

”Promoting Quality, Independence and Diversity in Treaty Body Membership: the Importance of Transparent and Participatory Nominations and Election Processes”

**Thursday, 2 November at 13.30
Room XXVII, Palais des Nations, United Nations, Geneva**

Summary report

The event was organized by the TB-Net, an informal group of international NGOs and networks working in strategic partnerships with the UN Treaty Bodies (TBs). Currently, TB-Net comprises Child Rights Connect; the Centre for Civil and Political Rights (CCPR Centre), the International Movement Against All Forms of Discrimination and Racism (IMADR) the World Organisation Against Torture (OMCT) the International Women's Rights Action Watch Asia Pacific (IWRAW); the International Disability Alliance (IDA); and the Global Initiative for Economic, Social and Cultural Rights.

The event was co-sponsored by the Permanent Missions of the UK, New Zealand and the Republic of Bulgaria, as well as the following NGO partners who are also working on this topic: Amnesty International; the International Service for Human Rights (ISHR); the Minority Rights Group International (MRG); the Association for the Prevention of Torture (APT); Institute on Race, Equality and Human Rights (Race and Equality); and the International Rehabilitation Council for Torture Victims (IRCT).

The event aimed to discuss the importance of quality, independence and diversity in TB membership and sought to identify challenges and good practices in promoting these principles as well as practical ways to move forward.

Mr. Taisuke Komatsu from IMADR moderated the event and Mr. Ibrahim Salama, Chief of the Human Rights Treaties Division at the Office of the High Commissioner for Human Rights (OHCHR) delivered the opening remarks. Panellists included Ms. Gladys Acosta Vargas, member of the Committee on the Elimination of Discrimination against Women (CEDAW), Mr. Bamariam Koita, member of the Human Rights Committee (CCPR), Ms. Theresia Degener, Chairperson of the Committee on the Rights of Persons with Disabilities (CRPD), Mr. Bob Last, Representative of the Permanent Mission of the UK, and Mr. Yehualashet Mekonen, representative of the African Child Policy Forum.

The event was attended by a wide range of stakeholders including Permanent Missions, civil society and UN agencies, who all actively and constructively engaged in the discussion.

The event was live streamed through social media on [Facebook Live](#). Live captioning and international sign were provided.

Video of the event can be found [here](#).

International sign can be found [here](#).

A concept note of the event can be found [here](#) and the flyer [here](#).

Opening remarks:

Mr. Taisuke Komatsu thanked the co-sponsors of the event, presented TB-Net and introduced the panelists. He also explained that this year, the Committee Against Torture, the Committee on the Elimination of Racial Discrimination, the Committee on Enforced Disappearances and the Committee on Migrant Workers have already had their elections. Mr. Komatsu remarked that civil society organisations had been involved in these elections. Next year, there will be elections for membership in the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child, the Committee on the Rights of Persons with Disabilities

and the Sub-Committee on the Prevention of Torture. TB-Net hopes that this event will contribute to these upcoming elections, and beyond.

Mr. Ibrahim Salama said that, if properly reformed, the treaty bodies can have the highest effectiveness, composition and quality. He regretted that the current system does not always emphasise the elements of "quality", "independence" and "diversity" and said that this is due to the current legal setting where States decide who will serve as experts on the Committees. He went on to say that national regulations are absent and stressed the serious issue of "horse trading", i.e., the exchanging of votes between States, highlighting its repercussions on the composition, quality and independence of TB membership. Mr. Salama concluded by emphasizing that there is a need to identify good selection processes and practical ways in which we can move forward.

Panel:

Ms. Gladys Acosta Vargas remarked that in order to promote good TB membership, there is a need to better understand the link between TBs and civil society organizations (CSOs). She explained that CSOs in Latin America had put forward recommendations of good TB candidates to governments and she stressed that CSOs can bring 'real life' perspectives, which is absolutely essential to ensure that TBs effectively fulfill their mandates. Ms. Vargas pointed out with concern that this "real life" perspective is often lacking within the TBs system and that States reliance on election officers when it comes to elections, often means that this 'real life' perspective is missing. Conversely, well-synchronized and transparent coordination amongst States should be promoted, with civil society being at the heart of TB elections.

