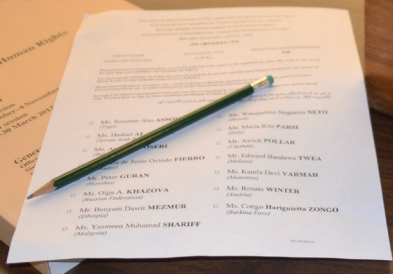
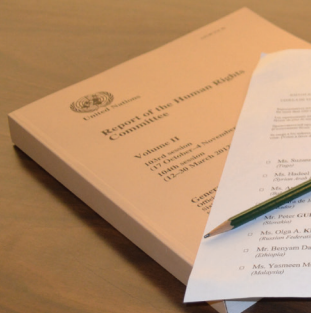
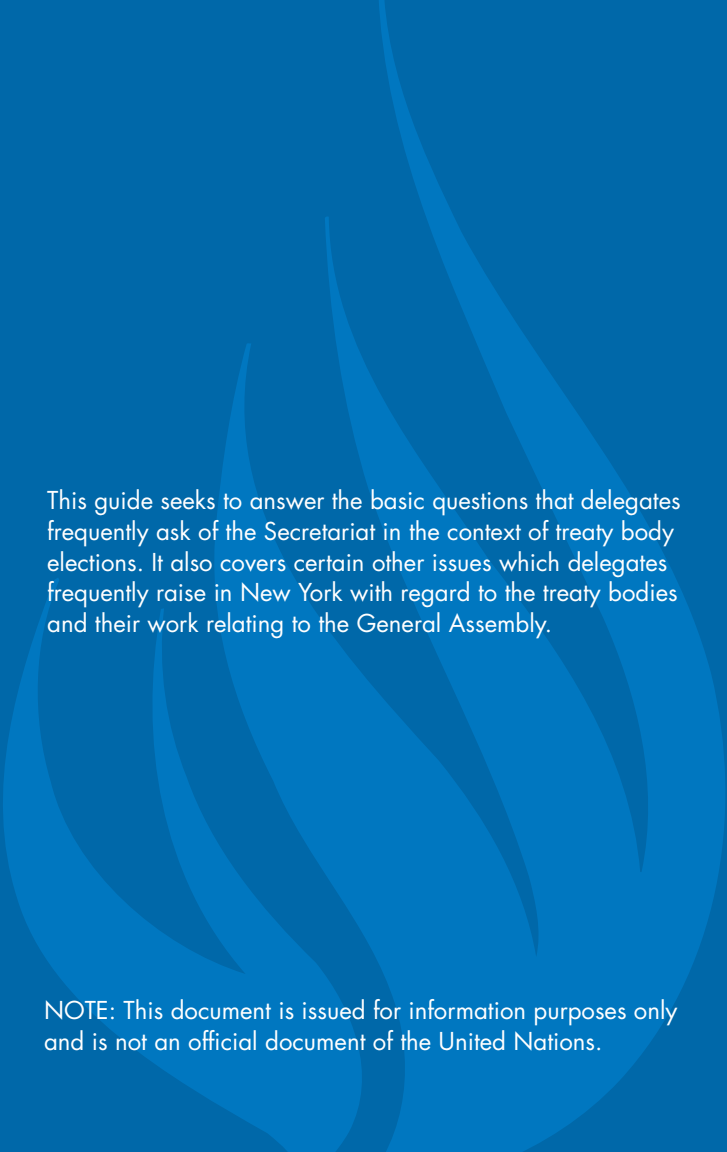


# HUMAN RIGHTS TREATY BODIES AND ELECTION OF TREATY BODY MEMBERS

A Guide for United Nations Delegates Based in New York



UNITED NATIONS  
HUMAN RIGHTS  
OFFICE OF THE HIGH COMMISSIONER



This guide seeks to answer the basic questions that delegates frequently ask of the Secretariat in the context of treaty body elections. It also covers certain other issues which delegates frequently raise in New York with regard to the treaty bodies and their work relating to the General Assembly.

NOTE: This document is issued for information purposes only and is not an official document of the United Nations.

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## WHAT ARE THE INTERNATIONAL HUMAN RIGHTS TREATY BODIES?

There are currently nine core international human rights treaties:

- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) 1966
- International Covenant on Economic, Social and Cultural Rights (ICESCR) 1966
- International Covenant on Civil and Political Rights (ICCPR) 1966
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) 1986
- Convention on the Rights of the Child (CRC) 1989
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW) 1990
- Convention on the Rights of Persons with Disabilities (CRPD) 2006
- International Convention on the Protection of All Persons from Enforced Disappearance (ICED) 2006

Each of these treaties contains provisions for reviewing the implementation of the human rights provisions of the treaty. Eight of the nine treaties provide for the creation of a committee of independent experts elected by States parties to perform certain functions. These committees are commonly known as the **human rights treaty bodies**.

