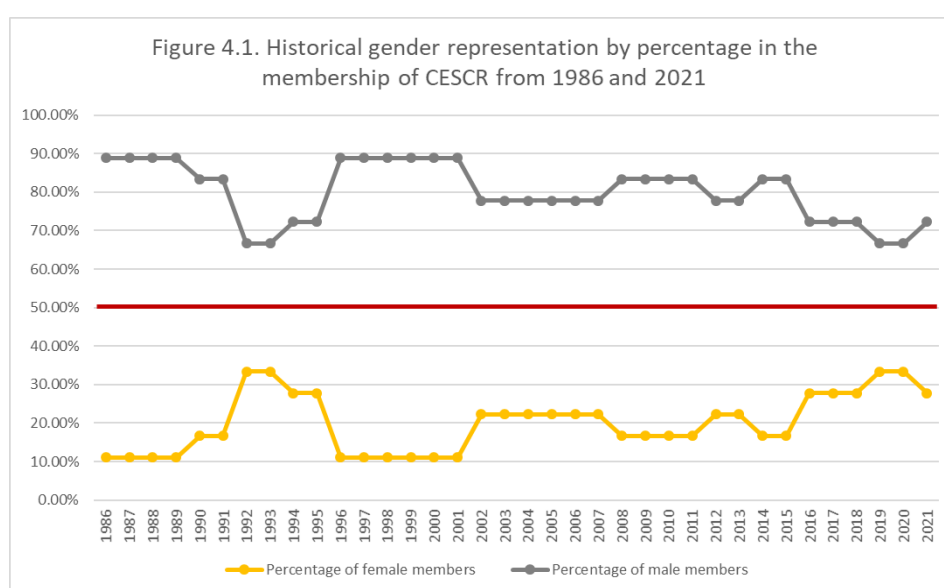
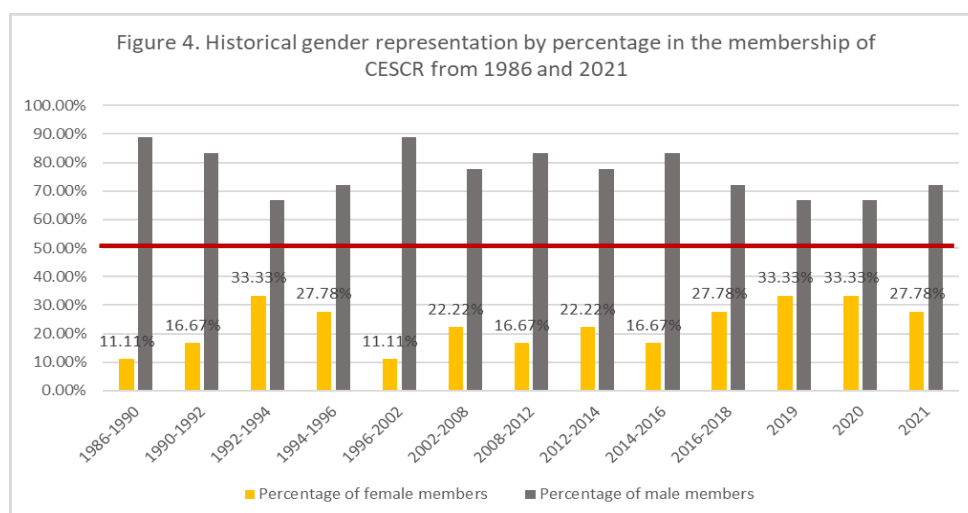
²⁴ ECOSOC resolution 1985/17, OP (b).

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

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

²⁷ Ibid., OP (c)(i) and (c)(ii).

²⁸ 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.²⁹ Its members elect a Chair, three Vice-Chairs and a Rapporteur³⁰ 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.³¹

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.³²

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

²⁹ Article 28, ICCPR.

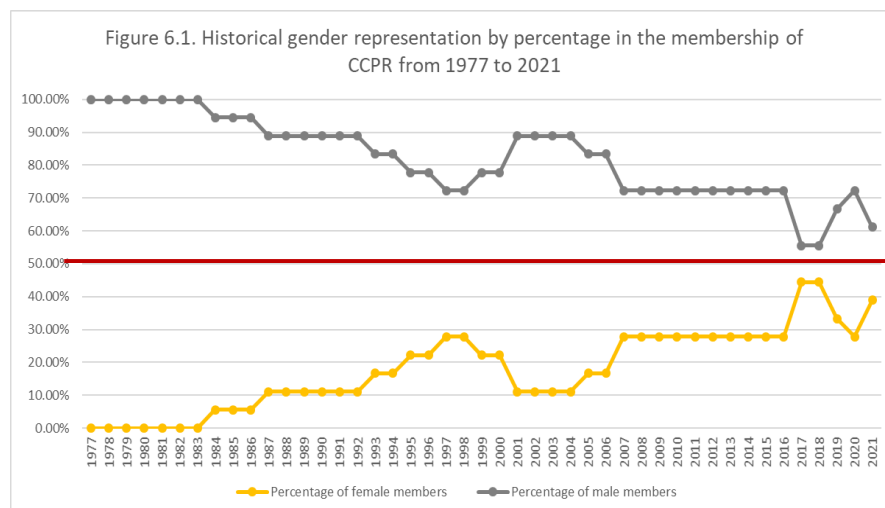
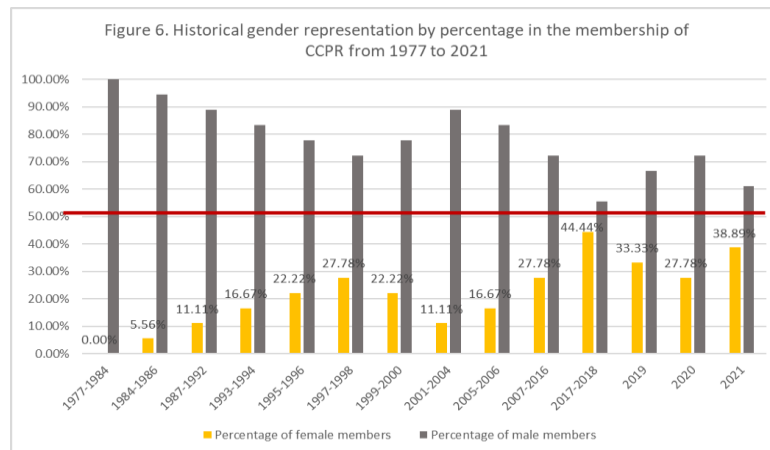
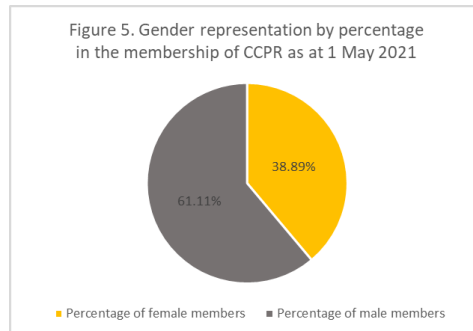
³⁰ Rule 16 of the Rules of procedure (CCPR/C/3/Rev.12).

