

Summary Report

“TB-NET Event on Treaty Body Elections”

9:00 am -12:30 pm, Thursday 15 November 2018
Centre International de Conférence de Genève (CICG)

Introduction

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

The event was co-sponsored by the Permanent Mission of the United Kingdom of Great Britain and Northern Ireland and the Permanent Mission of Switzerland, as well as the International Rehabilitation Council for Torture Victims (IRCT).

This event was conducted as a roundtable working meeting under the Chatham house rule¹ to discuss amongst States and other key stakeholders including the UN Office of the High Commissioner for Human Rights (OHCHR) and NGOs, the current nominations and elections processes for Treaty Body membership, and proposals for improvements which aim to enhance the quality, independence and diversity of Treaty Body membership.

A Background document and a “Draft Roadmap for Quality, Independence and Diversity of Treaty Body Membership” were provided in advance to stimulate the discussion. The Background document can be found [here](#). The Draft Roadmap can be found [here](#).

This Summary Report provides a summary of the discussions at the meeting, the key proposals for moving forward.

Summary of Discussions

In the introductory remarks, States and civil society representatives emphasised the importance of a strong,

¹ A rule or principle according to which information disclosed during a meeting may be reported by those present, but the source of that information may not be explicitly or implicitly identified.

Co-sponsors

independent and effective treaty body system and the important role of States in ensuring this, through the nomination and election of quality, independent and diverse treaty body members. The discussion focused on the two elements of the elections process: nomination of candidates; and election of members.

Nomination of candidates for treaty body membership

While the majority of participating States had not established a formal open and participatory nomination process, a number of States had undertaken informal processes which included consultation with national civil society, national human rights institution, academia as well as outgoing Treaty Body members. A couple of States said they were beginning the process of establishing a formal and transparent nomination process and therefore found the discussion very timely.

Several State representatives gave examples of promising practices for an open and merit-based nomination process at the national level. In those States, the government issued a public call for applications for the relevant treaty body nomination. The public call set out the general and Treaty-specific requirements and was advertised on Government websites and other platforms, including leading newspapers, as well as disseminated to relevant civil society organisations and universities (notably those in the international law community). A selection panel was established to shortlist and interview candidates. The panel was composed of representatives from the Ministry of Foreign Affairs, another relevant Ministry, and a representative who is independent of government, such as a representative from civil society in the field of the concerned human rights instrument or from the National Human Rights Institution. It was stressed that such a process can bring significant positive impacts at relatively low cost.

Various challenges in the nomination process were shared among the participants. A number of States noted that the informality of their current process meant that personal relationships were the most common way of experts being identified and nominated. Those with a more formal and transparent nomination process noted that it assisted in surfacing strong candidates who did not have such personal relationships and in avoiding a perception of cronyism. Generally States considered that, whether or not they have a formal process in place, consultations with stakeholders, including civil society, was an important step in identifying candidates for nomination.

The knowledge gap between the capital and Geneva about the UN Treaty Body system and qualifications required for experts, can pose a challenge in nominating the most qualified experts. Some States recommend a stronger emphasis in the nomination process on UN language skills and experience in working at the international/ regional level. The lack of awareness about the treaty bodies, and the inconsistency of criteria for nominating a candidate was raised as a problem. Some States thought clearer guidelines or criteria (a ‘checklist’) would assist them to formalise their nomination process. The importance of having a dedicated person to co-ordinate the process was also highlighted and States discussed the relative benefits of the process being hosted by different government Ministries.

Whilst most States said that diversity of membership was important, few had specific selection criteria to ensure diverse nominations. Systematic gender inequality in society was pointed to as a root cause for the fewer number of women nominated compared to men. Some noted that the time demands of treaty body membership also deterred many experts with family and caring responsibilities. A number of States emphasised that in order to address gender imbalance, States should actively encourage women to apply for

nomination.

In many States, the selection and nomination of a candidate is a time-consuming process which requires planning approximately 1-2 years in advance. It was recommended that States begin planning 2 years in advance to properly undertake nomination procedures and be ready for elections at the international level. In this regard, the development of lists of upcoming vacancies in the Treaty Bodies by the OHCHR was welcomed as a useful resource.² The OHCHR has enhanced its publication of relevant information, including providing the overview of the current Treaty Body membership in terms of gender and geographical representation. It could further enhance timely information flow towards States Parties, including information on gaps in the different expertise of members and also the visibility of this information. Civil society was also encouraged to provide further information on these aspects.

Election of treaty body members

States pointed out that at elections, candidates nominated through the open and merit-based process received positive feedback from other States parties and were easier to promote as they have already been vetted through the open process. Experiences suggest that the candidates nominated via this process have a greater chance of being elected. Those experts have made notable contributions in both substantial and organisational elements of their Treaty Bodies including the improvement of working methods and the development of general comments.

