

GQUAL

GQUAL

CAMPAIGN FOR GENDER PARITY IN
INTERNATIONAL REPRESENTATION

CAMPAÑA POR LA PARIDAD DE GÉNERO
EN LA REPRESENTACIÓN INTERNACIONAL

#CHANGETHEPICTURE

GENDER EQUALITY IN INTERNATIONAL TRIBUNALS AND BODIES: AN ACHIEVABLE STEP WITH GLOBAL IMPACT

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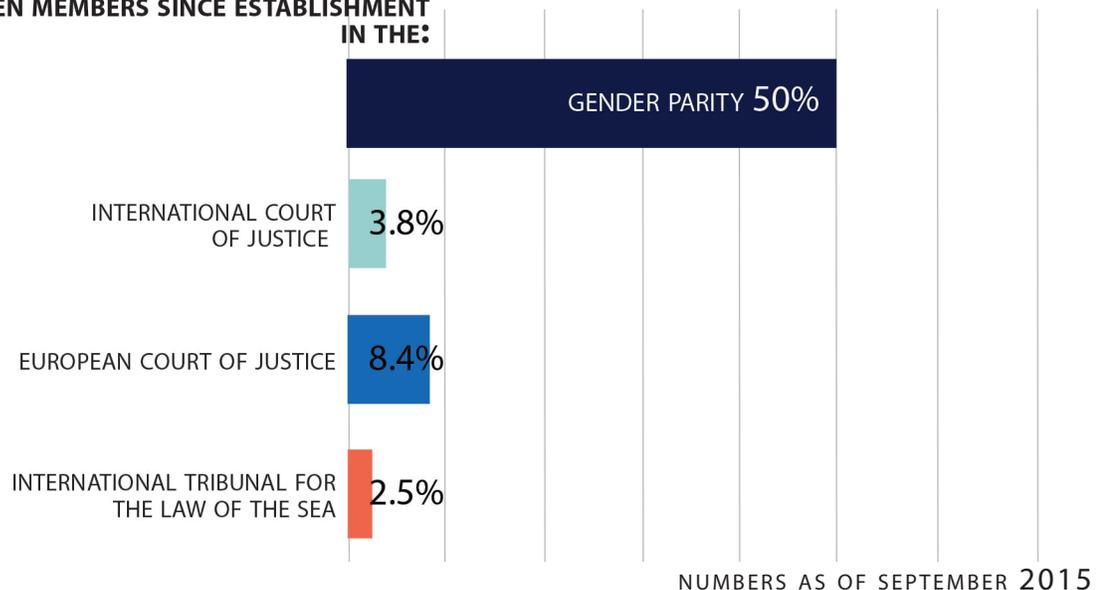
We live in an increasingly interconnected world, where global and regional decisions impact conflict, cooperation, rights, and duties. Regional and international tribunals and adjudicatory and monitoring bodies sit at the middle of this powerful intersection.

These bodies decide issues of peace and security and set and enforce policy on commerce, debt, migration, labor, minorities, corruption, and environmental protection. They define the scope of international protection of fundamental rights, and the punishment due to those responsible for crimes against humanity, war crimes, and genocide. These obligations bind States, organizations, individuals, peoples, and corporations, amongst others.

Women, however, are scarcely represented in these institutions that shape our world and our lives, the course of current international and national affairs, and the landscape for future generations. Though there has been some progress over time, it has been grossly inadequate.

A review of the composition of international tribunals and bodies shows that women are underrepresented in almost all cases. Some of the most salient examples are: the International Court of Justice (ICJ or World Court), where three of the 15 judges are women and where historically there have been only four women judges out of 106 total judges; the United Nations Special Procedures (Rapporteurs and Independent Experts), where 19 out of a total of 52 have never been led by a woman; the Inter-American Court of Human Rights with no woman on the current bench and historically having four women among its 35 judges¹; and, commercial arbitrations, where women make up only 6.5% of arbitrator appointments for international disputes².

EXAMPLES OF THE PERCENTAGE OF TOTAL WOMEN MEMBERS SINCE ESTABLISHMENT IN THE:



Increasing knowledge and visibility of the problem is an important first step to address inequality,³ but awareness alone will not solve this disparity. Changing the picture will require a concerted effort by diverse actors such as academics, activists, mandate holders, Government representatives, ambassadors, opinion makers, and humanitarians. In this spirit, we launch GQUAL, a global campaign for gender parity in international representation.