³¹ Article 32, ICCPR.

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

just two women in 2001 (11.11%). In 2005, women representation started to increase 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%).³³ 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)

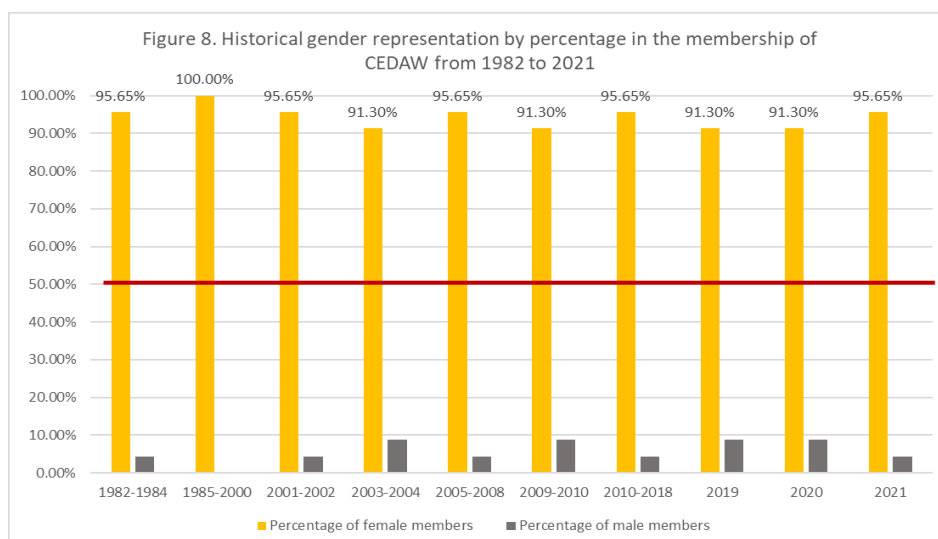
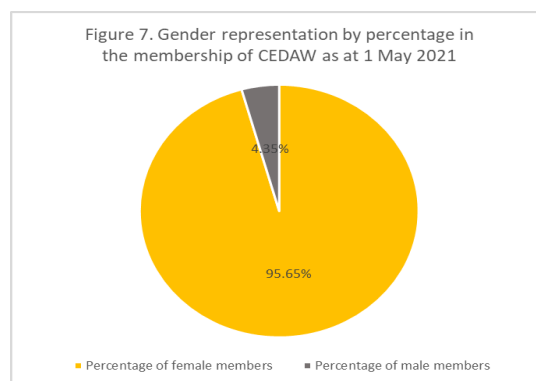
19. CEDAW monitors the implementation of the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol. It is made up of 23

³³ 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.³⁴ The mandate of each member is four years. Half of its members are elected every two years.³⁵

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.³⁶ 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).³⁷

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

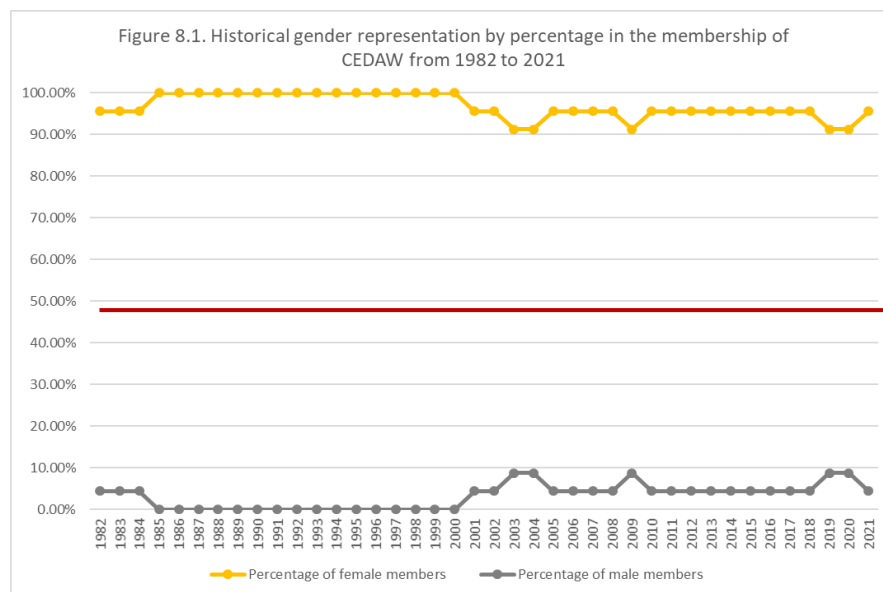


³⁴ Rule 16 of the Rules of procedure (HRI/GEN/3/Rev.3, p. 102).