Collecting information on candidates was identified as one of the main challenges for States when making voting decisions. One problem is the timeframe between the deadline for nominations and the day of elections (*“Meeting of States parties”*) is short. In this regard, and very importantly, it was suggested that OHCHR could consider moving the administrative deadline for nominations to ensure that States have adequate time to properly collect information, assess candidates and take informed decisions when voting. In addition, due to the limited information available in the biographical data form provided by the OHCHR, States often rely on other sources in order to assess candidates’ profiles. The application forms for special procedure mandate holders are good models for enriching information on candidates for the Treaty Body membership.

OHCHR is considering how to better stream-line the application process and information available. It is studying the replicability of the successful aspects of the on-line standardised application system used for the Special Procedures mandate holders.

State delegates also gather information from their embassies in the nominating State, from civil society and from meetings with the candidates themselves. Face to face interaction, or at least through video-conference, between candidates and States representatives in Geneva and New York was considered essential. As a promising but not systematic practice, some States support their candidate and organise meetings with other States representatives for them to get to know the candidate and address questions to him or her.

On independence, some participants explained the challenges of assessing a candidate’s independence and said that it was not sufficient to rely on information provided by the candidate or the nominating State, given their conflict of interest. Often national NGOs are best placed to provide information about independence from the State. Participants suggested that candidates should be asked to provide more information on

² OHCHR, Elections of Treaty Body Members, <https://www.ohchr.org/EN/HRBodies/Pages/ElectionsofTreatyBodiesMembers.aspx>

elements that attest to their independence and that more information from civil society on this point, would also be helpful.

There was discussion about the idea of holding public events (or hearings) with all candidates for a particular election, similar to what is done for the Human Rights Council. Whilst hearings might provide another opportunity for States to find out more about candidates, concerns were raised about the logistical and resource implications, given the number of candidates and elections across the treaty body system. Some felt that public hearings might further politicise the elections process and deter some people from nominating.

Civil society can also play a crucial role in elections of Treaty Body members. Civil society can provide information to States, particularly Permanent Missions in Geneva, about the candidates both formally and informally. National civil society organisations are best placed to comment on the qualification and independence of their national candidates. International NGOs can work as a channel of information between national civil society and Permanent Missions and provide useful information about sitting members. Participants emphasised that the early timing of such information is crucial if it is to impact States' voting decisions.

Participants noted that campaigning for candidates (and potential vote trading) begins as soon as the candidature is declared. However, it was realised that States have information about new nominations well before civil society receive this information, making it difficult for civil society to provide timely information about nominated candidates. More thought needs to be given to ensuring that all relevant stakeholders have access to this information as early as possible. States said they found useful both formal and informal exchanges about candidates.

The role of Permanent Missions in Geneva in liaising with colleagues in New York and the capital for nominations and elections was identified as another crucial element. Because of the substantial knowledge and experience earned by Geneva-based officials, more efforts can be invested in Geneva ahead of elections to raise awareness about candidates.

There was a frank discussion about the practice of 'vote trading'. It was acknowledged that almost all States engage in vote trading in respect of treaty body elections and this often occurs far in advance of the election and in relation to unrelated political bodies. However, many States emphasised that they will not trade 'blindly' and will still apply some basic criteria (such as a requirement of independence) to vote trades. Further, for many elections, not all of States available votes are traded. Many States said that the country and region of the candidate is the most important criteria. The discussion also reflected on the difficulties of addressing diversity problems in a treaty body (eg: gender imbalance), when most votes are traded.

Moving forward

Participants generally agreed that a more formal and transparent process for nomination of treaty body candidates was desirable. However, it was stressed that different models will be appropriate in different States and that a "step by step approach" is necessary to systematically move forward in improving practices both at the national and international levels. Participants said the 'Roadmap' document was useful for this process and could be developed further following this meeting and in consultation with States. It would also be helpful for States who have in place a formal nomination process, to make available a short document describing the

process and its objectives and benefits.

A key element on which all stakeholders committed and has already started to strengthen their efforts is the **earlier timelier availability of all the relevant information**. The OHCHR has started to publish a calendar for elections 3 years in advance, including detail on the gender balance and geographical composition of each Treaty Body. The OHCHR will also consider moving the deadlines for nomination and election processes to an earlier date, to allow greater opportunity to share information about candidates and treaty body gaps or needs. The further improvement of the OHCHR biographical data form for candidates could also prove helpful. Civil society could continue the practice of providing questionnaires to candidates and publish them online earlier, based on new calendars.

Improved nomination procedures will ensure **strong pools of quality, independent and diverse candidates** nominated by States. This premise fulfilled, the practice of ‘vote trading’ between States prior to elections, while not ideal, does not endanger the final outcome of the election processes: a quality, independent and diverse membership of the UN treaty bodies. Nevertheless, further developing practices, even if informal or non-systematic, to enable States representatives in Geneva to meet candidates face to face and to interact to assess them prior to voting remains in the pipeline.

Whilst more significant proposals like public hearings and an independent candidature assessment body remain on the table, there was less enthusiasm for such proposals and a greater preparedness to first focus on strengthening national nomination processes and information flows to inform voting decisions.

10 December 2018