GQUAL recognizes that women's participation matters for equality for all and for the legitimacy and impact of international bodies. The initiative seeks to highlight both the nomination and voting processes for international tribunals and bodies as critical points of access, ones that can and should be shaped to ensure women's equal representation. The Campaign also proposes the development of mechanisms, standards, and policies to promote women's equal representation, along with the coordination of research, advocacy, and collective actions to pursue gender parity in international tribunals and bodies.

BY INVOLVING A BROAD RANGE OF ACTORS IN THE STRATEGY, INCLUDING STATES, CIVIL SOCIETY, AND THE INTERNATIONAL BODIES THEMSELVES, *GQUAL* HAS THE POTENTIAL TO MAKE SIGNIFICANT STEPS IN ADVANCING GENDER EQUALITY.

This concept paper presents the results of a study on women's participation in international tribunals and bodies. It exposes some of the reasons why women's equal participation and representation are important, and outlines some of the strategies and entry points for advocacy for GQUAL.

I. GENDER INEQUALITY IN INTERNATIONAL TRIBUNALS AND BODIES: THE PROBLEM

To understand the depth of the problem, we studied current and historical levels of the representation of women in 84 international bodies, including international and regional courts of justice, international and hybrid criminal tribunals, regional human rights tribunals and commissions, United Nations treaty bodies, and all United Nations Special Procedures, totaling 574 permanent positions.

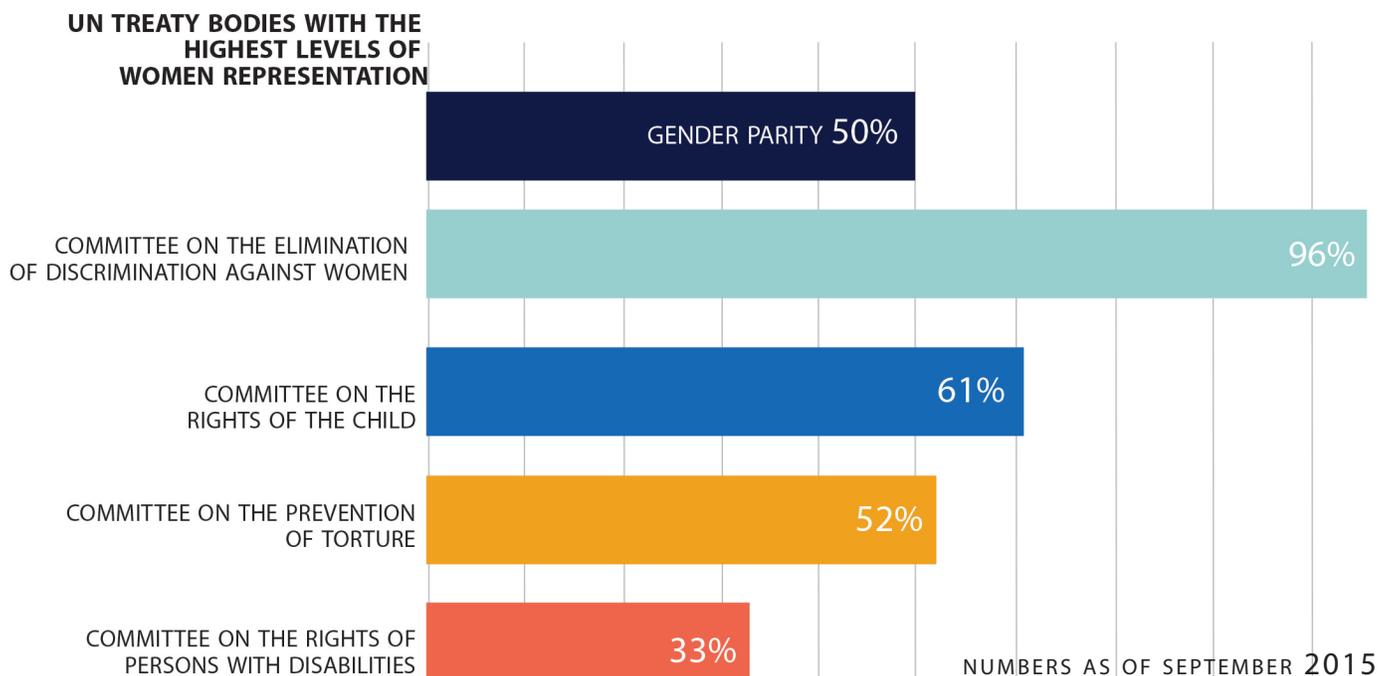
Starting with the ICJ,⁴ only four out of 106 members have been women since its establishment in 1945. Three of those four women sit on the bench currently. An equally regrettable record is held by the International Tribunal of the Law of the Sea (ITLOS), which began operating in 1994. Since then, 40 judges have served, with only one woman currently serving.

