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### Thirty-second meeting of Chairs of the human rights treaty bodies

New York, 1–5 June 2020

Item 6 of the provisional agenda

**Implementation by the treaty bodies of the guidelines  
on the independence and impartiality of members of the  
human rights treaty bodies (the Addis Ababa guidelines)**

### **Mapping the practices of treaty bodies on the guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines): key challenges and further steps to operationalize the guidelines**

Note by the Secretariat

#### *Summary*

The present note is submitted pursuant to the request made by the Chairs of the human rights treaty bodies at their thirty-first annual meeting, held at Headquarters from 24 to 28 June 2019. The Chairs requested the Secretariat to prepare a document mapping the practices of different treaty bodies, identifying the key challenges and proposing further steps to operationalize the guidelines across treaty bodies (A/74/256, para. 51).

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## I. Introduction

1. At their thirty-first meeting, held at Headquarters from 24 to 28 June 2019, the Chairs of the human rights treaty bodies requested the Secretariat to prepare a document mapping the practices of different treaty bodies, identifying the key challenges and proposing further steps to operationalize the guidelines across treaty bodies (A/74/256, para. 51).

## II. Background

2. At their twenty-third meeting, held in 2011, the Chairs referred (HRI/MC/2012/2, para. 1) to the Poznan Statement on the reforms of the United Nations human rights treaty body system, and specifically to the expertise and independence of treaty bodies' members:<sup>1</sup>

19. The participants recognize that the independence of treaty bodies' members is crucial in discharging their mandates. They recommend that guarantees for independence, availability and competence be strengthened in the context of elections of members to treaty bodies and during their terms of appointment. Therefore, the participants recommend that the Chairs entrust a working group to prepare guidelines on eligibility and independence of experts to be adopted in the near future by the annual meeting of Chairs ...

20. The participants wish to reiterate the commitment of States parties to ensure that all candidates are nominated through an open and transparent selection process from among persons who have a proven record of expertise in the relevant area and willingness to take on the full range of responsibilities related to the mandate of a treaty body member, as well as to refrain from nominating persons performing political functions or occupying positions that might interfere with the essential tasks of treaty bodies. The candidates should be fully aware of the nature and scope of their future responsibilities, including the amount of time and the extent of the duties required for carrying out their important mandates.

3. In paragraph 21 of the Poznan Statement, the participants recommended that the Office of the United Nations High Commissioner for Human Rights (OHCHR) "prepare a handbook embracing all essential information for new and current members of treaty bodies". The *Handbook for Human Rights Treaty Body Members*, published in 2015, is available on the OHCHR website<sup>2</sup> and is provided to all newly elected treaty body experts.

4. In its annex IV, the handbook includes "guidelines on country visits endorsed by the High Commissioner for Human Rights: note on visits of treaty body experts to reporting States", endorsed by the High Commissioner on 23 March 2005.

5. At their twenty-third meeting, the Chairs requested the Secretariat to prepare a draft working paper, including initial draft proposals, on enhancing and strengthening the expertise and independence of treaty body members. They agreed that such a working paper could be discussed between sessions by email and presented to them at their twenty-fourth meeting. After consulting their respective committees in the period between sessions, and following an extensive and thorough discussion on the various elements of the draft guidelines, the Chairs endorsed the guidelines on the independence and impartiality of the members of the human rights treaty bodies (the Addis Ababa guidelines).<sup>3</sup> The Addis Ababa guidelines are contained in A/67/222, annex I.

6. In addition, the Chairs strongly recommended that the guidelines be promptly adopted by the respective treaty bodies, inter alia through inclusion, in an appropriate manner, in their rules of procedure.<sup>4</sup>

7. At their twenty-third meeting, the Chairs reaffirmed the solemn statement made in 1997 at the eighth meeting of the Chairs (A/52/507, paras. 67–68) and reiterated in 2008 and

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<sup>1</sup> See [www2.ohchr.org/english/bodies/HRTD/docs/PoznanStatement.pdf](http://www2.ohchr.org/english/bodies/HRTD/docs/PoznanStatement.pdf).

<sup>2</sup> At [www.ohchr.org/Documents/Publications/HR\\_PUB\\_15\\_2\\_TB%20Handbook\\_EN.pdf](http://www.ohchr.org/Documents/Publications/HR_PUB_15_2_TB%20Handbook_EN.pdf).

<sup>3</sup> A/67/222, paras. 13–14.

<sup>4</sup> *Ibid.*, para. 15.

2009 at the seventh and ninth inter-committee meetings respectively (A/63/280, annex, para. 42 (m); and A/64/276, annex II, para. 46 (j)) about the necessity of safeguarding the independence of treaty body experts. In particular, at their twenty-fourth meeting, the Chairs reiterated the recommendation that States parties to human rights treaties should refrain from nominating or electing persons to the treaty bodies who perform political functions or who occupy positions which are not readily reconcilable with the obligations of independent experts under the given treaty (A/67/222, para. 35).

8. At their twenty-ninth meeting, the Chairs reiterated that States should refrain from nominating or electing persons to the treaty bodies whose independence and impartiality was compromised by the nature of their affiliation with the executive branch of the State. Members should avoid functions or activities that could be seen as incompatible with their obligations and responsibilities.<sup>5</sup>

### III. Framework on “independence” of treaty body experts

9. The international human rights instruments contain provisions that refer to the members of Committees serving in their “individual” or “personal” capacity and being “independent”, “impartial” and accorded such privileges and immunities as are necessary “for the independent exercise of their functions”.<sup>6</sup> The International Covenant on Civil and Political Rights requires that “every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.” A solemn declaration by newly elected members is also required before the official assumption of duties for all Committees, and all Committees include this in their rules of procedure: Committee on the Elimination of Racial Discrimination (rule 14), Human Rights Committee (rule 14), Committee on Economic, Social and Cultural Rights (rule 13), Committee on the Elimination of Discrimination against Women (rule 15), Committee against Torture (rule 14), Subcommittee on Prevention of Torture (rule 14), Committee on the Rights of the Child (rule 16), Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (rule 11), Committee on the Rights of Persons with Disabilities (rule 14), Committee on Enforced Disappearances (rule 11).

10. By its resolution 56/280, the General Assembly adopted the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission (ST/SGB/2002/9) whereby the conduct of officials and experts on mission is regulated with a view to upholding the highest standards of efficiency, competence and integrity. These regulations are applicable to treaty body members.

11. In its resolution 68/268, the General Assembly:

35. Reaffirms the importance of the independence and impartiality of members of the human rights treaty bodies, and underlines the importance of all stakeholders of the treaty body system, as well as the Secretariat,<sup>7</sup> respecting fully the independence of treaty body members and the importance of avoiding any act that would interfere with the exercise of their functions;

<sup>5</sup> A/72/177, paras. 38–40.

<sup>6</sup> Art. 8 of the International Convention on the Elimination of All Forms of Racial Discrimination; para. (b) of Economic and Social Council resolution 1985/17; art. 17 (1) of the Convention on the Elimination of All Forms of Discrimination against Women; art. 23 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; arts. 6 and 35 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; art. 26 of the International Convention for the Protection of All Persons from Enforced Disappearance; art. 43 (2) of the Convention on the Rights of the Child; art. 72 (1) (b) and (2) (b) of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; and art. 34 (3) and (13) of the Convention on the Rights of Persons with Disabilities.