Mr. Bamariam Koita pointed out the crucial importance of General Assembly Resolution 68/268 which emphasises geographical distribution, the representation of the different forms of civilization and the principal legal systems, balanced gender representation and the participation of experts with disabilities in TB membership. Whilst the OHCHR is responsible for disseminating information about upcoming TB elections, there are still major gaps with regards to geographical distribution and gender equality within the TBs. Is this due to a lack of interest of States at the national level? Is it because the elections processes are very lengthy? He went on to explain that in Mauritania, every time there is a vacancy within a TB, the Ministry of Human Rights informs the public and then human rights activists, magistrates, lawyers, professors, etc., can submit their candidature. The officially selected candidates are then nominated and the election process and campaigns take place. Mr. Koita said that it is a satisfactory process which is relatively transparent but noted that there is, nonetheless, room for improvement. In this regard, the initiatives undertaken by the UK in relation to election processes illustrates very good examples, which should be followed by other States.

Ms. Theresia Degener was deeply concerned about how the last CRPD election had unfolded, which she described as disastrous. She regretted that she is now the only woman left on the Committee, despite the fact that Article 34 of the ICRPD requires States to give due consideration to gender balance in TB membership. Ms. Degener highlighted the urgent need to look at the election processes as a whole, including at the national level, as well as to meaningfully involve civil society. Committee members must be sufficiently qualified, and there must be a gender-equal and diverse representation within these bodies. Ms. Degener noted with satisfaction and pride that persons who are deaf and blind and persons with physical disabilities are represented on the CRPD Committee, and emphasized that this ought to be maintained. Ms. Degener concluded her statement by stressing that it is high time to think about how to promote transparent and participatory TB election processes, with a view to ensuring good quality and diversity in TB membership.

Mr. Bob Last stressed that the TBs may only reach their full potential if comprised by properly qualified, suitable, committed and diverse members. Therefore, ensuring that the candidates meet the key requirements of independence, expertise and diversity is the single, most important issue to be addressed to improve the current system and thus to: ensure quality dialogues with States; have recommendations which are relevant and useful; have individual communications and General Comments which are legally sound; and have processes which are genuinely accessible to civil society. Mr. Last stressed that State parties themselves possess the direct control of strengthening TB processes, and on that note, went on to tell about the UK's experience in selecting candidates, which has significantly improved over the years. While the selection process used to be entirely closed, it had progressively become more open, transparent and independent. The

Government started to actively seek nominations from a range of stakeholders, especially the main human rights NGOs in the UK. It is a requirement that candidates be independent from Government. The process is administered by the Foreign Ministry and the Ministry of Justice. An advertisement with the description of the requirements is published and then the best candidates are selected for an interview by a three-person panel comprised of senior officials from the aforementioned Ministries, a former Chief Inspector of Prisons, a representative from the UK National Human Rights Institution, or a member of an NGO. Once selected, the candidates are approved by the Ministries. The advantages of this process, stressed Mr. Last, are: its effectiveness in ensuring a selection from a wide range of strong candidates; the guaranteed expertise of the selected candidates; it builds confidence with national civil society; stronger support to the election of UK's candidates; and it guards against nepotism. The UK is also using the Universal Periodic Review (UPR) to encourage other States to undertake open, inclusive and merit-based processes when selecting national candidates for TB elections.