The treaty bodies are not formally United Nations bodies since they do not owe their existence to the United Nations Charter. These treaty bodies (with their standard acronym and year of establishment) are:

- Committee on the Elimination of Racial Discrimination (CERD) 1970
- Human Rights Committee (CCPR) 1976
- Committee on the Elimination of Discrimination against Women (CEDAW) 1982
- Committee against Torture (CAT) 1988
- Committee on the Rights of the Child (CRC) 1990
- Committee on Migrant Workers (CMW) 2004
- Committee on the Rights of Persons with Disabilities (CRPD) 2009
- Committee on Enforced Disappearance (CED) 2011

The members of these bodies are **independent experts** who, although nominated and elected by States parties, serve **in their personal capacity**. They do not represent their country of origin nor their region. Treaty body members are not paid, although they do receive daily subsistence allowance whilst attending sessions.

The core universal function of every treaty body is the consideration of reports which the States parties of each treaty are obliged to submit periodically to the committee concerned setting out what measures have been taken to implement the rights contained in the treaty, the progress they have made and the obstacles encountered. On the basis of a review of these reports, the treaty bodies produce observations and recommendations aimed at assisting States to achieve further progress in implementing the treaties.

Most the treaty bodies are also mandated to undertake additional functions in accordance with the provisions of the treaty itself or of an optional protocol. These functions include the consideration of individual complaints, inquiries and country visits.

One optional protocol – the Optional Protocol to the Convention against Torture (OP-CAT) – establishes an additional treaty body in order to undertake a regime of visits to places of detention or places where persons may otherwise be deprived of their liberty. This treaty body is called the **Sub-Committee on Prevention of Torture (SPT)** and it consists of 25 independent experts elected by States parties to OPCAT. It cooperates with national mechanisms for the prevention of torture established in each State party.

ICESCR assigns responsibility for monitoring implementation of the Covenant to the Economic and Social Council which has chosen to create a committee of independent experts – the **Committee on Economic Social and Cultural Rights (CESCR)** – to assume its monitoring functions. CESCR is modelled on the other treaty bodies but differs from them in two important regards: it is not formally a treaty body since it owes its existence to a resolution of ECOSOC rather than the Covenant and its members are elected by the members of ECOSOC rather than States Parties. Nevertheless, the Committee is generally considered to be one of the human rights treaty bodies.

## **WHAT IS THE RELATIONSHIP BETWEEN THE TREATY BODIES AND THE UNITED NATIONS?**

Although the treaty bodies are not formally United Nations bodies established under the Charter, they are considered an integral part of the United Nations human rights system. The treaties themselves were adopted by the General Assembly; however, their legal force comes from their acceptance as legally-binding multilateral treaties by their States parties. The provisions of the treaties nevertheless envisage a close relationship between the treaty bodies and the United Nations.

In practical terms, the relationship between the treaty bodies and the United Nations is formalized in three important and related aspects: (1) the treaties provide for the treaty bodies to meet at United Nations Headquarters in New York or Geneva

and for the United Nations Secretariat to provide secretariat support for the treaty bodies; (2) the treaty bodies are funded through the United Nations budget; and (3) each treaty requires its treaty body<sup>1</sup> to report to the General Assembly, in some cases through ECOSOC, on its activities.

## (1) Secretariat

In accordance with the terms of each treaty, the Secretary-General of the United Nations is requested to provide secretariat support to the treaty bodies. The Secretary-General has assigned this responsibility to the **Office of the United Nations High Commissioner for Human Rights** (OHCHR). The secretariats of the treaty bodies are each based in Geneva where the treaty bodies hold most of their sessions. Treaty body secretaries and staff members work within OHCHR's Human Rights Treaties Division (HRTD).

Two treaty bodies – the Human Rights Committee and CEDAW – hold one session annually in New York in addition to their Geneva sessions. All other treaty bodies meet exclusively in Geneva.

## (2) Budget

Funding for the activities of the treaty bodies in accordance with the mandates set out in their treaties is provided on the basis of resolutions of the General Assembly in the context of the regular United Nations budget. In most cases, this is provided for implicitly in the treaties themselves in the provisions which require the Secretary-General to provide support to the treaty bodies.

However, in the case of CERD and CAT, the original arrangement was for these committees to be funded by voluntary contributions from States Parties under the

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<sup>1</sup> Under the terms of OPCAT, the SPT reports publicly each year to the Committee against Torture. The Chairperson of the SPT is invited to interact with the Third Committee of the General Assembly each year along with the Chairperson of the Committee against Torture.



terms of article 8 ICERD and articles 17 and 18 CAT. This arrangement persisted until 1992 when the treaty provisions in question were amended to allow CAT and CERD to be funded from the regular UN budget. Although these amendments are not yet in force, provisional arrangements provided for by the General Assembly in A/RES/47/111 of 16 December 1992 allow the two committees to receive regular budget funding. The Secretariat continues to report to the General Assembly biannually on the arrears of voluntary contributions from States Parties of CERD outstanding from the period before the provisional arrangements became operational.

### Action point

New York delegates may wish to consult the table of States parties who have accepted the amendments to article 8, ICERD and articles 17 and 18, CAT to see whether their delegation has yet to communicate its acceptance to the Secretary-General. Although the provisional arrangements remain in force indefinitely, the amendments have been pending now for more than 20 years.