<sup>7</sup> See ST/SGB/2009/6.

36. Notes the adoption, at the twenty-fourth annual meeting of the Chairs of the human rights treaty bodies, held in Addis Ababa from 25 to 29 June 2012, of the guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines),<sup>8</sup> which are aimed at ensuring objectivity, impartiality and accountability within the treaty body system, in full respect for the independence of the treaty bodies, and in this regard encourages the treaty bodies to implement the guidelines in accordance with their mandates;

37. Encourages the human rights treaty bodies to continue to consider and review the Addis Ababa guidelines, *inter alia*, by seeking the views of States parties and other stakeholders on their development, and in this regard invites the Chairs of the treaty bodies to keep States parties updated on their implementation.

12. Since the adoption of the Addis Ababa guidelines, each Committee has considered the guidelines<sup>9</sup>,<sup>10</sup> and either endorsed them or included express reference to them in their rules of procedure or working methods;<sup>11</sup> see annex.

13. The most recent report of the Secretary-General on the status of the human rights treaty body system (A/74/643, see para. 59) identifies as a challenge the fact that open and competitive national policies or processes to select candidates before they are nominated for election, as is also encouraged by the General Assembly in its resolution 68/268, remain the exception. The practice of States presenting “clean slates” – meaning an equal number of candidates for the positions to be filled – does not encourage a competitive election process. There is currently no transparent process to evaluate the merits of the nominated candidates. As the need to safeguard the perception of independence begins with the nomination process at the national level, the absence of a process, in particular on the issue of whether or not a candidate meets the criteria of “independence” before being nominated, remains a significant challenge.

#### **IV. Mapping the practices of treaty bodies, and challenges**

14. The Addis Ababa guidelines include, in addition to section I (which is the preamble), section II on general principles and section III on the application of the general principles. Section III covers the consideration of State party reports, the consideration of individual communications, the consideration of urgent actions,<sup>12</sup> participation in country visits and inquiries, the relationship with States, other situations that might entail a possible conflict of interest, participation in other human rights activities, and accountability, which will be examined in turn below.

##### **State party reviews**

15. Several Committees<sup>13</sup> include in their rules of procedure or working methods<sup>14</sup> a provision that a member of the Committee shall not participate in the examination of State

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<sup>8</sup> A/67/222 and Corr.1, annex I.

<sup>9</sup> The lists of Committee names cited in this way in the footnotes of the present document are non-exhaustive and for illustrative purposes only.

<sup>10</sup> The Committee on Economic, Social and Cultural Rights has done so.

<sup>11</sup> The Committee against Torture, the Committee on Enforced Disappearances, the Committee on Migrant Workers, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of Persons with Disabilities, the Committee on the Rights of the Child, the Human Rights Committee and the Subcommittee on Prevention of Torture have done so.

<sup>12</sup> In the case of the Committee on Enforced Disappearances.

<sup>13</sup> Such as the Committee against Torture, the Committee on Enforced Disappearances, the Committee on Migrant Workers, the Committee on the Rights of Persons with Disabilities, the Committee on the Rights of the Child and the Human Rights Committee.

<sup>14</sup> For example, in the working methods of the Committee on the Elimination of Discrimination against Women.

party reports or the discussion and adoption of concluding observations if they involve the State party in respect of which he or she was elected to the Committee, or if he or she is employed by that State,<sup>15</sup> or if another conflict of interest or appearance of a conflict of interest may arise<sup>16</sup> (as per paras. 8 and 9 of the Addis Ababa guidelines).

16. The issue of members holding other nationalities in addition to the nationality of the State in respect of which they were elected is addressed under the general principles in the Addis Ababa guidelines, which provide that members holding multiple nationalities shall inform, on their own initiative, the Chair of the relevant treaty body and its secretariat accordingly. Members holding multiple nationalities shall not participate in the consideration of reports, individual complaints, or take part in visits or inquiries relating to any of the States of which he or she is a national (para. 6) to avoid more favourable or less favourable treatment than that accorded to other States (para. 7). At least one Committee<sup>17</sup> includes in its rules of procedure the requirement for a member holding the nationality of one or more States parties in addition to that of the nominating State party to inform the Committee, through the Chair, of his or her dual or multiple national affiliations at the earliest opportunity.

17. The Addis Ababa guidelines stipulate that real or perceived conflicts of interest may be generated by many factors, which in addition to the nationality or multiple nationality of members, include place of residence, current and past employment, membership of or affiliation with an organization, and family and social relations (para. 3). The rules of procedure of several Committees provide that if a member may for any reason consider that he or she could be facing a potential conflict of interest in any matter concerning the Committee, he or she shall inform the Chair, who may, if necessary, consult the Committee on appropriate measures to safeguard the requirements of independence and impartiality.<sup>18</sup>

18. The Addis Ababa guidelines provide that during the consideration of State party reports and other report-related procedures, such as follow-up, early warning and urgent action, the member concerned shall not participate in any public meeting of the treaty body but may be present as an observer, and shall not be present during any non-public meetings but may receive the relevant documentation (para. 9).

19. In practice, in one Committee,<sup>19</sup> members with an actual or perceived conflict of interest may decide, with regard to any public meeting in which they are not participating but are permitted to be present as an observer, to stay in the room and sit among the public. Alternatively, they may decide not to be present in the room at all. In addition, members in such a situation are not permitted to attend private pre-sessional working group meetings to adopt lists of issues or lists of issues prior to reporting, and nor are they allowed to attend meetings dedicated to the adoption of concluding observations, which are also private meetings.

20. In addition to the nationality of the member concerned, the practice in one Committee<sup>20</sup> is for members not to be part of country task forces and take the floor during the public dialogue when he or she is a national of a State which is in conflict with or does not have diplomatic relations with the State being reviewed by the Committee. The practice of another Committee<sup>21</sup> is also to consider that the country of residence of a member may put that member in a situation of actual or potential conflict. Several Committees prepare and share the internal programme of work for the adoption of concluding observations in advance so that each member knows when or not to attend the meetings.<sup>22</sup>

<sup>15</sup> In the case of the Committee against Torture.

<sup>16</sup> In the case of the Committee against Torture, the Committee on Migrant Workers and the Committee on the Elimination of Discrimination against Women.

<sup>17</sup> The Committee on Migrant Workers.

<sup>18</sup> The Committee against Torture, the Committee on Migrant Workers and the Committee on the Rights of Persons with Disabilities.

<sup>19</sup> The Committee on the Rights of the Child.

<sup>20</sup> The Committee on the Rights of the Child.

<sup>21</sup> The Committee against Torture.

<sup>22</sup> The Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child.

21. One Committee<sup>23</sup> has experimented with clustering private meetings relating to the review of a State party, such as confidential briefings by national human rights institutions, non-governmental organizations and other stakeholders, according to the States parties under review, rather than by individual speaker with individual speakers covering several States parties under review. In that way, the deliberations of the Committee are less disruptive, as the Committee member concerned, who is a national of a State party under review, needs to leave the session room only once, rather than leaving and returning to the session room several times.