Mr. Yehualashet Mekonen explained that whilst there have been improvements in the political and governance systems in Africa, the progress is far from sufficient and significant challenges remain, and particularly so in the areas of accountability and transparency. While Mr. Mekonen regretted the currently shrinking space for the involvement of CSOs, he stressed their critical role in promoting human rights and supporting the overall monitoring of TB nomination processes. More specifically, he highlighted CSOs role in: identifying, encouraging and nominating qualified candidates; airing reservations and concerns for nominees who are not suitable; reinforcing the right nominees and supporting their campaign; organizing platforms for debate on the nominations; and in advocating for open and transparent nomination mechanisms. Mr. Mekonen reiterated a statement of the High Commissioner for Human Rights, which read: "the quality, devotion and integrity of TB experts sustain the value and impact of the TB system, and are prerequisites for its effectiveness". Mr. Mekonen went on to share the experience and practice of the African Child Policy Forum which involves working closely with academia, think-tanks and renowned experts. The ACPF: urges CSOs to identify and encourage qualified experts to seek nomination; supports nominations of appropriate candidates; lobbies the Heads of diplomatic missions at AU/ECA; assists nominees in their individual campaigns; and disseminates information about nominations. Mr. Mekonen said that African governments ought to give due weight to TB election processes and invest in such processes on the operational and financial levels, while increasing the space for the involvement of CSOs.

Access Powerpoint presentation [here](#).

Intervention from the floor / Q & A:

The Permanent Mission of Bulgaria stressed that initiatives aimed at maximizing the transparency and efficiency of the TB system should ensure independence and be consistent with treaties themselves. The views of the candidates should be heard in advance and election processes should be open and transparent. Persons with disabilities must be integrated into all TBs, and there needs to be a balanced gender and geographical representation. Bulgaria concluded by saying that it strongly supports the involvement of civil society in TB election processes.

The International Commission of Jurists discussed a new publication of the ICJ & OSJI, entitled "Strengthening from Within: Law and Practice in the Selection of Human Rights Judges and Commissioners", which analyzes practices for the nomination and selection of human rights judges and commissioners, including in the regional human rights systems, with a view to identifying shortcomings and recommendations. The report could be used as a reference for elections for TB membership. Mr. Frigo stressed the importance of procedures and standards to be enshrined in domestic law, regulations and policies to ensure transparent election processes. In addition, more candidatures need to be expressed, the calls for candidates ought to be public, civil society should be consulted, and independent bodies need to be part of the process.

ISHR stressed the importance of independence and diversity within the TBs and put emphasis on the need to include diverse gender identities and candidates of different professions, backgrounds, expertise, and age. Mr. Ploton pointed out the need to draw lessons from other election processes and noted in this regard the election procedures for the UN Special Procedures. He also reported on a recent conference in The Hague on gender representation on international courts and mechanisms, during which the need to include a vetting

process had been raised. He also called for the consideration of the development of guidelines on TB elections and membership.

The Permanent Mission of Switzerland said that it is the responsibility of States to conduct open and transparent nomination processes and ensure that the candidates meet the requirements of quality, independence and diversity. Switzerland further pointed out that there are positive and negative aspects of so called "horse trading", as was mentioned by Mr. Salama in his opening remarks. The exchange of votes is unavoidable, however, it needs to be ensured that such vote-trading take into account the crucial requirements of TB membership. Switzerland went on to explain that it always organizes substantive discussions in which States, civil society and the OHCHR, among others, have the opportunity to "test" the candidates' expertise. Switzerland concluded by stressing the essential importance of involving civil society in TB election processes.

The Permanent Mission of Norway remarked that each and every TB member needs to be sufficiently qualified, have the time to fulfill her/his mandate, and be perceived as independent. Consequently, they should not work for governments, nor for NGOs working in the field covered by Convention in question. Norway pointed out the importance of diverse geographical and gender representation in TBs, including in the CEDAW Committee. Norway said that collective endeavors are necessary to identify and encourage diverse, qualified members and stated that the majority of TB members ought to be lawyers, as they deal with individual petitions. Moreover, Norway suggested that the TB-Net or the OHCHR could arrange open hearings with candidates before the elections and reiterated the call to increase the involvement of civil society in election processes.