Please refer to the following page:

<http://treaties.un.org/pages/Treaties.aspx?id=4&subid=A&lang=en>

Convention on the Elimination of Racial Discrimination: Reference 2a

Convention against Torture: Reference 9a

Please contact the Office of Legal Affairs (Treaties Depository) or the Treaty Bodies Focal Point in OHCHR's New York Office for more information.

For queries related to arrears of voluntary contributions, please contact the Office of Programme Planning, Budget and Accounts within the Department of Management.

### (3) Reporting to the General Assembly

Each of the treaties provides for its treaty body to transmit an annual report, through the Economic and Social Council, to the General Assembly of the United Nations. The document symbols for these reports have the following reserved numbers each year:

|       |                      |
|-------|----------------------|
| CERD  | A/session number/18  |
| CCPR  | A/session number/40  |
| CEDAW | A/session number/38  |
| CAT   | A/session number/44  |
| CRC   | A/session number/41  |
| CMW   | A/session number/48  |
| CRPD  | A/session number/55  |
| CED   | A/session number/271 |

CESCR, as an ECOSOC functional committee, reports to the Economic and Social Council only.

In the context of consideration of these reports by the General Assembly, the Third Committee invites the chairpersons of the treaty bodies to present their reports to the General Assembly. Since the 67th session, all treaty body chairs have had the opportunity to attend the Third Committee and engage in an interactive dialogue with delegates.

Matters related to the human rights treaties, including the treaty bodies and their resource requirements, are dealt with in a series of treaty specific resolutions before the General Assembly. There is currently no uniformity in the treatment of the human rights treaties by the Third Committee:

## Inconsistencies in treatment of treaty resolutions

| Treaty Body                   | Frequency of resolution                   | Separate status report     | Main sponsors (2011-12)                 |
|-------------------------------|---|----------------------------|---|
| CERD                          | Even years                                | Yes (and financial report) | Slovenia/<br>Belgium                    |
| CESCR                         | Odd years.<br>Joint Covenants resolution. | No (discontinued)          | Sweden                                  |
| CCPR (Human Rights Committee) |   | No (discontinued)          |   |
| CEDAW                         | Odd years                                 | Yes                        | Sweden                                  |
| CAT                           | Annual                                    | No                         | Denmark <sup>a</sup>                    |
| SPT                           | Annual within CAT report                  | No                         | Denmark                                 |
| CRC                           | Annual                                    | Yes                        | Uruguay/<br>European Union <sup>b</sup> |
| CMW                           | Annual                                    |                            | Mexico                                  |
| CRPD                          | Odd years                                 | Yes                        | Mexico/Sweden/<br>New Zealand           |
| CED                           | Annual                                    | Yes                        | Argentina/France                        |

<sup>a</sup> At the 65th and 67th sessions, Denmark ran additional resolutions on the Committee against Torture to address resource issues for the Committee separately from the substantive treaty resolution.

<sup>b</sup> At the 67th session, Costa Rica and Slovenia ran an additional resolution on the Committee on the Rights of the Child to address resource issues for the Committee separately from the substantive omnibus resolution.

For those treaties with biennial resolutions, the annual reports for years with no resolution are carried over to the next year.

## HOW ARE TREATY BODY MEMBERS CHOSEN?

In total there are now ten human rights treaty bodies with a total of 172 members elected by States. The total membership is as follows:

|       |             |
|-------|-------------|
| CERD  | 18 members  |
| CESCR | 18 members  |
| CCPR  | 18 members  |
| CEDAW | 23 members  |
| CAT   | 10 members  |
| CRC   | 18 members  |
| CMW   | 14 members  |
| CRPD  | 18 members  |
| CED   | 10 members  |
| OPCAT | 25 members  |
| Total | 172 members |

Treaty body members are elected at **Meetings of States Parties** convened at United Nations Headquarters, in most cases in New York. Elections for CAT and OPCAT take place at meetings of states parties convened at the United Nations Office in Geneva.

Elections for members of the **Committee on the Rights of Persons with Disabilities** take place every two years at a session of the **Conference of States Parties** to

the Convention on the Rights of Persons with Disabilities which meets annually in New York.<sup>2</sup>

Elections for members of the **Committee on Economic Social and Cultural Rights** take place every two years in the context of meetings of the **Economic and Social Council** in New York.

Treaty body members serve **terms of four years** which are renewable. In the case of CRPD, CED and SPT, terms may be renewed only once. In order to maintain some continuity in the membership, the election of half of the membership is staggered so that elections take place every two years for each treaty.