³⁵ Article 17.5, CEDAW.

³⁶ 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>.

³⁷ 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.



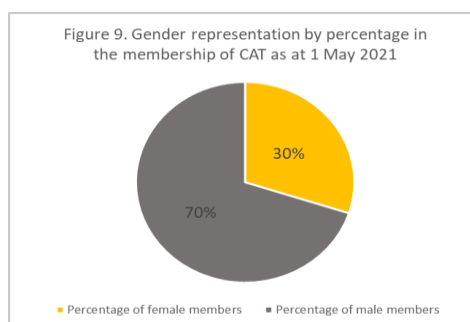
5. Committee against Torture (CAT)

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.³⁸ Like the other Committees, CAT shall elect a Chairperson, three Vice-Chairpersons and a Rapporteur.³⁹ The mandate of each member is four years, and the members may be re-elected.⁴⁰ 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.⁴¹

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%.⁴²

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



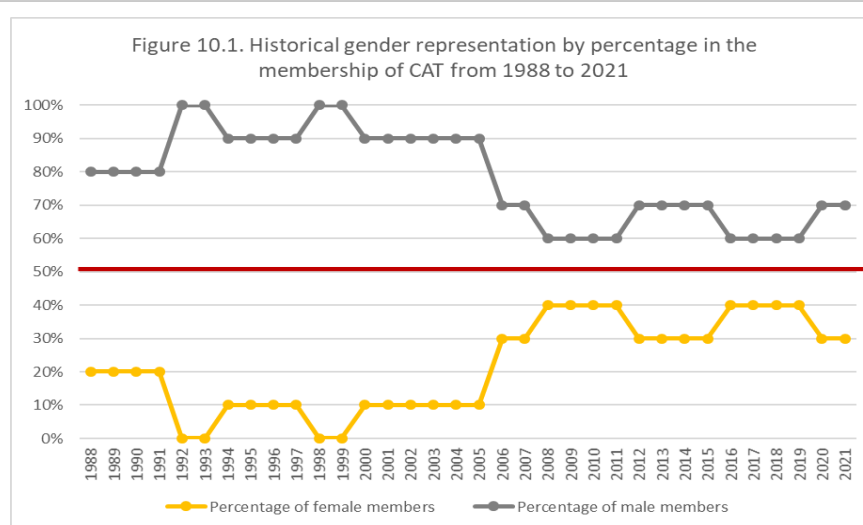
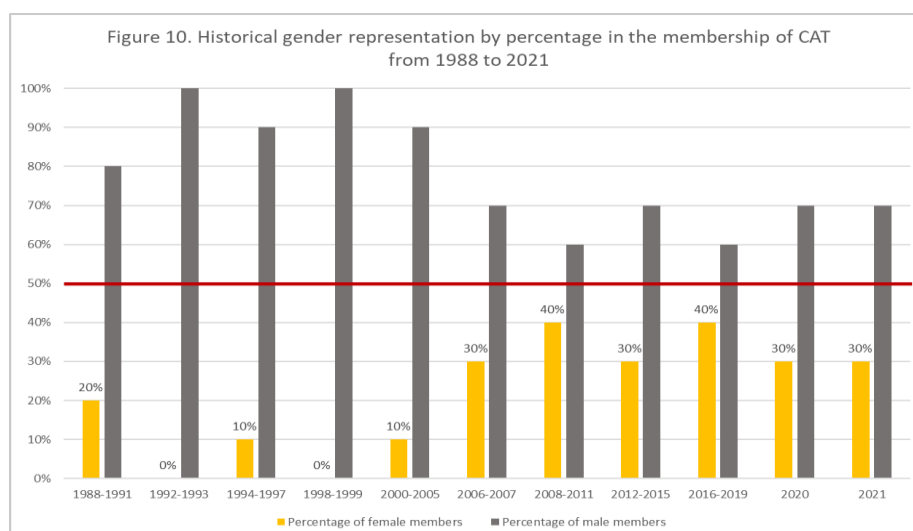
³⁸ Article 17.1, CAT; Article 11, CAT Committee Rules of Procedure.

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

⁴⁰ Article 17.5, CAT.

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

⁴² 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.⁴³ The mandate of each member is four years, and half of the members are renewed every two years, and they can be re-elected.⁴⁴

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 2021.⁴⁵ One of the five leadership positions, namely one of the Vice-Chairs (acting also as Rapporteur), was held by a woman.⁴⁶

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.