22. The experience of another Committee<sup>24</sup> suggests that the programme of work of the session should be sufficiently predictable, well organized by the State party reviewed, and clearly structured and detailed in relation to both public and private meetings to enable any member concerned by an issue of conflict of interest to take the initiative and not participate in the relevant meeting and then be able to participate in other meetings. It is also the responsibility of the Chair to remind the individual experts concerned, and ultimately of the Committee as a whole to take a decision.

23. The rules of procedure of several Committees<sup>25</sup> and working methods of several Committees<sup>26</sup> provide that any question arising under the Addis Ababa guidelines shall be decided by the Committee without the participation of the member concerned, who shall not be present during such discussions. The rules of procedure of several Committees also specify that quorum shall not be affected in such cases.

### **Individual communications and urgent actions**

24. The rules of procedure of all Committees with individual communications procedures<sup>27</sup> reproduce the exact provisions of the Addis Ababa guidelines in relation to the consideration of individual communications (para. 10), stating that a member shall not participate in, be present during, or influence in any way the examination of a communication, either at the admissibility or the merits stage, if the member is a national of the State whose acts are impugned by the communication or has any personal or professional conflict of interest in the case, or if any other real or perceived conflict of interest is present, or if the member has been involved in the making of any decision on the case covered by the communication.

25. In addition, the rules of procedure of several Committees<sup>28</sup> provide that any question that may arise shall be decided by the Committee without the participation of the member concerned. When necessary, and in exceptional circumstances, the decision of the Committee may be taken by vote.

26. Several Committees<sup>29</sup> indicate in their rules of procedure that if, for any reason, a member considers that he or she should not take part or continue to take part in the

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<sup>23</sup> The Committee on Economic, Social and Cultural Rights.

<sup>24</sup> The Committee on the Rights of Persons with Disabilities.

<sup>25</sup> The Committee against Torture, the Committee on Enforced Disappearances, the Committee on Migrant Workers, the Committee on the Rights of Persons with Disabilities, the Committee on the Rights of the Child and the Human Rights Committee.

<sup>26</sup> For example, the Committee on the Elimination of Discrimination against Women.

<sup>27</sup> The Committee against Torture, the Committee on Economic, Social and Cultural Rights, the Committee on Enforced Disappearances, the Committee on Migrant Workers, the Committee on the Elimination of Discrimination against Women, the Committee on the Elimination of Racial Discrimination, the Committee on the Rights of Persons with Disabilities, the Committee on the Rights of the Child and the Human Rights Committee.

<sup>28</sup> The Committee against Torture, the Committee on Economic, Social and Cultural Rights, the Committee on Enforced Disappearances, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities, the Committee on the Rights of the Child and the Human Rights Committee.

<sup>29</sup> The Committee against Torture, the Committee on Enforced Disappearances, the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of Persons with Disabilities.

examination of a communication, the member shall inform either the Chair, or the Committee through the Chair,<sup>30</sup> of his or her withdrawal. In the rules of procedure of one Committee<sup>31</sup> there is a provision stipulating that members participating in a decision should sign an attendance sheet acknowledging their participation or indicating their inability to take part in or their withdrawal from the examination of the communication. Furthermore, the information on the attendance sheet should be reflected in the decision.

27. According to the practice for urgent actions,<sup>32</sup> the national of the State concerned, or, in the case of personal conflict of interest, the member of the Working Group on Urgent Actions, must recuse himself or herself. When the urgent action is discussed by the plenary, any member with such a profile must recuse himself or herself. This has occurred on a number of occasions. When the discussion on the case is very short and analysed in general terms, the Chair recalls that the member in question can be present in the room but cannot take part in the discussion.

28. One Committee<sup>33</sup> makes provision in its rules of procedure that the absence of the member from any public or private meeting shall not affect the quorum, so that the remaining members can participate, *inter alia*, in the examination of an individual communication.

### **Participation in workshops, training, country visits, inquiries and other human rights activities**

29. The rules of procedure of one Committee with a visiting mandate<sup>34</sup> provide that no member shall participate in activities that may imply, or may be seen to imply, a conflict of interest with his or her capacity as an independent and impartial member; that members shall avoid any action that might give the impression that any given State party is receiving more or less favourable treatment than that accorded to other States parties; that members who hold multiple nationalities shall, on their own initiative, inform the Chair; and that no member shall participate in the preparation or conduct of a visit or be involved in the consideration of a report arising from a visit concerning a State party under the nationality of which he or she was nominated or elected, or of which he or she is a national. (This is in accordance with paras. 6, 7 and 11 of the Addis Ababa guidelines.)

30. The rules of procedure of another Committee with a mandate to undertake visits<sup>35</sup> provides that a member shall not take part in the consideration of a report, a request for urgent action, an individual communication, an inter-State communication or a request for a visit if he or she is a national of the State party concerned, if he or she is employed by the State party concerned, if he or she has a personal interest in the case or situation under consideration, if he or she has directly participated in the drafting and adoption of any decision on the case or situation concerned in any capacity other than under the procedures under the Convention, or if any other conflict of interest is present. In addition, the rules of procedure provide that such a member shall not be present during any non-public consultations or meetings between the Committee and the national human rights institutions, non-governmental organizations, or any other entities, nor during the discussion and adoption of the respective concluding observations or Views, or any other decisions. Furthermore, any question that may arise is to be decided by the Committee without the participation of the member concerned.

31. The practice of several Committees<sup>36</sup> is to recommend to experts not to accept or undertake visits, training or workshops, from the issuance of the list of issues to the review of the State party. Another Committee<sup>37</sup> has a similar practice and adopted its decision 74/5 in which it stipulates that the country rapporteur, members of the country task force and the Chair of the Committee should not participate in mock sessions or reporting workshops

<sup>30</sup> In the case of the Committee on Economic, Social and Cultural Rights.

<sup>31</sup> The Committee on the Rights of Persons with Disabilities.

<sup>32</sup> Concerning the Committee on Enforced Disappearances.

<sup>33</sup> The Committee on Migrant Workers.

<sup>34</sup> The Subcommittee on Prevention of Torture.

<sup>35</sup> The Committee on Enforced Disappearances.

<sup>36</sup> For example, the Committee on the Rights of the Child.

<sup>37</sup> The Committee on the Elimination of Discrimination against Women.

during the period between the adoption of the list of issues or list of issues prior to reporting, and the adoption of the concluding observations on the State party concerned. The same Committee also decided that members who participated in mock sessions during the said period must not join the country task force at a later stage, nor participate in the dialogue or in the preparation and adoption of the concluding observations on the State party concerned, nor accept any remuneration for their participation apart from a daily subsistence allowance and travel costs.

32. In another Committee, the practice is that the Chair and/or the Bureau of the Committee are seized of the issue in order to make a determination and propose a decision for the Committee. More generally, in several Committees, the assignment of countries to country rapporteurs or task forces and the acceptance of invitations to training workshops are addressed by the Bureau, with the support of the secretariat which informs the Committee about past practices of treaty bodies.