## HOW ARE CANDIDATES NOMINATED?

Members of treaty bodies are elected by states parties from a list of candidates nominated by states parties. Although the wording of the specific provisions in each treaty varies slightly, the following common elements relating to the qualifications and selection criteria for treaty body members may be found in each treaty:

- Treaty body members are **independent**: although they are nominated by the State party of their nationality and are elected by States parties, they serve in their personal capacity; members should also be recognized as **impartial**.
- Treaty body members are recognized **experts in the field of human rights** and/or the field covered by the treaty. Some treaties suggest that legal ex-

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<sup>2</sup> The CRPD is the only treaty to have a standing conference which meets annually and, in addition to providing the venue for the biennial elections, discusses issues related to the implementation of the Convention by States parties; for all other treaties, conferences of states parties are convened on an ad hoc basis at the request of States parties, usually for a specific purpose such as amending the treaty. Meetings of States Parties are stand-alone meetings convened with the specific purpose of conducting elections of treaty body members.

perience may be an advantage and some call for due regard to be given to reflecting the different forms of civilization and the principal legal traditions and cultures found around the world;

- Treaty body members must be persons of **high moral character**;
- Due consideration should be given to **equitable geographical participation** in membership of the treaty bodies;
- Although only the later treaties contain specific provisions, it is expected that due consideration shall also be given to ensuring **balanced gender representation** within each committee.

With regard to the question of geographical balance, whilst due consideration is required, there is no formal quota for any regional group except in the case of CESCR where the relevant ECOSOC resolution establishes a formula for ensuring geographical balance.<sup>3</sup>

States parties may nominate candidates from amongst their nationals. Most treaties restrict nominations to one person per nationality, with the exception of the ICCPR and OPCAT<sup>4</sup> which allow two nominations per State party. No two nationals of any State party may be members of the same treaty body at the same time. It is however possible for one person to serve on two treaty bodies simultaneously.<sup>5</sup>

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<sup>3</sup> The General Assembly has adopted resolutions on the question of promoting geographical balance of membership of human rights treaty bodies. See for example A/RES/66/153. The Secretariat produced a detailed report on the issue, including an analysis of every treaty body election, in A/ 60/351.

<sup>4</sup> OPCAT allows States parties to nominate candidates from other States parties. Special rules govern which candidates are elected. See articles 6 and 7 of OPCAT. Elections to the SPT are conducted in Geneva.

<sup>5</sup> See for example article 17(2), CAT suggesting that members of the Human Rights Committee might also serve as members of CAT if elected.

Each treaty sets out procedures according to which the Secretariat must organize the **nomination procedure**. The common elements are as follows:

1. At least four months before the elections are due, the Secretary-General addresses a letter to all States parties inviting them to submit nominations within two months.
2. Nominations should include a *curriculum vitae* for the nominee setting out their competence in the field required by the treaty in question. In all cases, nomination papers should be sent to the Secretary of the relevant treaty body in Geneva (c/o OHCHR); it is not necessary to send nominations or duplicates to the Secretary-General's office in New York nor to the OHCHR Office in New York since any communications with these offices will be forwarded immediately to Geneva.
3. The Secretary-General prepares a list of nominees in alphabetical order including the nominating State party which is sent to all states parties. The documents are also made available on the web pages of the relevant treaty body on the OHCHR website ([www.ohchr.org](http://www.ohchr.org)).

### **What happens if a nomination is received after the deadline?**

The Secretariat sets a deadline for submission of nominations, two or three months before the date of the election, in accordance with the treaty provisions. This deadline serves the practical purpose of allowing sufficient time for the document containing the list of nominees and their resumes to be compiled and translated into the official languages and circulated to all States parties in time for States to weigh the merits of their candidatures and decide which nominees to vote for. Delegates should make every effort to respect the deadline for nominations.

The Secretariat often receives nominations after the deadline. In such cases, the Secretariat cannot guarantee that the candidate's details can be processed, trans-

lated and made available to all States parties before the date of the election. Such nominees are therefore at a considerable disadvantage over other candidates in promoting their candidacy and winning support from other States parties. Nevertheless, the established practice is that the meeting of states parties will be asked to endorse the nomination of candidates received after the deadline at the start of the meeting and, if the meeting agrees, their names will be included on the ballot paper.

### **Withdrawal of candidates**

States parties may at any time before the election withdraw any nominations they have made either by writing to the Secretariat (OHCHR) in advance of the meeting or by notifying the Chair of the Meeting of States Parties in the room on the day of the meeting.

## **WHERE CAN I FIND THE LIST OF CANDIDATES?**

Once the nomination process has closed, the Secretariat will prepare an official document listing all nominees and reproducing their resumes. This document will be circulated to all permanent missions by *note verbale*.

At the same time, the list is posted on the web pages of the relevant treaty body on the website of the Office of the High Commissioner for Human Rights. A link to the meeting of states parties page will appear on the main committee page some months before the elections with links to download all related documents. Please go to [www.ohchr.org](http://www.ohchr.org) and follow the menus to Human Rights Bodies and then the relevant committee. Relevant information related to meetings of states parties including rules of procedure, lists of candidates and links, are also posted on the Candiweb e-room service for delegates at United Nations Headquarters: <https://eroom.un.org/eRoom/UNHQ01/Candiweb>



Please note that the individual receives the nomination, not the Member State. Elected members serve in their personal capacity.