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

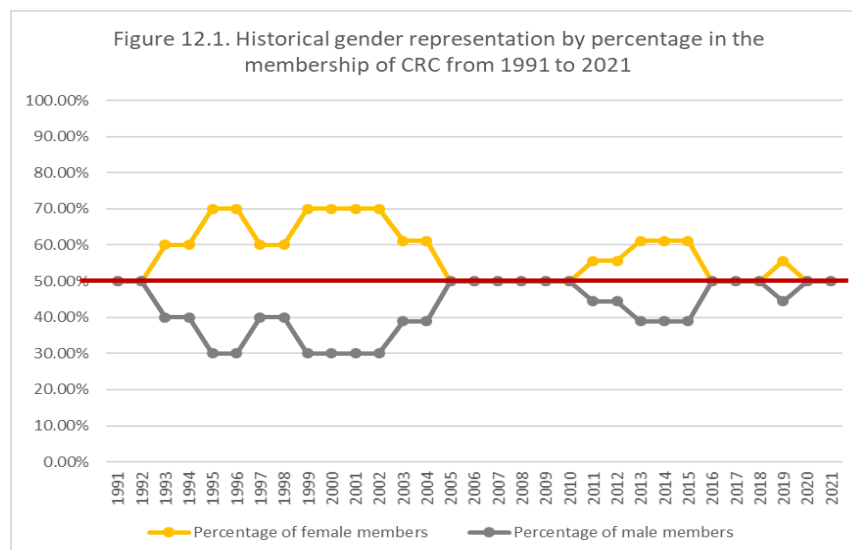
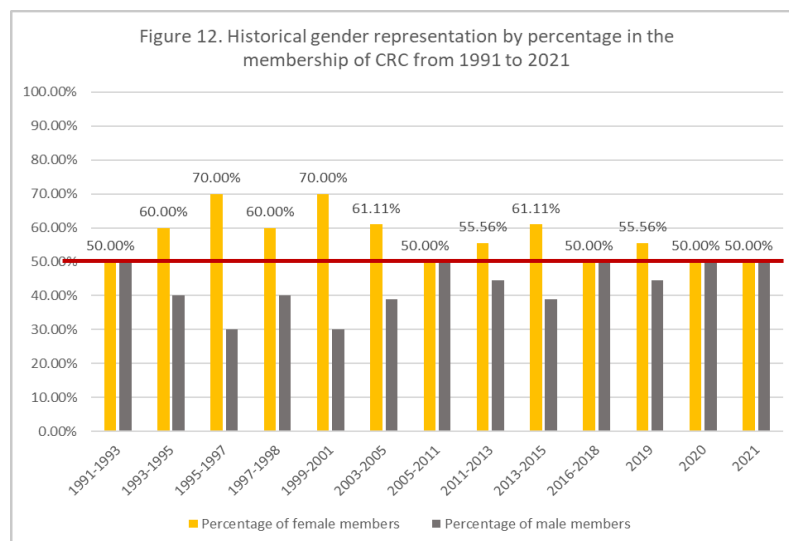
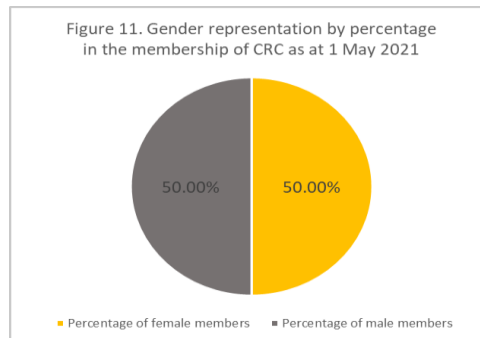
⁴⁴ Article 43.6, CRC.

⁴⁵ 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>.

⁴⁶ 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%),⁴⁷ 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.

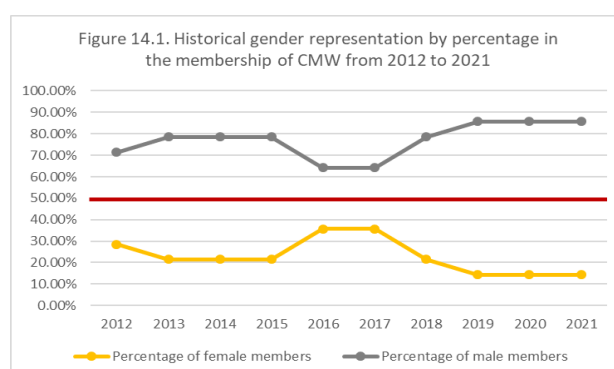
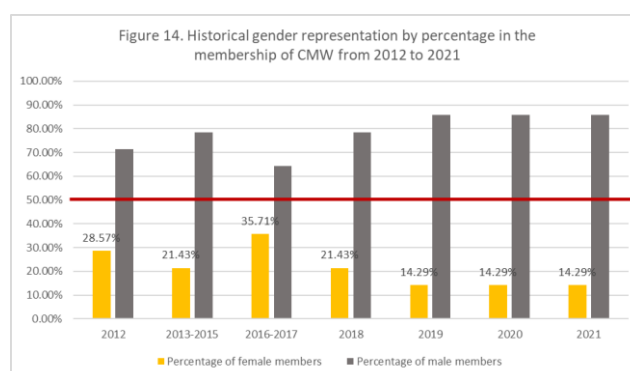
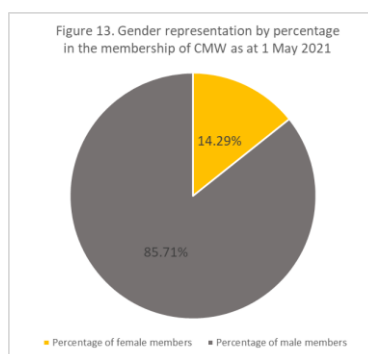
⁴⁷ See A-K Holmlund, op. cit., p. 4; UNSG Report, Annex on gender composition of treaty bodies, 2016; UNSG Report, Annex on gender composition of treaty bodies, 2018; UNSG Report, Annex on gender composition of treaty bodies, 2019.

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.⁴⁸

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

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%).⁵⁰

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



⁴⁸ Article 72.5, ICRMW.

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

⁵⁰ 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.

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.⁵¹ It was established under the Optional Protocol to the Convention against Torture (OPCAT) to carry out the 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”.⁵²

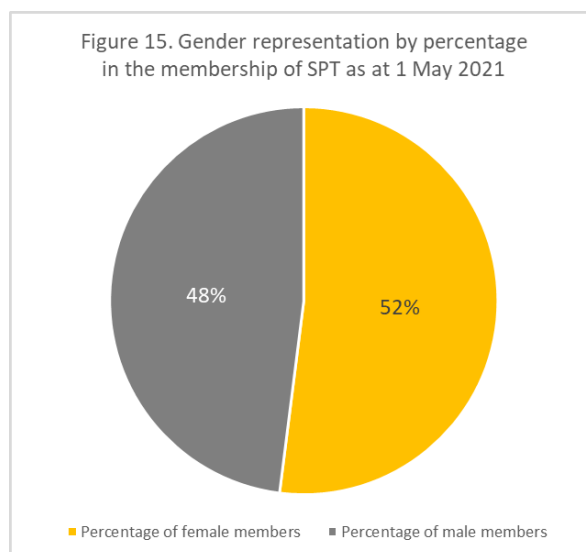
31. The SPT is a new kind of treaty body in the UN human rights system. It has a preventive mandate focused on an innovative, sustained, and proactive approach to the prevention of torture and ill-treatment.⁵³

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

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.⁵⁷

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),⁵⁸ 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



⁵¹ Article 2.1 of the Optional Protocol to the Convention against Torture (OPCAT).