33. As for familiarization visits to countries, one Committee<sup>38</sup> expressly provides in its rules of procedure that a member shall not, without the prior consent of the Committee, solicit or accept an invitation from a State party for a familiarization visit in connection with its report to the Committee.

34. The rules of procedure of the same Committee<sup>39</sup> provide that should a member participate in an individual capacity in any other human rights activities of intergovernmental bodies or in any other forums, such as panels, training courses and seminars, and should a member be the author of or contribute to any publications, he or she shall make it clear that the views expressed by him or her are his or her own and not those of the Committee, unless he or she has been expressly mandated by the Committee, in which case the member does not need to seek the approval of the Bureau or the Committee but should notify the Chair (in reference to para. 15 of the Addis Ababa guidelines). In cases where a member has been invited to represent the Committee in an official capacity at a conference, meeting or other forum, he or she shall seek approval from the Bureau.

35. The guidelines on country visits, endorsed by the United Nations High Commissioner for Human Rights (published in the *Handbook for Human Rights Treaty Body Members*, annex IV),<sup>40</sup> include some relevant suggestions for members being invited on country visits by Governments or non-governmental organizations.

1. If an invitation to visit a reporting State party is sent by the Government concerned to treaty body experts through the secretariat, the invitation will be delivered promptly to its addressees. However, all treaty bodies should be informed that normally, the secretariat will not be involved in the preparation of the visit, nor in its conduct, and that no administrative nor financial support will be made available for it. This will be applied, in particular, when visits take place before the consideration by the treaty body of the State party's report. OHCHR may agree to provide support when the invitation to visit the country is made after the consideration of the report and when it is directed to following up on treaty body recommendations.

2. The treaty body experts invited are encouraged to seek the agreement of their colleagues on the purpose and the usefulness of the visit and to report in writing to them after the visit. It would be advisable to disclose whether expenses were covered by the country (or by a non-governmental organization), and whether an honorarium was paid in relation to any lecture, conference, etc., related to the visit.

3. If an invitation to visit the country of a reporting State party is sent to treaty body experts by non-governmental organizations, those experts are encouraged to inform the Government of that State party accordingly.

4. In all cases of invitation to visit a country of a reporting State party before its report is considered by the treaty body concerned, visiting experts are advised to refrain from

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<sup>38</sup> The Committee on Migrant Workers.

<sup>39</sup> The Committee on Migrant Workers.

<sup>40</sup> Available at [www.ohchr.org/Documents/Publications/HR\\_PUB\\_15\\_2\\_TB%20Handbook\\_EN.pdf](http://www.ohchr.org/Documents/Publications/HR_PUB_15_2_TB%20Handbook_EN.pdf).

press conferences and media relations so as not to run the risk of pre-empting the result of the consideration of the State party's report.

36. The aforementioned considerations and suggestions also guide the treaty body capacity-building programme when soliciting treaty body experts to participate in activities.

### **Relationship with States**

37. It is stated in the Addis Ababa guidelines that the independence and impartiality of treaty body members is compromised by the political nature of their affiliation with the executive branch of the State. Members of treaty bodies are consequently to avoid functions or activities which are, or are seen by a reasonable observer to be, incompatible with the obligations and responsibilities of independent experts under the relevant treaties (para. 12). The issue of the actual occupation or profession of a Committee member and whether or not this constitutes a perceived or actual conflict of interest is one of the areas that Committee members themselves find challenging, as the issue of independence or impartiality is not raised prior to their nomination or election as experts by States parties.

38. The Addis Ababa guidelines provide that when acting as a consultant or as counsel for any State in connection with the process of reporting to the treaty body on which they serve or in any other matter that might come up for consideration before his or her treaty body, treaty body members shall take all necessary measures to ensure that they do not have, and are not seen by a reasonable observer as having, a conflict of interest (para. 13). The rules of procedure of one Committee<sup>41</sup> provide that a member shall not serve as a paid consultant or adviser to a State party, or any other interested party, in connection with the preparation or consideration of a State party's report.

39. The Addis Ababa guidelines also apply in situations where a member holds or is assuming decision-making positions in any organization or entity which may give rise to a real or perceived conflict of interest (para. 14). Therefore, if an expert's occupation or affiliation with the executive branch of the State changes during the term of his or her mandate, the practice is to resign if their new position, function or activities are incompatible with the obligations and responsibilities of independent experts. This has occurred, for example when a Committee member was appointed as a minister, or as a senior United Nations official.<sup>42</sup>

### **Accountability**

40. The Addis Ababa guidelines provide that observance of the guidelines relies primarily on the individual responsibility of each member to inform the Chair of the treaty body concerned if for any reason he or she is facing a potential conflict of interest. Also, members holding multiple nationalities are to inform, on their own initiative, the Chair of the relevant treaty body and its secretariat accordingly (paras. 6 and 16).

41. The rules of procedure of several Committees<sup>43</sup> provide that any question arising under the Addis Ababa guidelines shall be decided by the Committee without the participation of the member concerned, who shall not be present during such discussions. The rules of procedure of one Committee<sup>44</sup> specify that the member concerned shall be given the opportunity to be heard by the Committee to clarify any related matter. The rules of procedure of several Committees also specify that quorum shall not be affected in such cases. In one Committee, the issue of perceived or actual conflict of interest is systematically brought to

<sup>41</sup> The Committee on Migrant Workers.

<sup>42</sup> Members of the Subcommittee on Prevention of Torture and the Human Rights Committee, respectively.

<sup>43</sup> The Committee against Torture, the Committee on Migrant Workers, the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of the Child and the Subcommittee on Prevention of Torture.

<sup>44</sup> The Committee on Migrant Workers.

the consideration of the plenary by the Chair, who reminds Committee members of actual or perceived conflicts of interest and requests any member(s) concerned to leave the room when the issue is addressed by the plenary. In practical terms, the issue of conflict of interest is brought to the attention of the Chair or the Bureau by the Secretary. If the conflict of interest is in relation to the Chair, the Vice-Chair or the Bureau will need to raise the issue. The rules of procedure of another Committee<sup>45</sup> specify that while it is the duty of the Chair to remind individual members of the content of the guidelines, it is also the duty of all Committee members to remind one another of the content of the guidelines if the situation so requires.

42. The decision is ultimately one for the relevant Committee as a whole, which “shall take any measures deemed necessary to safeguard the requirements of independence and impartiality of its members” (Addis Ababa guidelines, para. 16).

43. A challenge faced by those Committees which do not have clear and comprehensive processes and practices on specific issues of conflict of interest in their rules of procedure or working methods is that when the issue of conflict of interest arises in a specific case, they do not have the tools to deal with it. Another challenge is that not all Committees have the same approach when it comes to applying the Addis Ababa guidelines.

## **V. Further questions to explore to operationalize the guidelines across treaty bodies**

44. While recognizing that the Addis Ababa guidelines rely on self-regulation, General Assembly resolution 68/268 invites the Chairs of the treaty bodies to keep States parties updated on their implementation. How can the Chairs and the Committees collectively contribute to safeguarding the integrity of the system as a whole and to ensure that the principles stated in the guidelines are applied in practice?