International Criminal Tribunals also have few women judges. The International Criminal Tribunal for Rwanda has 10 permanent members, two of whom are women. The International Criminal Tribunal for the Former Yugoslavia has 17 permanent members, two of whom are women. The International Criminal Court does better, with six of its 18 members women, three of them currently occupying the highest positions of the Court –President, Vicepresident and Prosecutor- for the first time. Still, it does not have parity.

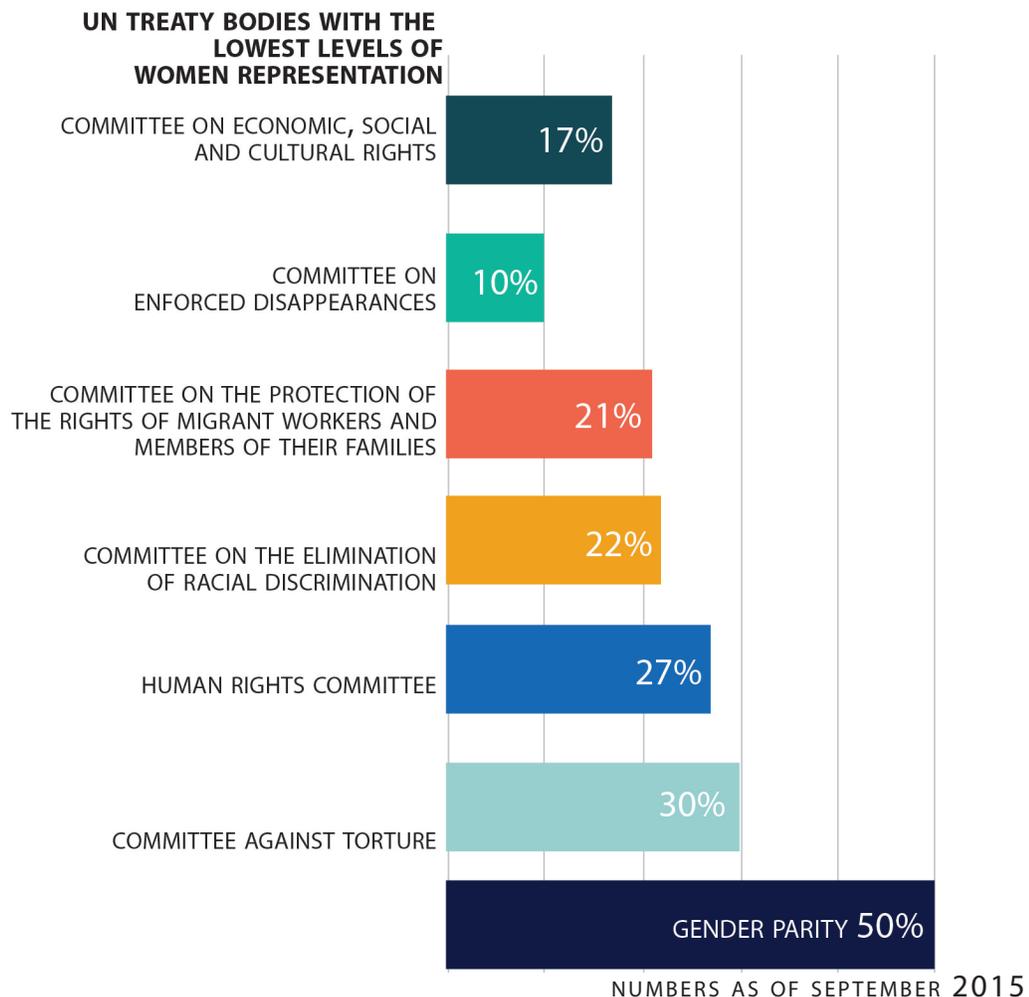
The representation of women at regional human rights tribunals ranges from 30% at the European Court on Human Rights (14 out of 45), 18% at the African Court on Human and People's Rights (2 out of 11), to 0% at the Inter-American Court on Human Rights (0 out of 7). The Association of Southeast Asian Nations (ASEAN) Intergovernmental Commission on Human Rights, although not a tribunal, counts with 30% representation of women (3 out of 10).

Within the major international tribunals reviewed in this study, women's participation accounts for an average of 17%.

GQUAL's study of the ten United Nations human rights treaty bodies reveals an interesting trend in gender representation. A broad analysis of the numbers shows that as of September 2015, 40.6% of the positions are held by women.