⁵² Article 1, OPCAT.

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

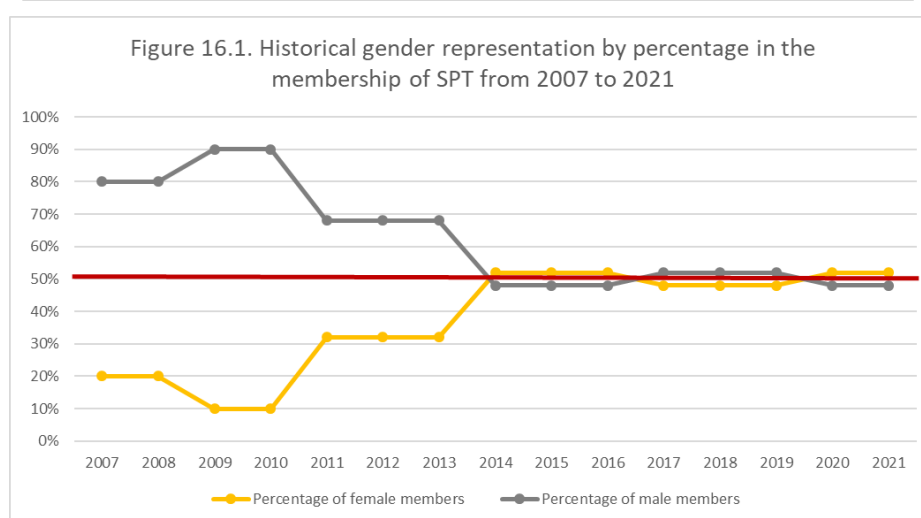
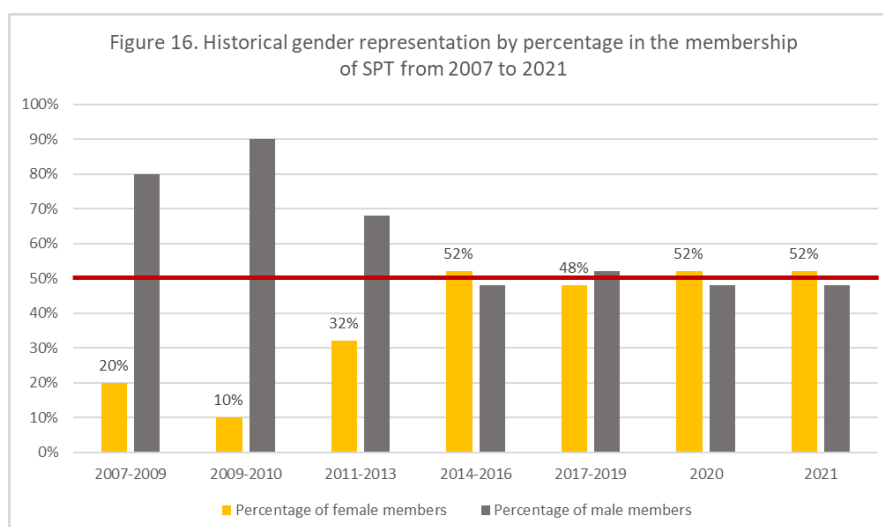
⁵⁴ Article 5.1 OPCATT.

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

⁵⁶ Article 9 OPCAT.

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

⁵⁸ 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 18.⁵⁹ 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.⁶⁰

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

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%).

⁵⁹ Article 34.2, CRPD.

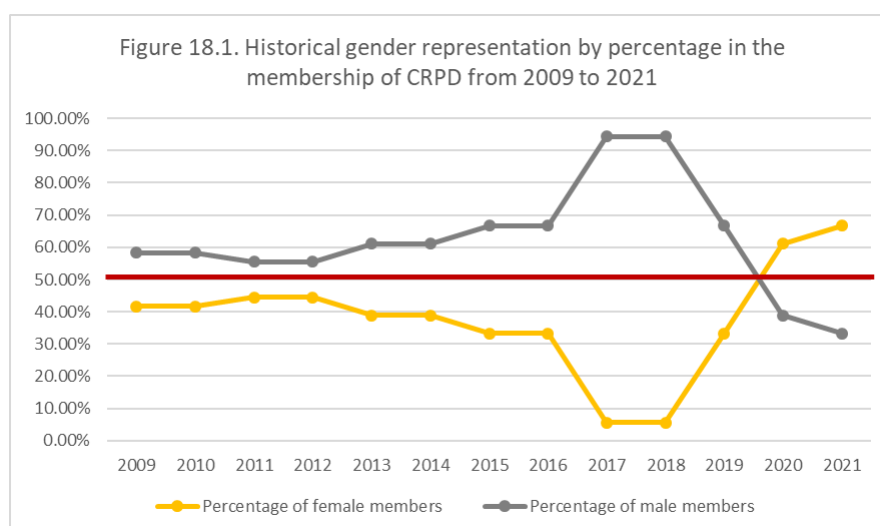
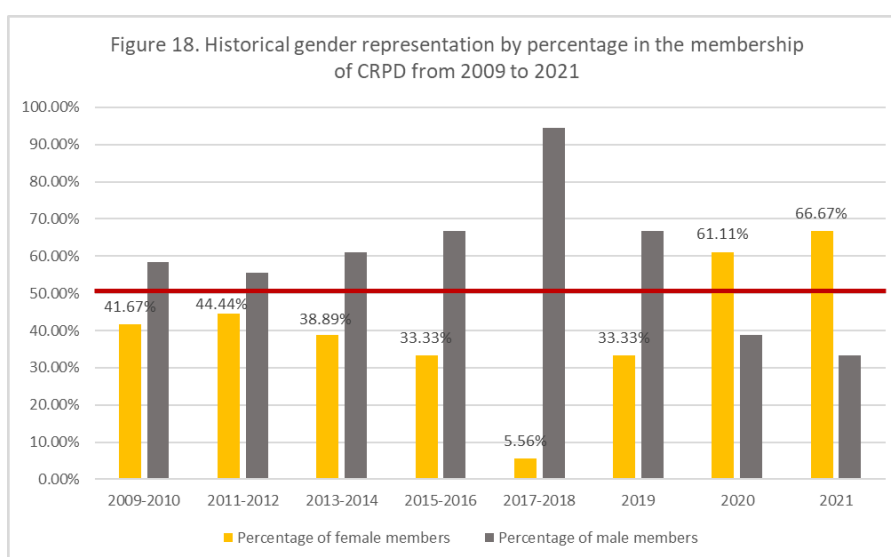
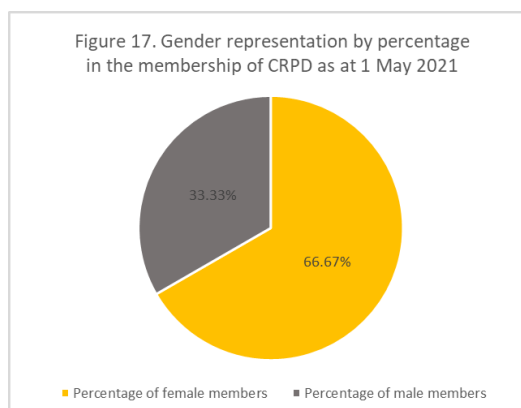
⁶⁰ Article 34.7, CRPD.