45. The proposal of establishing a register of members’ potential conflicts of interest has been raised in the past. Members would voluntarily undertake to declare any perceived or actual conflicts of interest upon assumption of their duties, and during the term of their membership, as required. Members of a Committee should also have the possibility of raising concerns with regard to other members’ potential conflicts of interest so that issues regarding actual or perceived conflict of interest can be discussed and possible action can be taken on a case-by-case basis. Who would keep the register updated, how often it should be updated, and to whom it should be made available are questions for further consideration by Chairs and Committees. Would a questionnaire about actual or perceived conflicts of interest, to be circulated at the beginning of each session, be helpful to raise awareness among Committee members? Would a discussion among Committee members one session in advance be helpful?

46. The review in 2020<sup>46</sup> constitutes a major opportunity to enhance the integrity of the system by ensuring greater transparency in the processes for nominating and electing treaty body members. What role can the Chairs and Committees play in holding States accountable so that they put in place transparent and merit-based procedures for the nomination of Committee members?

47. What is the most appropriate forum or medium for sharing information with States parties on the steps that treaty bodies have taken to ensure full respect for the Addis Ababa guidelines?

48. Are there any other suggestions by the Chairs or Committee members on how the Chairs and the Committees should facilitate the interpretation or implementation of the Addis Ababa guidelines, including through alignment of their practices?

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<sup>45</sup> The Committee on Migrant Workers.

<sup>46</sup> See General Assembly resolution 68/268, para. 41.

## Annex

### A. Human Rights Committee

#### Addis Ababa guidelines reference

Rules of procedure,<sup>47</sup> rule 15:

(The guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines), excepting the preamble, replace the Committee's own 1998 guidelines on the exercise of the functions of the Committee.

#### Solemn declaration

Rules of procedure,<sup>47</sup> rule 14:

Before assuming duties as a member, each member of the Committee shall make the following solemn undertaking in open Committee:

"I solemnly undertake to discharge my duties as a member of the Human Rights Committee independently, impartially and conscientiously."

#### Consideration of State party reports

Rules of procedure,<sup>47</sup> rule 74:

1. On the basis of its examination of any report or information supplied by a State party, the Committee may make appropriate concluding observations which shall be communicated to the State party, together with notification of the date by which the next report under article 40 of the Covenant shall be submitted.
2. No member of the Committee shall participate in the examination of State party reports or the discussion and adoption of concluding observations if they involve the State party in respect of which he or she was elected to the Committee.

#### Consideration of State party reports

Working methods,<sup>48</sup> para. III (B):

Individual members of the Committee refrain from participating in any aspect of the consideration of the reports of the States of which they are nationals in order to maintain the highest standards of impartiality, both in substance and appearance.

#### Consideration of communications

Rules of procedure,<sup>49</sup> rule 108:

1. A member shall not take part in the examination of a communication by the Committee:
  - (a) If he or she is a national of the State party or has the same nationality as the alleged victim;
  - (b) If he or she has any personal or professional conflict of interest in the case;
  - (c) If he or she has participated in any capacity in the making of any decision on the case covered by the communication.
2. Any question which may arise under paragraph 1 of the present rule shall be decided by the Committee. The member concerned shall not take part in the decision.

<sup>47</sup> CCPR/C/3/Rev.11.

<sup>48</sup> Available at [www.ohchr.org/EN/HRBodies/CCPR/Pages/WorkingMethods.aspx](http://www.ohchr.org/EN/HRBodies/CCPR/Pages/WorkingMethods.aspx).

<sup>49</sup> CCPR/C/3/Rev.11.

**Individual communications**

Working methods,<sup>50</sup> para. XI:

Individual members of the Committee refrain from participating in any aspect of the consideration of the communications if: (a) the State of which they are nationals is a party to the case; (b) if the member has any personal interest in the case; (c) if the member has participated in any capacity in the making of any decision on the case covered by the communication.

**B. Committee on the Elimination of Discrimination against Women****Solemn declaration**

Rules of procedure,<sup>51</sup> rule 15:

Upon assuming their duties, members of the Committee shall make the following solemn declaration in open Committee:

“I solemnly declare that I shall perform my duties and exercise powers as a member of the Committee on the Elimination of Discrimination against Women honourably, faithfully, impartially and conscientiously.”

**Consideration of State party reports**

Working methods,<sup>52</sup> para. III (B):

Individual members of the Committee refrain from participating in any aspect of the consideration of the reports of the States of which they are nationals or if another conflict of interest or appearance of a conflict of interest may arise in order to maintain the highest standards of impartiality, both in substance and appearance, in accordance with the Addis Ababa guidelines on the independence and impartiality of treaty body experts (from the Addis Ababa guidelines).

**Inability of a member to take part in the examination of a communication**

Rules of procedure,<sup>53</sup> rule 60:

1. A member of the Committee shall not take part in the examination of a communication if:
  - (a) The member has a personal interest in the case;
  - (b) The member has participated in the making of any decision on the case covered by the communication in any capacity other than under the procedures applicable to this Optional Protocol;
  - (c) The member is a national of the State party concerned.
2. Any question that may arise under paragraph 1 above shall be decided by the Committee without the participation of the member concerned.

**Withdrawal of a member while considering a communication**

Rules of procedure,<sup>53</sup> rule 61:

If, for any reason, a member considers that she or he should not take part or continue to take part in the examination of a communication, the member shall inform the Chairperson of her or his withdrawal.

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<sup>50</sup> Available at [www.ohchr.org/EN/HRBodies/CCPR/Pages/WorkingMethods.aspx](http://www.ohchr.org/EN/HRBodies/CCPR/Pages/WorkingMethods.aspx).

<sup>51</sup> HRI/GEN/3/Rev.3.

<sup>52</sup> Available at <https://www.ohchr.org/EN/HRBodies/CEDAW/Pages/WorkingMethods.aspx>.

<sup>53</sup> HRI/GEN/3/Rev.3.

## C. Committee against Torture

### **Solemn declaration**

Rules of procedure,<sup>54</sup> rule 14:

Before assuming his/her duties after his/her first election, each member of the Committee shall make the following solemn declaration in open Committee:

“I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee against Torture honourably, faithfully, independently, impartially and conscientiously.”

### **Independence and impartiality of members**

Rules of procedure,<sup>54</sup> rule 15:

1. The independence and impartiality of the members of the Committee are essential for the performance of their duties and requires that they serve in their personal capacity and shall neither seek nor accept instructions from anyone concerning the performance of their duties. Members are accountable only to the Committee and their own conscience.
2. In their duties under the Convention, members of the Committee shall maintain the highest standards of impartiality and integrity, and apply the standards of the Convention equally to all States and all individuals, without fear or favour and without discrimination of any kind.
3. The Addis Ababa guidelines on the independence and impartiality of members of the human rights treaty bodies are annexed to the present rules of procedure. The guidelines are an important tool for the interpretation of the rules concerning the independence and impartiality of the members of the Committee.