However, when we take a closer look at which positions are filled by women in the treaty bodies, they are concentrated in the Committee on the Elimination of Discrimination against Women (95.6%), the Committee on the Rights of the Child (50%), and the Subcommittee on the Prevention of Torture (52%). Therefore, we are only seeing increased women’s participation when their presence is called for based on representation, or in areas related to care, linked to women’s traditional roles.



Across the rest of the United Nations treaty bodies, the level of representation of women is surprisingly low. The Human Rights Committee, which deals with the protection of civil and political rights, has five women out of 18 members, the Committee on Enforced Disappearances has two women out of 10 members, the Committee on Economic, Cultural and Social Rights has three women out of 18 members, the Committee on the Protection of the rights of all Migrant Workers and Members of their Families has three women out of 14 members, and the Committee on Racial Discrimination has four women out of 18 members.

The composition of the United Nations Special Procedures, which include a broad range of working groups on key issues, Special Rapporteurs, and Independent Experts, is also problematic. As of September 2015, 19 out of 52 Special Procedures have never been led by a woman. Of those, 11 out of 19 positions have been occupied by more than one rapporteur. For example, the rapporteurships on Racial Discrimination (established in 1993), Freedom of Expression (established in 1993), Physical and Mental

Health (established in 2002), the Situation of Palestine (established in 1993), and Torture (established in 1985) have never been held by women. Across the rest of the United Nations treaty bodies, the levels of representation of women is also surprisingly low. The Human Rights Committee, which deals with the protection of civil and political rights, has five women out of 18 members, the Committee on Enforced Disappearances has two women out of 10 members, the Committee on Economic, Cultural and Social Rights has three women out of 18 members, the Committee on the Protection of the rights of all Migrant Workers and Members of their Families has three women out of 14 members, and the Committee on Racial Discrimination has four women out of 18 members.

Though some international bodies have made progress since their establishment, as is the case with the ICJ, these advances are insufficient and do not preclude the possibility of regression.

In fact, most of the international bodies surveyed by GQUAL that have achieved gender parity at some point, have not been able to sustain it. In that respect, the Inter-American Court of Human Rights (I-A Court) provides an interesting example. The I-A Court started with seven male judges, and it was not until 1988 that a woman judge, the Honorable Sonia Picado, joined the Court. After Judge Picado left the Court in 1994, another woman did not serve until 2004. In 2007, the I-A Court reached three women judges out of the total seven.⁵ However, the I-A Court reverted back to an all-male composition in 2013. A woman judge will join the Court again in January 2016.⁶

Even the International Criminal Court (ICC), with a charter mandating that gender be considered in its selection process, has experienced a similar moment of gender parity followed by a return to underrepresentation. In 2002, the ICC earned the distinction of becoming the first female-majority international bench. However, six years later, this progress regressed, leaving only six women out of 18 total judges⁷.

These trends show that movements toward gender parity must be accompanied by policies, mechanisms, or actions that ensure progress is not only achieved, but sustained. This is where GQUAL aims to contribute.

Why is the participation of women in international tribunals and mechanisms relevant? In short, women's participation and representation matters for equality as a right, as well as for the legitimacy and impact of these international bodies.

A. WOMEN'S REPRESENTATION AS A MATTER OF EQUALITY

II. WOMEN'S PARTICIPATION MATTERS: THE REASONS

One of the most compelling reasons for parity is that an adequate representation of women matters for equality for all.

Women make up just over half of the world's population, and across the globe there is a deep pool of talented women in academia, the judiciary, governmental and international institutions, civil society organizations, and the private bar to fill an equal number of the international positions available.

Moreover, equality is not an aspiration, but a right and a principle of international law. Various charters and conventions recognize women's right to be represented. The United Nations Charter recognizes the rights of men and women to participate in its bodies in any capacity

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and in conditions of equality. The Convention on the Elimination of all forms of Discrimination Against Women recognizes the right of women to adequate representation in international organizations. And, several conventions recognize the right to participate in public life without discrimination based on sex, race, ethnicity and other grounds. Thus, adequate representation, equal access, and equality, should be guaranteed, and States and international organizations have a fundamental role in doing so⁸.

Additionally, ensuring adequate representation of women in international tribunals and bodies could foster equality in similar positions at the domestic level in countries where women's participation is lagging, or in regional or global international fora that face a similar deficit.

B. REPRESENTATION IS CRITICAL FOR LEGITIMACY AND IMPACT

An important argument to consider in this debate is that adequate representation of women affects the legitimacy and impact of institutions⁹.

When only a small fraction of the global population creates, develops, implements and enforces rules for all, the legitimacy of their decisions and policies, and even of the institutions themselves can be called into question.