## WHEN DO MEETINGS OF STATES PARTIES TAKE PLACE?

Regular meetings of States Parties take place every two years. Although the precise dates vary, the Secretariat tries to avoid particularly busy periods in the calendar of United Nations meetings and conferences including the main session of the General Assembly. From 2013, it is intended to hold elections during May/June. During the two year cycle, OHCHR in New York organizes seven elections at regular meetings or conferences of states parties (CESCR elections are run by the ECOSOC Secretariat). The regular calendar is as follows:

|       |  |
|-------|--|
| ICERD | Odd years (2011, 2013, 2015, 2017...)            |
| ICCPR | Even years (2012, 2014, 2016, 2018...)           |
| CEDAW | Even years                                       |
| CAT   | <i>in Geneva</i>                                 |
| CRC   | Even years                                       |
| ICMW  | Odd years  |
| CRPD  | During annual conference, but in even years only |
| ICED  | Odd years  |
| OPCAT | <i>in Geneva</i>                                 |

## HOW ARE MEETINGS OF STATES PARTIES ORGANIZED?

Treaty body elections are not formally General Assembly proceedings; they are conducted within the context of a meeting of the States parties to the treaty in question in accordance with the procedures set out in the treaty itself and the rules of procedure of the meeting. Each treaty requests the Secretary-General to organize the elections.

Meetings of States parties to the human rights treaties are organized by the Office of the High Commissioner for Human Rights as the substantive secretariat department. Responsibilities are divided between the Secretary of the relevant committee in Geneva (for the nomination procedures) and OHCHR New York (for credentials and the actual conduct of the election). Delegates should refer in the first instance to the Treaty Bodies Focal Point in the OHCHR New York Office for all queries related to these elections.

Meetings of states parties are governed by [rules of procedure](#) for each treaty, contained in the following documents:

|       |                 |
|-------|-----------------|
| ICERD | CERD/SP/2/REV.1 |
| ICCPR | CCPR/SP/2/REV.1 |
| CEDAW | CAT/OP/SP/3     |
| CAT   | CAT/SP/2/REV.1  |
| CRC   | CRC/SP/5        |
| ICMW  | CMW/SP/3        |
| CRPD  | CRPD/CSP/2008/3 |
| ICED  | CED/SP/1/L.1    |
| OPCAT | CAT/OP/SP/3     |

These rules of procedure are available for download from the Official Documents Service (<http://documents.un.org>) and are posted on the OHCHR web pages and the Candiweb e-room.

The Committee on Economic, Social and Cultural Rights (CESCR) is formally a functional committee of ECOSOC. Elections of CESCR members are therefore governed by the ECOSOC resolution establishing the Committee (resolution 1985/17 of 28 May 1985) and ECOSOC rules of procedure apply. Elections are conducted at a meeting of the Council.

The Rules of Procedure and practices of the General Assembly provide a guide for interpreting the rules of procedure of the meetings of states parties.

## **WHAT ARE CREDENTIALS AND HOW SHOULD THEY BE SUBMITTED?**

The rules of procedure of all meetings of States parties convened to elect members of human rights treaty bodies require delegations to submit credentials to the Secretary-General prior to a meeting. Credentials serve the purpose of confirming that the delegate exercising the right of vote of a State party is a bona fide representative empowered to do so by the State.

The credentials of representatives and the names of members of the delegation must be issued by the Head of State or Government or by the Minister for Foreign Affairs. They should confer full powers on the delegates to vote on behalf of the State Party.

Credentials for the Conference of States Parties to the Convention on the Rights of Persons with Disabilities should be sent to the Secretariat of the Conference in

the Department of Economic and Social Affairs.<sup>6</sup> Credentials for all other meetings should be sent to OHCHR at its New York Office in the United Nations Secretariat Building.

Many delegations fail to provide such credentials in advance of a meeting and the Secretariat continues to receive numerous obsolete credentials many months after the meetings have concluded.

All States parties are kindly requested to put in place the necessary arrangements to ensure that credentials for each meeting are submitted no later than one week before the meeting, in order to ensure the smooth running of the elections. Meetings of States Parties are scheduled during the same period of the year and therefore delegations may wish to organize credentials for all meetings in one process.

The rules of procedure of meetings of States parties require the Secretary-General to report to the Meeting on the status of credentials received. Meetings have routinely agreed to allow delegates from States parties who have not yet submitted their credentials to vote on the basis of provisional credentials in accordance with the rules of procedure. However, since this arrangement is subject to approval by the Meeting and could be challenged at any time, delegations are encouraged not to rely on provisional credentials and to ensure that their full credentials are submitted in advance of each meeting.

Representatives of States that are not parties to the treaty in question cannot participate in meetings of States parties. Please consult the website of the Of-

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<sup>6</sup> Note: OHCHR is responsible for organizing the elections of members of the Committee on the Rights of Persons with Disabilities which take place every two years in the context of the annual Conference of States parties. However, credentials are required for participation and decision-making at every Conference even in years when treaty body elections are not scheduled. Thus credentials are required each year and should be submitted to DESA as the lead organizing department for the Conference.