### **Obligatory non-participation or non-presence of a member in the consideration of a report**

Rules of procedure,<sup>54</sup> rule 73:

1. A member shall not take part in the consideration of a report by the Committee or its subsidiary bodies if he/she is a national of the State party concerned, is employed by that State, or if any other conflict of interest is present.
2. Such a member shall not be present during any non-public consultations or meetings between the Committee and national human rights institutions, non-governmental organizations, or any other entities referred to in rule 63, as well as during the discussion and adoption of the respective concluding observations.

### **Consideration of State party reports**

Working methods,<sup>55</sup> para. III (B):

Individual members do not participate in any aspect of the examination of the reports of the States parties of which they are nationals.

### **Meetings of the Committee**

Rules of procedure,<sup>56</sup> rule 79:

1. Meetings of the Committee concerning its proceedings under article 20 of the Convention shall be closed. A member shall neither take part in nor be present at any proceedings under article 20 of the Convention if he/she is a national of the State party concerned, is employed by that State, or if any other conflict of interest is present.

<sup>54</sup> CAT/C/3/Rev.6.

<sup>55</sup> Available at [www.ohchr.org/EN/HRBodies/CAT/Pages/WorkingMethods.aspx](http://www.ohchr.org/EN/HRBodies/CAT/Pages/WorkingMethods.aspx).

<sup>56</sup> CAT/C/3/Rev.6.

2. Meetings during which the Committee considers general issues, such as procedures for the application of article 20 of the Convention, shall be public, unless the Committee decides otherwise.

#### **Obligatory non-participation or non-presence of a member in the examination of a complaint**

Rules of procedure,<sup>56</sup> rule 109:

1. A member shall not take part in the examination of a complaint by the Committee or its subsidiary body if he/she:

(a) Has any personal interest in the case or if any other conflict of interest is present; or

(b) Has participated in any capacity, other than as a member of the Committee, in the making of any decision; or

(c) Is a national of the State party concerned or is employed by that country.

2. Such member shall not be present during any non-public consultations or meetings of the Committee, as well as during any discussion, consideration or adoption related to that complaint.

3. Any question which may arise under paragraphs 1 and 2 above shall be decided by the Committee without the participation of the member concerned.

#### **Optional non-participation of a member in the examination of a complaint**

Rules of procedure,<sup>56</sup> rule 110:

If, for any reason, a member considers that he/she should not take part or continue to take part in the examination of a complaint, he/she shall inform the Chairperson of his/her withdrawal.

### **D. Committee on the Rights of the Child**

#### **Members of the Committee**

Rules of procedure,<sup>57</sup> rule 11:

Members of the Committee shall be the 18 independent experts elected in accordance with article 43 of the Convention.

#### **Independence and impartiality of members**

Rules of procedure,<sup>57</sup> rule 12:

Members of the Committee shall exercise their functions in an independent and impartial manner in accordance with the guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines) (A/67/222, annex I), which form an integral part of these rules of procedure.

#### **Solemn declaration**

Rules of procedure,<sup>57</sup> rule 16:

Upon assuming his or her duties, each member of the Committee shall make the following solemn declaration in open Committee:

“I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Rights of the Child honourably, faithfully and conscientiously and observe the principles of independence and impartiality of the human rights treaty bodies adopted by the Committee.”

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<sup>57</sup> CRC/C/4/Rev.5.

**Inability of a member to take part in the procedure**

Rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure,<sup>58</sup> rule 8:

1. A member of the Committee shall not participate in, be present during, or influence in any way the procedure if:
  - (a) The member is a national of the State against which the case is directed;
  - (b) The member has a personal or professional interest in the case, or if any other real or perceived conflict of interest is present;
  - (c) The member has participated, in any capacity, in the making and adoption of any decision on the communication other than under the procedures applicable to this Protocol, the Convention or the substantive Optional Protocols thereto.
2. Any question that may arise under paragraph 1 above shall be decided by the Committee without the participation of the member concerned.

**Withdrawal of a member**

Rules of procedure under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure,<sup>58</sup> rule 9:

If, for any reason, a member considers that she or he should not take part or continue to take part in the examination of a communication, the member shall withdraw and shall inform the Chairperson of her/his decision to do so.

**E. Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families****Independence and impartiality of members**

Rules of procedure,<sup>59</sup> rule 12:

1. In the exercise of their functions as independent experts serving on the Committee, members shall abide by the guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines), which shall be incorporated, by reference, into the rules of procedure of the Committee with the following additions.
2. A member holding the nationality of one or more State party in addition to that of the nominating State party shall inform the Committee, through the Chair, of her or his dual or multiple national affiliations at the earliest opportunity.
3. In the event of a real or perceived conflict of interest with respect to a State party, a member shall not:
  - (a) Participate in or influence in any way the preparation, course or outcome of dialogues, discussions or any other public meetings of the treaty body, but may be present as an observer;
  - (b) Be present during any non-public consultations, briefings or meetings with a single country focus between her or his treaty body and other entities or partners, such as United Nations entities, national human rights institutions and civil society organizations, but may receive the relevant documentation;
  - (c) Be present during discussions, deliberations or any other non-public meetings of her or his treaty body, such as for the preparation, drafting, discussion and adoption of concluding observations or any other related treaty body documents.
4. With regard to the above, the absence of the member from any public or private meeting shall not affect the quorum pursuant to rule 25 of the present rules of procedure.

<sup>58</sup> CRC/C/62/3.

<sup>59</sup> CMW/C/2.

5. A member shall not, without the prior consent of the Committee, solicit or accept an invitation from a State party for a familiarization visit in connection with its report to the Committee.
6. A member shall not serve as a paid consultant or adviser to a State party, or any other interested party, in connection with the preparation or consideration of a State party's report.
7. Should a member participate in an individual capacity in any other human rights activities of intergovernmental bodies or in any other forums, such as panels, training courses and seminars, and should a member be the author of or contribute to any publications, she or he shall make it clear that the views expressed by her or him are her or his own and not those of the Committee, unless she or he has been expressly mandated by the Committee, in which case the member does not need to seek the approval of the Bureau or the Committee but should notify the Chair. In cases where a member has been invited to represent the Committee in an official capacity at a conference, meeting or other forum, she or he shall seek approval from the Bureau.
8. If for any reason a member considers that she or he could be facing a potential conflict of interest in any matter concerning the Committee, she or he shall inform the Chair, who may, if necessary, consult the Committee on appropriate measures to safeguard the requirements of independence and impartiality.
9. It is the duty of the Chair to remind members of the content of the Addis Ababa guidelines and the present guidelines if the situation so requires. It is also the duty of all Committee members to remind one another of the content of these guidelines if the situation so requires.
10. Questions arising under the Addis Ababa guidelines and the present guidelines shall be decided by the Committee without the participation of the member concerned, who shall not be present during such discussions. The member concerned shall be given the opportunity to be heard by the Committee to clarify any matter relating to the present rule. Quorum shall not be affected in such cases, nor in cases where a member is not present in the room owing to a real or perceived conflict of interest.