⁶¹ 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>.

⁶² 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%),⁶³ and to 12 in 2021 (66.67%).⁶⁴

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



⁶³ 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.

⁶⁴ 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>.

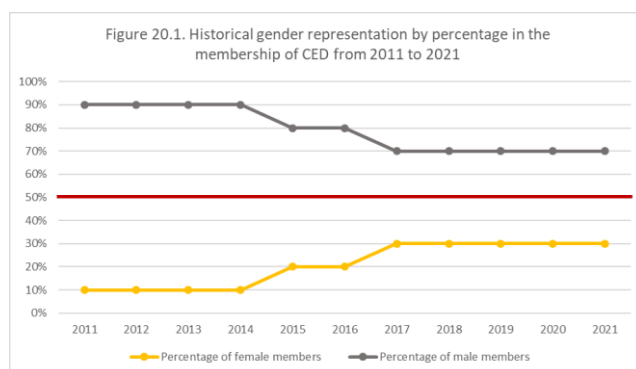
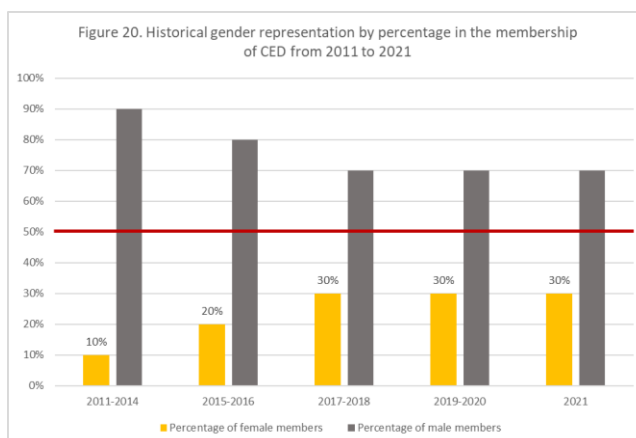
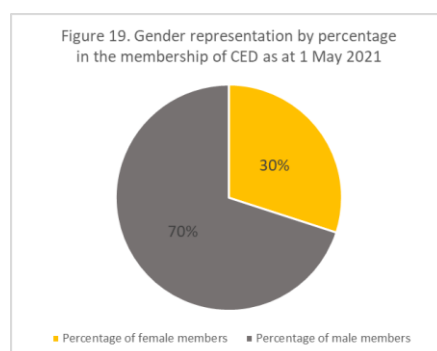
10. Committee on Enforced Disappearances (CED)

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

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.⁶⁷

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 2021.⁶⁸

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



⁶⁵ Article 26.1, CED. Article 10.1, CED Committee Rules of Procedure.

⁶⁶ Article 26.4, CED.

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

⁶⁸ 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).⁶⁹ 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".⁷⁰ The Consultative Group comprises five members, "one from each of the regional groups, appointed by their regional groups to serve for one cycle/year".⁷¹ The Consultative Group is assisted by the OHCHR.⁷²

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.⁷³

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".⁷⁴ The selection process is as follows:

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

(b) Shortlisted candidates are interviewed by telephone by the Consultative Group.⁷⁶

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

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

⁶⁹ 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.

⁷⁰ 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.

⁷¹ 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.

⁷² HRC resolution 5/1, para. 49.

⁷³ 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.

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

⁷⁵ Ibid.

⁷⁶ Ibid.

⁷⁷ Ibid.

appropriate candidate for each vacancy.⁷⁸ 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.⁷⁹

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”.⁸⁰

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”.⁸¹

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 2020.⁸² 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,⁸³ 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.⁸⁴ 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”.⁸⁵

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.⁸⁶

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

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ HRC resolution 5/1, para 51.

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

⁸² 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.