Office of Legal Affairs to verify if your country is a party to a human rights treaty: <http://treaties.un.org/pages/Treaties.aspx?id=4&subid=A&lang=en>

Meetings of States parties are open meetings; non-States parties and others are welcome to observe the proceedings.

### Can my delegation submit credentials for meetings of states parties in advance?

Delegations may find it convenient to request from their capitals the credentials for all upcoming meetings at the same time. For this purpose, advance notice of upcoming meetings of states parties are published in the Official Journal and are also posted in the calendar of the OHCHR New York webpage (<http://newyork.ohchr.org>). Separate credentials should be submitted for each meeting of states parties and should contain the names of the delegates who will be present in New York at the time of the meeting. If composition of the delegation changes after the credentials have been submitted, new credentials should be submitted.

## WHAT IS THE QUORUM FOR THE MEETINGS OF STATES PARTIES?

The provisions of the human rights treaties specify that treaty body members must be elected at a meeting of states parties **at which at least two-thirds of all States parties** are represented (quorum).

In the past, there have been a number of instances of meetings of States parties where the quorum has not been reached, resulting in a delay in the start of proceedings or, on occasion, the postponement of the meeting to a later date. In order to avoid these occurrences, States parties are reminded to ensure that their representatives arrive at the designated meeting room in time for the scheduled start of the meeting.

## WHO CHAIRS THE MEETINGS OF STATES PARTIES?

The rules of procedure of meetings of states parties provide for the **election of a chairperson** to conduct the meeting. In accordance with established practice, the chairmanship of the meetings rotates through the regional groups in alphabetical order as follows:

- African States
- Asian and Pacific States
- Eastern European States
- Latin American and Caribbean States
- Western European and Other States

The nomination of the chair is made through the chair of the regional group for the month preceding the date of the election. The secretariat writes to the chair of the regional group about one month before the election to request him or her to consult with States parties within the regional group. The nomination must be for the representative of a state from the regional group which is also a state party to the treaty in question. The nominee is normally the permanent representative or deputy permanent representative in the mission.

If there are no States parties to the treaty in question from a particular regional group, that group is skipped and the chairmanship will be offered to the next regional group in the order. If there is only one State party to the treaty in question from a particular regional group, the chairmanship will be offered to that State; if it declines to assume the role, the chairmanship will be offered to the next regional group in order.

The rules of procedure also require the election of **up to four vice-chairpersons**. This allows for each of the remaining regional groups to nominate a vice-chairperson

and the secretariat accordingly requests the regional groups from the four regional groups who are not nominating the chair to submit their nominations for vice-chairperson. The role of the vice-chairperson is to stand in for the chairperson if he or she needs to leave the room during the meeting.

The election of the chairperson proceeds as the first item on the agenda in the meeting under the temporary chairmanship of the representative of the Secretary-General. The candidate for chairperson is normally formally nominated from the floor of the meeting by the representative of the State party which held the chair at the previous meeting. Election is **normally by acclamation**. The newly-elected chairperson then oversees the election of the vice chairpersons by acclamation.

The secretariat also asks permanent missions to delegate staff members to act as **tellers** during the election process. The tellers ensure that the ballot boxes are empty before voting commences, supervise the collection of ballots and participate in and endorse the counting of votes after the voting has ended, together with members of the secretariat. The election cannot be conducted until the tellers have been nominated so delegations are strongly encouraged to volunteer their staff members and inform the secretariat in advance of the meeting.

## HOW ARE THE ELECTIONS CONDUCTED?

The elections are conducted in accordance with the rules of procedure for the meeting of state parties (see list above), supplemented by the rules of procedure of the General Assembly.

The human rights treaties specify that the persons elected to be treaty body members shall be those nominees who obtain the **largest number of votes** and the **absolute majority of votes** of the representatives of States parties present and voting at the meeting.

Elections are conducted through a secret ballot.

Ballot papers include the names of all candidates from which voting delegates must select their preferred candidates up to, but not exceeding, the total number of vacancies to be filled on the committee. Delegates may vote for less than the total number of vacancies, but ballot papers containing votes for more than the total number of vacancies will be considered invalid. The total number of vacancies at regular elections is as follows:

|       |                  |
|-------|------------------|
| CERD  | 9 members        |
| CESCR | 9 members        |
| CCPR  | 9 members        |
| CEDAW | 11 or 12 members |
| CAT   | 5 members        |
| CRC   | 9 members        |
| CMW   | 7 members        |
| CRPD  | 9 members        |
| CED   | 5 members        |
| OPCAT | 12 or 13 members |

Ballot papers are collected in ballot boxes by the conference officers in the room under the scrutiny of the tellers nominated by States parties. The boxes are then taken with the tellers and members of the Secretariat to a private room where they are counted under the supervision of an officer from the Office of Legal Affairs (OLA).