CEDAW member Ms. Gladys Acosta Vargas said that she hoped that more men would be interested in joining the CEDAW Committee, as having a man on the Committee certainly adds a different perspective. She noted that the CEDAW Committee differs from the other TBs in that it concerns women rights and discrimination lived by women, but simultaneously stressed the need for States to encourage men to be more involved in the work of the CEDAW Committee.

CCPR member Mr. Bamariam Koita noted that geographical diversity, gender equality in TB membership, and diverse professional background of members, would help to ensure a better implementation of the principles and provisions of the various treaties through the reporting and monitoring system.

Amnesty International shared the joint experience with the APT and IRCT around the 2015 and 2017 elections of the Committee against Torture (CAT). They published and disseminated a check-list that emphasized the criteria established in the Convention against Torture and set out in GA Resolution 68/268 encouraging States to adopt a merit-based selection process at the national level and to take into consideration the requirements of diversity, independence and impartiality. Once the nominations closed, a questionnaire was circulated to all the nominees. The response rate to the questionnaire was around 80% in both elections. Amnesty appealed to States to be more transparent around treaty body elections and to provide feedback on election related civil society initiatives.

APT noted that more than half of TB members have expertise in legal or judicial studies. While this is certainly valuable, APT pointed out that certain treaties also refer to the inclusion of expertise such as psychology, criminology, treatment of persons deprived of liberty. Currently there are few TB members with a background in social studies or political science and technical expertise is also often lacking. On this note, APT inquired what importance is given to having a variety of subject matter expertise in the TB election processes. APT further inquired about the specific requirements for nominations at the UK level.

Mr. Bob Last highlighted the importance of setting an early deadline for the application of TB membership. It ought to be sufficiently in advance of the elections, so as to enable people to get a good idea of which candidates are sufficiently qualified. Mr. Last described the specific requirements for nominations to the Sub-Committee on the Prevention of Torture (SPT), and explained that the UK set forth both essential and desirable requirements. The essential requirements include: that candidates are not allowed to hold posts within the government; knowledge or experience of human rights is essential; proven professional experience in the field of the administration of justice, particularly criminal law, prison or police

administration or relevant fields related to persons deprived of liberty; the ability to deal with authorities in an independent and impartial manner; ~~the applicant must be prepared to report include experience within the UN~~; high level inter-personal and team-working skills; high level persuasion and negotiating skills; and the ability to coordinate. Mr. Last said his view is that while nominees ought to be independent from States, they do not need to be independent from civil society.

The Permanent Mission of Mexico stressed that States should attempt to limit the practice of vote trading, especially as regards matters concerning human rights and justice. In relation to gender-parity and a balanced geographical distribution for the CRPD Committee, Mexico echoed that it could propose a good candidate.

The Permanent Mission of Canada reiterated the important role of CSOs in TB election processes. Canada furthermore held that that the exchange of votes amongst States is a reality but said that this can be counterbalanced by the existence of national processes which will ensure that all candidates meet a certain threshold. Canada further noted the issue of lack of sufficiently qualified candidates coming forward and inquired what avenues can be used to address this.

IDA commented on how several of the interventions during the event had stressed the importance of geographical distribution and gender parity, and put strong emphasis on the need for disability and other diversities to also be a part of the discussion. Persons with disabilities should be included in TBs other than the CRPD. While noting that independence from States is key, IDA held that the discourse on the element of independence had not been discussed in all its aspects. Any kind of conflict of interest could contradict the principle of independence, including with regards to business enterprises and corporations.

Mr. Bob Last remarked that while diversity is crucial, the need to improve the quality of TB membership by means of genuine expertise is currently a priority and the UK ensures this by having open and transparent elections processes.

Mr. Yehualashet Mekonen highlighted the need to learn from previous experiences and from those who have advanced in the area. He again re-emphasised the issue of geographic representation and said that this is directly correlated to the understanding of different contexts, with a view to enhancing the quality of engagement with State representatives during the constructive dialogues.