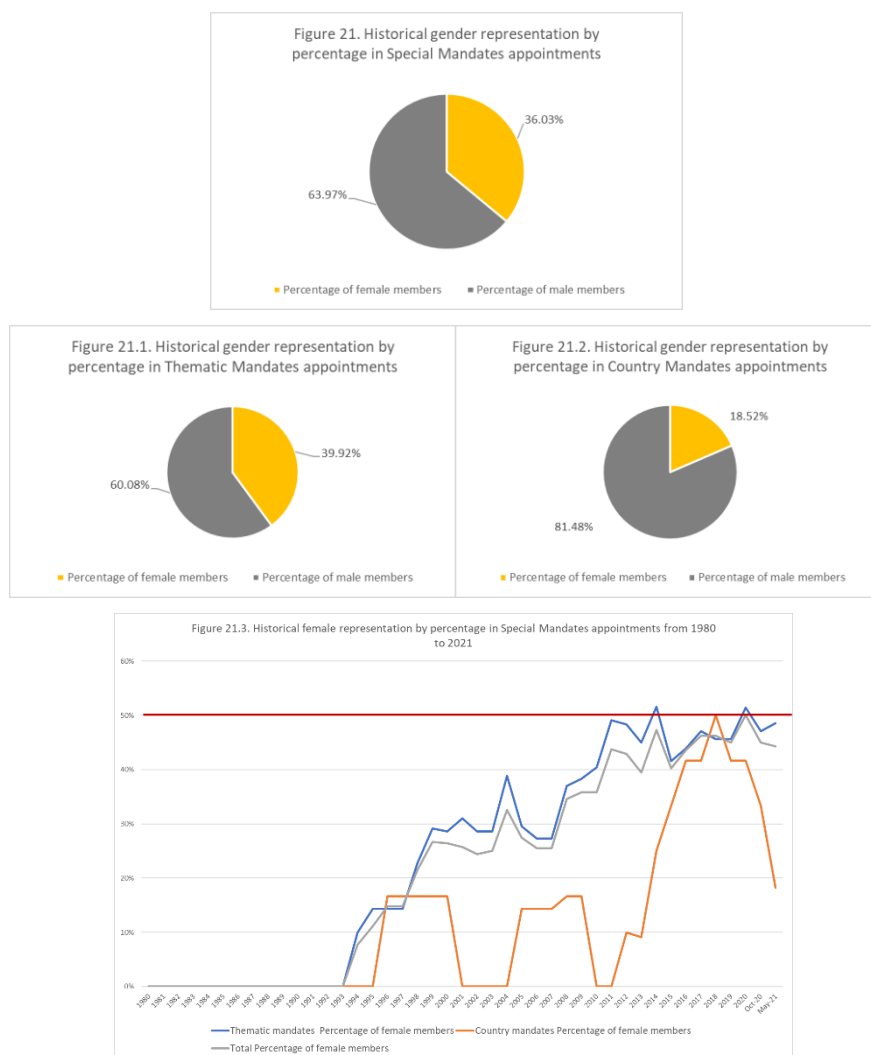
⁸³ See HRC, Statement by the President, “Methods of work of the Consultative Group of the Human Rights Council”, 17 December 2020, A/HRC/PRST/OS/14/2.

⁸⁴ Ibid, paras. 31, 48.

⁸⁵ Ibid, para. 29.

⁸⁶ 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%).⁸⁷



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):⁸⁸

- (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);

⁸⁷ 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; 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>.

⁸⁸ 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”.⁸⁹

56. *Composition:* It comprises 18 members serving in their personal capacity.⁹⁰

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”.⁹¹

59. *Selection criteria:* When selecting their candidates, States should consult with national human rights institutions and civil society organisations.⁹² 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”.⁹³

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.⁹⁴

62. Historically, there were four women among the first 18 members of the Advisory Committee elected in March 2008,⁹⁵ 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

⁸⁹ HRC resolution 5/1, para. 65.

⁹⁰ Ibid.

⁹¹ 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).

⁹² Ibid, para. 66.

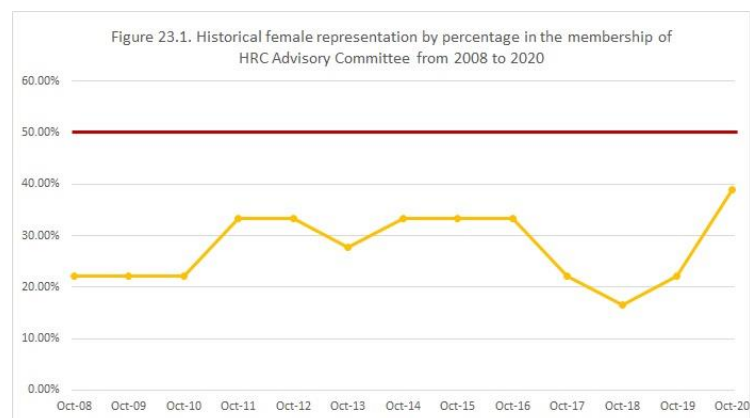
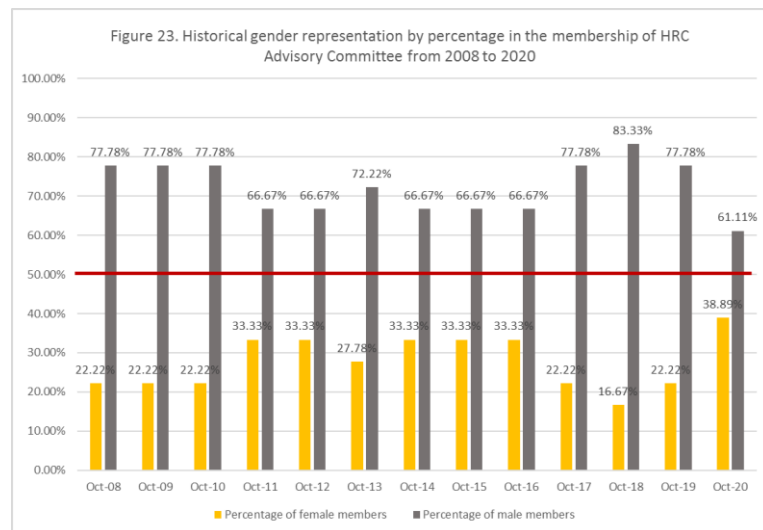
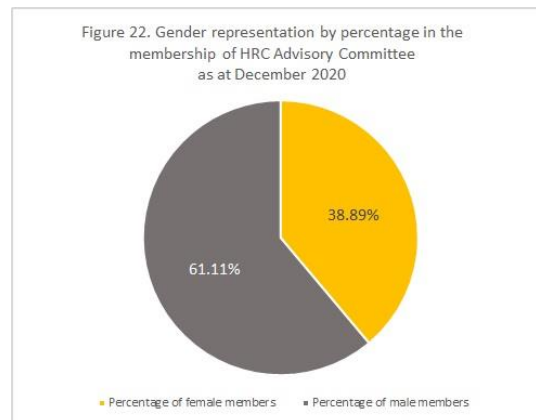
⁹³ Ibid, para. 67. See also HRC decision 6/102 on follow-up to Human Rights Council Resolution 5/1, 27 September 2007, UN Doc A/HRC/DEC/6/102, section III.