## **F. Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

### **Solemn declaration**

Rules of procedure,<sup>60</sup> rule 14:

Before assuming his or her duties after his or her first election or nomination, each member of the Subcommittee shall make the following solemn declaration at the first meeting that he or she attends following election or nomination:

“I solemnly declare that I will perform my duties and exercise my powers as a member of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment impartially, independently, conscientiously and efficiently, fully respecting the ‘do no harm’ principle and the obligation of confidentiality, both during and after my period of membership, and acting in accordance with the mandate of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.”

### **Independence and impartiality of members**

Rules of procedure,<sup>60</sup> rule 15:

1. The members of the Subcommittee shall serve in their personal capacity and shall act not only in accordance with the terms of their solemn declaration, but also transparently, so as to be seen to be so by a reasonable observer. To that end, the members of the Subcommittee shall conduct themselves in accordance with the guidelines on the independence and

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<sup>60</sup> CAT/OP/3/Rev.2.

impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines). In particular:

(a) No member of the Subcommittee shall participate in activities that may imply, or may be seen to imply, a conflict of interest with his or her capacity as an independent and impartial member of the Subcommittee;

(b) Members of the Subcommittee shall avoid any action that might give the impression that any given State party is receiving more or less favourable treatment than that accorded to other States parties;

(c) Members of the Subcommittee who hold multiple nationalities shall, on their own initiative, inform the Chair of the Subcommittee.

2. No member of the Subcommittee shall participate in the preparation or conduct of a visit or be involved in the consideration of a report arising from a visit concerning a State party under the nationality of which he or she was nominated or elected, or of which he or she is a national.

3. If for any reason a member of the Subcommittee considers that he or she is in a situation involving a real or perceived conflict of interest, he or she shall promptly inform the Chair of the Subcommittee, who shall advise on the real or perceived conflict of interest, taking into account the Addis Ababa guidelines. The Subcommittee shall ultimately, as a whole, take all measures necessary to safeguard the requirements of independence and impartiality of its members.

### **Visiting delegations**

Guidelines of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to visits to States parties under article 11 (a) of the Optional Protocol,<sup>61</sup> guideline 3:

Visits shall be conducted by at least two members of the Subcommittee, none of whom shall have the nationality of the country to be visited or shall have been nominated for election by the country to be visited or shall have any other known connection with the country to be visited that may give rise to a potential conflict of interest.

The members of the Subcommittee with responsibility for carrying out a visit shall act in the name of the Subcommittee. The head of the delegation shall be determined by the Bureau, in consultation with the delegation.

The programme for each country visit shall be developed by the delegation in conjunction with the secretariat and the Bureau.

The Subcommittee may decide that a delegation conducting a visit shall be assisted by one or more experts as provided for in article 13, when that is desirable. The Subcommittee shall select from the roster established in accordance with article 13, paragraph 3, any expert(s) who is (are) to accompany its delegation on a visit. A delegation shall not be assisted by an expert who is a national of the State party to be visited or has any other known connection with the country to be visited that may give rise to a potential conflict of interest.

The Subcommittee may decide that a delegation conducting a visit shall be assisted by interpreters.

At least one member of the secretariat of the Subcommittee shall participate in each visit.

<sup>61</sup> CAT/OP/5.

## **G. Committee on the Rights of Persons with Disabilities**

### **Guidelines on the independence and impartiality of the members of the human rights treaty bodies (the Addis Ababa guidelines)**

Rules of procedure,<sup>62</sup> rule 96:

The guidelines on the independence and impartiality of the members of the human rights treaty bodies (the Addis Ababa guidelines) (see A/67/222, annex I) are an integral part of the present rules of procedure.

### **Solemn declaration**

Rules of procedure,<sup>62</sup> rule 14:

Upon assuming her or his duties, each member of the Committee shall make the following solemn declaration in open Committee: “I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Rights of Persons with Disabilities honourably, faithfully, impartially and conscientiously.”

### **Inability of a member to take part in the examination of a report**

Rules of procedure,<sup>62</sup> rule 43:

1. A member shall not participate in any part of the consideration of a report submitted by a State party of which she or he is a national.
2. Notwithstanding any conflict of interest, pursuant to the guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines), members who are citizens of a regional integration organization that is party to the Convention shall not be appointed party rapporteur, but shall participate in the consideration of the report of the regional integration organization.
3. Any question which may arise under this rule shall be decided by the Committee without the participation of the member concerned.

### **Participation of Committee members in the examination of reports**

Working methods,<sup>63</sup> para. 9:

Members of the Committee will not intervene in any aspect of the examination of reports submitted by States parties of which they are nationals.

### **Inability of a member to take part in the examination of a communication**

Rules of procedure,<sup>64</sup> rule 60:

1. A member shall not take part in the examination of a communication by the Committee if:
  - (a) The member has any personal interest in the case;
  - (b) The member has participated in the making of any decision on the case covered by the communication in any capacity other than under the procedures established under the Optional Protocol;
  - (c) The member is a national of the State party against which the communication is directed.
2. Any question which may arise under paragraph 1 above shall be decided by the Committee without the participation of the member concerned.

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<sup>62</sup> CRPD/C/1/Rev.1.

<sup>63</sup> CRPD/C/5/4.

<sup>64</sup> CRPD/C/1/Rev.1.

**Withdrawal of a member**

Rules of procedure,<sup>64</sup> rule 61:

If, for any reason, a member considers that she or he should not take part or continue to take part in the examination of a communication, the member shall inform the Chair of her or his withdrawal.

**Participation of members**

Rules of procedure,<sup>64</sup> rule 62:

Members participating in a decision should sign an attendance sheet acknowledging their participation or indicating their inability to take part in or withdrawal from the examination of a communication. The information on the attendance sheet should be reflected in the decision.

**Examination of communication**

Working methods,<sup>65</sup> para. 71:

The members of the Committee will abstain from participating in any aspect of the examination of a communication if (a) they are nationals of the State party concerned; (b) they have a personal interest in the case under consideration; (c) they have participated in any way in the events set out in the case.

**H. Committee on Enforced Disappearances****Members of the Committee**

Rules of procedure,<sup>66</sup> rule 10:

1. Members of the Committee shall be the 10 experts elected in accordance with article 26 of the Convention, who will be independent and impartial.
2. The independence of the members requires that they serve in their personal capacity and shall neither seek nor accept instructions from anyone concerning the performance of their duties. Members are accountable only to the Committee and their own conscience.
3. In their duties under the Convention, members of the Committee shall proceed in a victim-oriented and timely manner and maintain the highest standards of impartiality and integrity, and apply the standards of the Convention equally to all States and all individuals, independently, objectively, honourably, faithfully, conscientiously and without prejudice.

**Solemn declaration**

Rules of procedure,<sup>66</sup> rule 11:

Upon assuming their duties, members of the Committee shall make the following solemn declaration in open Committee:

“I solemnly declare that I shall perform my duties and exercise my powers as a member of the Committee on Enforced Disappearances independently, objectively, honourably, faithfully, impartially and conscientiously.”

**Obligatory non-participation or non-presence of a member in the exercise of the functions of the Committee**

Rules of procedure,<sup>66</sup> rule 47:

1. A member shall not take part in the consideration of a report, a request for urgent action, an individual communication, an inter-State communication, a request for a visit or

<sup>65</sup> CRPD/C/5/4.