## Procedure for counting ballots for tellers

1. The ballots are emptied from the ballot boxes onto a large table and the tellers verify that no ballots are remaining in the boxes. The conference officers withdraw from the room. Conference officers also provide the secretariat with any unused or spoiled ballots.
2. The ballots are unfolded and placed face down on the table in batches of 10 ballots. These batches are then counted to ascertain the total number of ballots cast. This number together with the number of unused and/or spoiled ballots should equal the total number of ballot papers printed.
3. Tellers are teamed up with a member of the secretariat and the batches of ballots are distributed to these teams for counting. The teller reviews each ballot paper to determine its validity and, if validated, reads out the votes for each candidate. The secretariat staff member enters the votes on a tally sheet.
4. The primary consideration for determining the validity of each ballot is whether the paper represents a clear and unambiguous expression of the intention of the voting delegate. If it is not clear who the delegate wished to vote for the ballot must be disregarded. The OLA officer will advise tellers on how to apply this criterion.
5. The tallies are then counted for all teams and the final results determined. The OLA officer will then determine which candidates have met the criteria for election: firstly, those candidates who have obtained more than half of all votes; and, secondly, those candidates who have obtained most votes. If the number of candidates obtaining more than half of the votes is more than or equal to the number of vacancies, the result is final and the election is concluded. If the number of candidates meeting the criteria is less than the number of vacancies, another round of voting will be required.
6. The tellers sign the results form which is then handed to the chair of the meeting.

## **WHAT HAPPENS IF THERE IS NO CLEAR RESULT IN THE FIRST ROUND?**

If the result of the election fails to fill all vacancies on the committee in accordance with the criteria set out in the treaty, the rules of procedure provide for additional rounds of voting to be conducted until all vacancies have been filled. The procedure involves multiple rounds of voting, some with restricted lists of candidates and some with unrestricted lists, designed to encourage the formation of a consensus and a clear result to be obtained as quickly as possible.

Please refer to the relevant rules of procedure for more detail.

## **WHAT HAPPENS IF A TREATY BODY MEMBER RESIGNS OR DIES IN OFFICE?**

Treaty body members are elected for four year terms. Occasionally, for unforeseen reasons, a member may need to resign their position before the end of their term. Other casual vacancies can arise when members die whilst in office. There are two ways in which the treaties address casual vacancies: (1) appointment of a new member by the State party which nominated the original member; or (2) organization of a by-election to elect new member.

### **(1) Appointment of a new member by the original nominating state**

Most treaties provide for the State party which nominated the resigned or deceased member to appoint a replacement from amongst its nationals to serve the remainder of the term. However, such appointments are subject to approval either by the Committee (CERD, CEDAW, CRC, CMW) or by the other States parties (CAT, CED).

Where the approval of the majority of States parties is required, such approval is considered automatically to have been obtained unless half or more of the States parties reject the candidate within six weeks of the notice from the Secretary-General informing them of the proposed appointment. CRPD does not specify an approval mechanism but does state that the replacement member must possess the qualifications and meet the requirements for members as set out in the Convention.

## (2) Organization of a by-election

Article 34 of the ICCPR provides for casual vacancies to be filled by a by-election at an extraordinary meeting of state parties **if the term of office of the member to be replaced does not expire within six months** of the formal declaration by the Secretary-General that a position on the Committee is vacant. In such an event, a full election is organized in accordance with the provisions of the Covenant and the rules of procedure governing the election members of the Human Rights Committee. If the term has less than six months to run, no action is necessary.

## Note on ICCPR by-elections involving single candidates

The ICCPR is unique amongst the human rights treaties in providing for full elections to be organized to fill casual vacancies in the Human Rights Committee. Other treaties allow the State party which nominated the original member to nominate his or her replacement subject to a confirmation procedure. On at least five occasions in recent years, elections to fill casual vacancies on the Committee have been conducted **by acclamation** since only one candidate was nominated for the vacancy. This practice has been accepted by States Parties notwithstanding that it seems to contradict articles 29 and 30 of the Covenant which provide for members to be elected **by secret ballot** and to obtain an **absolute majority** of the votes of the representatives of States Parties **present and voting**.

The Rules of Procedure of the meetings of states parties to the International Covenant on Civil and Political Rights do not define the meaning of the phrase “present and voting”, but the Rules of Procedure of the General Assembly which supplement the meeting rules states that:

*the phrase “members present and voting” means members casting an affirmative or negative vote. Members which abstain from voting are considered as not voting*

This interpretation presents a particular difficulty for the election of committee members because the standard ballot paper does not contain a means for a State Party to register a negative vote against a candidate where only one name appears on the ballot paper. Acts of disapproval, in the form of abstentions (blank ballots) or spoiled ballots, are not considered in the tally of votes and therefore cannot frustrate the nomination. The election is therefore rendered an empty process since there is no way to vote “No”, hence the use of acclamation in such votes.

This situation contrasts with the confirmation procedures governing the nomination of replacement members for other treaty bodies which allow for disapproval to be affirmed and registered. ICERD, CEDAW, CRC and CMW allow the new member to be confirmed by his or her fellow treaty body members. CAT, OPCAT and CED provide for other States Parties to approve the new member through a silence procedure.