⁹⁴ 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.

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

experts in the Advisory Committee increased again to six women in 2014–2015, only to fall 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%).⁹⁶

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



⁹⁶ 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.¹ 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.² 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.³

4. Additionally, the ECHR, as well as other courts, uses "screening committees" to "vet and recommend candidates for election".⁴ 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.⁵ Gender balance is apparently taken into account by the Advisory Panel.⁶ 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.⁷ 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.⁸ 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.⁹

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

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

² Ibid.

³ PACE Resolution 1646 (2009), 27 January 2009, para. 5.

⁴ Grossman, p. 91.

⁵ 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>.

⁶ 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>.

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

⁸ Grossman, p. 91.

⁹ Ibid.

of female and male judges” in selecting them.¹⁰ Research shows that the existence of a formal requirement to promote gender balance on a court has “a knock-on effect in the nomination stage and have increased the likelihood that women will be considered as potential candidates”.¹¹

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.¹² States parties must vote in accordance with these minimum voting requirements in order for their ballots to be valid.¹³ As the election progresses, adjustments are made to reflect the updated composition of the bench in light of previous voting rounds.¹⁴ Interviews with relevant stakeholders suggest that minimum voting requirements designed to enhance diversity are not perceived as creating “shortcomings in terms of merit”.¹⁵

7. *IACHR and IACtHR*: The OAS General Assembly elects both judges and commissioners from a list of candidates proposed by Member States.¹⁶ 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]”.¹⁷ 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”,¹⁸ “including information on existing national procedures, policies, and practices”.¹⁹ 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”.²⁰

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”.²¹ 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”.²² Article 14(3)

¹⁰ Article 36.8 (a) (iii), Rome Statute of the ICC.

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

¹² 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).

¹³ Ibid.

¹⁴ Ibid.

¹⁵ Mackenzie, Malleson, Martin, Sands, p 135.

¹⁶ 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.

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

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

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

²⁰ 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.

²¹ 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).

²² 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).

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 Representation in the African Union Organs,²³ 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”.²⁴ 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”.²⁵ Currently, in both the ACtHPR and the ACHPR, six out of the 11 members are women (54.54%).²⁶

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”.²⁷

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*).²⁸ 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.²⁹ 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.³⁰ 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.³¹ Even in jurisdictions where more women have been appointed as judges, they tend to be underrepresented in top-ranking

²³ 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.

²⁴ Ibid., para. 2(iii).

²⁵ 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.

²⁶ 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/>.

²⁷ 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.

²⁸ Available at www.arbitrationpledge.com/.

²⁹ Ibid.

³⁰ ICCA Report, p 62.

³¹ 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>.

positions, for example, in higher and supreme courts.³² Moreover, there is no correlation between domestic participation and gender parity in international representation.

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 2015.³³ Having achieved this goal, Jordan's Judicial Council has since set a target of 25%.³⁴

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.³⁵ 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.³⁶ 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.³⁷ 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.³⁸

(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.³⁹ 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.⁴⁰

3. The public sector

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

³² Ibid.

³³ 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.

³⁴ Ibid.

³⁵ 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.

³⁶ 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.

³⁷ Judicial Appointments Commission, "Equality and diversity", available at www.judicialappointments.gov.uk/equality-and-diversity.

³⁸ 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>.

³⁹ 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/>.

⁴⁰ Ibid.

⁴¹ 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.

16. Some of the most detailed guidelines and good practices applicable to the public sector have been developed by the OECD.⁴² A key recommendation is to establish “clear accountability mechanisms in public sector institutions for promoting and respecting gender balance and diversity in recruitment and hiring processes”.⁴³ The guidelines also emphasise the need to “develop [] concrete measures to ensure the effective removal of the systematic barriers within hiring and staffing processes”.⁴⁴

4. Corporate boards and senior management

17. Women remain underrepresented on corporate boards and senior management teams worldwide.⁴⁵ 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%).⁴⁶

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.⁴⁷ 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.⁴⁸ 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”.⁴⁹

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 basis⁵⁰ and, as of 2019, only 2% of such listed companies have all-male boards.⁵¹ Other States similarly require companies to disclose their progress towards achieving gender parity on boards.⁵²

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

⁴³ *Ibid*, p 79.

⁴⁴ *Ibid*.

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

⁴⁶ 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%).

⁴⁷ *Ibid*, p 17.

⁴⁸ *Ibid*, p 42.

⁴⁹ *Ibid*.

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

⁵¹ *Ibid*.

⁵² *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.⁵³ This means, for example, removing gendered language from job descriptions and advertisements.⁵⁴ Studies have shown that certain language and information appeals more to certain groups.⁵⁵

⁵³ 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.

⁵⁴ Ibid.

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