<sup>66</sup> CED/C/1.

the information with indications of widespread or systematic enforced disappearances by the Committee or its subsidiary bodies if the member:

- (a) Is a national of the State party concerned;
- (b) Is employed by the State party concerned;
- (c) Has a personal interest in the case or situation under consideration;
- (d) Has directly participated in the drafting and adoption of any decision on the case or situation concerned in any capacity other than under the procedures under the Convention; or if any other conflict of interest is present.

2. Such a member shall not be present during any non-public consultations or meetings between the Committee and the national human rights institutions, non-governmental organizations, or any other entities referred to in rule 44, nor during the discussion and adoption of the respective concluding observations, views or any other decisions.

3. Any question that may arise under paragraph 1 above shall be decided by the Committee without the participation of the member concerned.

#### **Withdrawal of a member**

Rules of procedure,<sup>66</sup> rule 69:

If, for any reason, a member considers that she or he should not take part or continue to take part in the examination of a communication, the member shall inform the Chairperson of her or his withdrawal.

#### **Impartiality of members**

Working methods,<sup>67</sup> para. 2:

In accordance with the Committee's rules of procedure, its members do not participate in any aspect of the exercise of the functions of the Committee concerning those States of which they are nationals, or in any of the other cases provided for in rule of procedure 47, in order to maintain the highest standards of impartiality both in substance and appearance.

## **I. Committee on the Elimination of Racial Discrimination**

### **Treaty body strengthening process**

Report of the Committee on the Elimination of Racial Discrimination: eighty-seventh session (3–28 August 2015), eighty-eighth session (23 November–11 December 2015) and eighty-ninth session (25 April–13 May 2016),<sup>68</sup> para. 58:

... Also at its eighty-fifth session, the Committee decided to endorse the Guidelines against Intimidation or Reprisals (the San José Guidelines), as recommended by the Chairs of the treaty bodies at their twenty-seventh session, in accordance with its specific methods and as they apply to the Convention ... The Committee referred to the decision it took at its eighty-first session on the guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines) and reaffirmed its practice of upholding the independence and impartiality of its members in all its activities and practices in accordance with the Convention and its general recommendation No. 9 (1990) on the independence of experts, adopted at its thirty-eighth session.

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<sup>67</sup> Available at [www.ohchr.org/EN/HRBodies/CED/Pages/WorkingMethods.aspx#10](http://www.ohchr.org/EN/HRBodies/CED/Pages/WorkingMethods.aspx#10).

<sup>68</sup> A/71/18.

### **Inability of a member to take part in the examination of the communication**

Rules of procedure,<sup>69</sup> rule 89:

1. A member of the Committee shall not take part in the examination of a communication by the Committee or its Working Group:
  - (a) If he has any personal interest in the case; or
  - (b) If he has participated in any capacity in the making of any decision on the case covered by the communication.
2. Any question which may arise under paragraph 1 above shall be decided by the Committee without the participation of the member concerned.

### **Withdrawal of a member**

Rules of procedure,<sup>69</sup> rule 90:

If, for any reason, a member considers that he should not take part or continue to take part in the examination of a communication, he shall inform the Chairman of his withdrawal.

## **J. Committee on Economic, Social and Cultural Rights**

### **Working methods of the Committee**

Committee on Economic, Social and Cultural Rights: report on the forty-eighth and forty-ninth sessions,<sup>70</sup> para. 96:

The Committee had a preliminary discussion on the draft guidelines on the independence and impartiality of members of the human rights treaty bodies at its forty-eighth session. The draft guidelines were prepared following a request by the twenty-third meeting of chairpersons of the human rights treaty bodies in 2011. The Chair sought views of members prior to the discussion of the draft among the chairs at the twenty-fourth meeting of chairpersons (held in Addis Ababa in 2012). Following their endorsement by the chairs, the proposed guidelines (“Addis guidelines”) were presented to the Committee for further consideration during its forty-ninth session. In this context, the Committee adopted a decision on the proposed guidelines on the independence and impartiality of members of the human rights treaty bodies, which is reproduced in annex VIII to the present report.

### **Decision of the Committee on Economic, Social and Cultural Rights on the proposed guidelines on the independence and impartiality of members of the human rights treaty bodies**

Committee on Economic, Social and Cultural Rights: report on the forty-eighth and forty-ninth sessions,<sup>70</sup> annex VIII:

The Committee on Economic, Social and Cultural Rights,

Upholding Economic and Social Council resolution 1985/17 of 28 May 1985,

Reaffirming its commitment to the independence and impartiality of members of the human rights treaty bodies,

Taking note with appreciation of the guidelines on the independence and impartiality of members of the human rights treaty bodies proposed by the meeting of chairpersons of the human rights treaty bodies in Addis Ababa in June 2012,

Strongly supporting the principle of independence and impartiality of its members in all of its activities and practices,

Noting that there are substantial similarities between the existing practice of the Committee and the proposed guidelines,

<sup>69</sup> CERD/C/35/Rev.3.

<sup>70</sup> E/2013/22-E/C.12/2012/3.

Decides to continue discussions on the subject, as necessary.

### **Working methods of the Committee**

Committee on Economic, Social and Cultural Rights: report on the fiftieth and fifty-first sessions,<sup>71</sup> para. 77:

The Committee further discussed the guidelines on the independence and impartiality of members of the human rights treaty bodies (Addis Ababa guidelines, A/67/222, annex I). In this regard, the Committee adopted a decision at its fifty-first session, which is reproduced in annex IV to the present report.

### **Decision of the Committee on Economic, Social and Cultural Rights on the proposed guidelines on the independence and impartiality of members of the human rights treaty bodies**

Committee on Economic, Social and Cultural Rights: report on the fiftieth and fifty-first sessions,<sup>71</sup> annex IV:

The Committee on Economic, Social and Cultural Rights, acting upon its decision of 30 November 2012 on the proposed guidelines on the independence and impartiality of members of the human rights treaty bodies (the Addis Ababa guidelines, E/2013/22, annex VIII), further discussed the guidelines during its fifty-first session in November 2013.

The Committee, acting in the spirit of the Addis Ababa guidelines, decided to elaborate guidelines on the independence and impartiality of its members, building on its rules of procedure and practice.

### **Non-participation of a member in the examination of a communication**

Rules of procedure,<sup>72</sup> rule 5:

1. A member of the Committee shall not take part in the examination of a communication if:
  - (a) The member has a personal interest in the case;
  - (b) The member has participated in the making and adoption of any decision on the case covered by the communication in any capacity other than under the procedures applicable to this Optional Protocol;
  - (c) The member is a national of the State party concerned.
2. In deciding any question that may arise under paragraph 1 of the present rule, the member concerned shall not take part in the decision reached.
3. If a member considers that he or she should not take part or continue to take part in the examination of a communication, the member shall inform the Committee through the Chairperson of his or her decision to withdraw.

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<sup>71</sup> E/2014/22-E/C.12/2013/3.

<sup>72</sup> E/C.12/49/3.