## Action point – Ratification of human rights treaties

The General Assembly regularly encourages Member States to consider ratifying human rights instruments with the ultimate goal of achieving universal ratification of all instruments.

To check whether your country is a party to the treaties, please consult:  
<http://treaties.un.org/pages/Treaties.aspx?id=4&subid=A&lang=en>

The Office of Legal Affairs publishes a Treaty Handbook with information on how to complete the formal ratification process which can be downloaded at:  
[http://treaties.un.org/Pages/Publications.aspx?pathpub=Publication/TH/Page1\\_en.xml](http://treaties.un.org/Pages/Publications.aspx?pathpub=Publication/TH/Page1_en.xml)

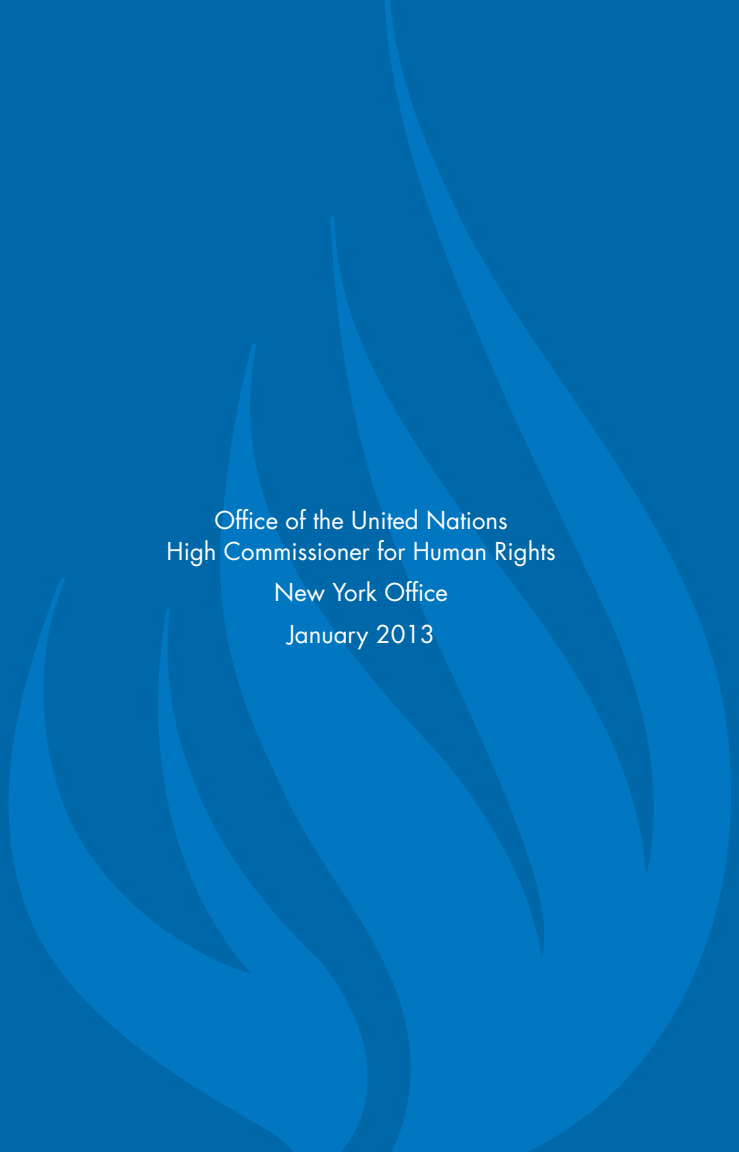
Please contact the Office of Legal Affairs (Treaties Depository) for specific queries on the ratification of the core human rights treaties and their optional protocols.

## Action point – Amendment to article 8 ICERD

Until 1993, the Committee on the Elimination of Racial Discrimination (CERD) was funded by voluntary contributions from States Parties in accordance with article 8, para. 6 of the Convention. Since 1993, the Committee has been funded under the United Nations Budget in accordance with General Assembly Resolution 47/111 pending entry into force of an amendment to article 8 to the same effect. However, certain States Parties still remain in arrears on payments covering the period before 1993 to a total amount, as of June 2012, of 121,216.13. The Secretary-General is required to report to the General Assembly biennially on these arrears in a report which costs in the region of 15,000 US dollars to produce.

States parties are strongly encouraged to contact the Contributions Service of the Office of Programme Planning, Budget and Accounts in order to verify whether they owe outstanding payments and to arrange payment of arrears.

States parties are also strongly encouraged to ratify the amendment to Article 8 of the Convention in accordance with their decision at the Fourteenth Meeting of States Parties to the Convention in January 1992. As of June 2012, only 43 States Parties have ratified the amendment which requires ratification by two-thirds of the 175 States parties in order to enter into force.

A large, stylized graphic of a flame or fire, rendered in shades of blue, occupies the right side and bottom of the page. The flame is composed of several overlapping, teardrop-shaped elements that curve upwards and to the right, creating a sense of movement and heat. The background is a solid, medium blue color.

Office of the United Nations  
High Commissioner for Human Rights  
New York Office  
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