The perception of legitimacy affects what matters are brought before an international tribunal or body. For example, the presence of women might help bring matters to the table that are otherwise ignored or invisibilized. This has been illustrated in the context of International Criminal Tribunals where it has been pointed out that many women victims and witnesses are more comfortable testifying before female judges and that behavior and language that is disrespectful of women may be averted by the presence of female judges and prosecutors¹⁰.

[FOR HUMAN RIGHTS BODIES, THE UNDERREPRESENTATION OF WOMEN IS EVEN MORE DAMAGING TO THEIR LEGITIMACY AND THAT OF THEIR DECISIONS]

Equal representation also matters for procedural justice. It influences the perception of fairness from those on the receiving end of a decision. At the same time, this perception affects the mobilization of critical actors to enforce the policies and decisions of international tribunals and bodies.

Although the lack of equal representation of women may affect the legitimacy and impact of all international bodies, this argument is particularly important for human rights bodies, because they are founded on the principle of equality. For those bodies, equality is part of their core directive, and the underrepresentation of women is even more damaging to their legitimacy and that of their decisions.

Moreover, for human rights bodies or tribunals, social legitimacy is key for their effectiveness, as few States have binding enforcement or incorporation mechanisms to guarantee international and national human rights protection. The perception held by victims, civil society, national institutions, and other parties of the international body can affect the implementation of standards and judgments and thus determine the overall impact of these bodies. This perception is, in part, based on composition.

Some of the debates taking place in the context of diversity on corporate boards, can enrich the ones that we are having. In this sense, even in a commercial environment, a strong argument has been made that equal representation on boards is a critical element of a public image meant to reflect a commitment to equal opportunity and diversity. Much more should then be expected from justice institutions¹¹.

C. WOMEN'S EXPERIENCES MATTER

An additional argument for adequate representation is that women usually bring different perspectives to adjudicating, and that these perspectives affect outcomes. Though the decisions made by men and women may not be distinguishable based on gender, it is likely that diverse experiences, backgrounds, and expertise will enrich the work of international tribunals and bodies. A critical mass of diverse women can promote important discussions of legal standards and the resolution of controversies that might not otherwise be considered. Conversely, when these voices are absent, tribunals and bodies may fail to meet their potential.

For example, many cite Judge Navanethem (Navi) Pillay for her critical role as the single woman judge at the time of the International Criminal Tribunal for Rwanda and for developing jurisprudence that defined rape and sexual violence as genocide.¹² Likewise, Judge Elizabeth Odio is praised for her role in defining rape as torture at the International Tribunal for the former Yugoslavia¹³. Similarly, in the Inter-American system, Judge Cecilia Medina along with experts such as Rebecca Cook have played an important role in the development of gender-based discrimination jurisprudence

Additionally, in this same line of argument, in the context of peace and security, the United Nations affirmed the importance of the representation of women at all decision making levels in "international institutions and mechanisms for the prevention, management, and resolution of conflict" in General Assembly Resolution 1325. The rationale expressed in the resolution is that women's presence in these spaces is necessary. It further recognizes that women often fulfill differentiated and crucial roles in the prevention and resolution of conflict and peacekeeping, and that their equal participation and representation in the decision making instances of these processes will have an impact in the sustainability and success of peacekeeping work.

It is important to note that even with an express commitment to the representation of women in the context of peace and security, many policy makers have failed to see that most tribunals and bodies have mandates that are linked to peace, security, and human rights. Thus, women should also be included in the bodies and tribunals established to deal with different aspects of conflicts.

Lastly, including women may improve the functioning of collective bodies. Research points at diversity as a catalyst of creativity and a more careful examination of information and options. These arguments, that have been put forth in the context of corporate board membership, can also be used to strengthen the support for equality, gender parity and diversity in other collective bodies, such as international tribunals and monitoring bodies. This research might also help highlight the relevance of women's participation in spaces where there are no issues involved that are linked to the traditional roles or experiences of women, such as the Tribunal on the Law of the Sea.

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There are many potential strategies to improve gender parity and representation in the international arena, including mentoring and providing financial support for women candidates and women who occupy international positions, education, etc. The effectiveness of these strategies might vary depending on various factors, including the status of women in specific countries, conditions and situations that present unique obstacles to full participation, entrenched exclusionary practices at the national or international level, etc.

The priority strategies for the GQUAL Campaign are established in the GQUAL Declaration, a document

signed by hundreds of prominent and diverse women and men from around the world expressing their support for equal and adequate representation.

III. GQUAL'S PATH TOWARDS GENDER PARITY: STRATEGIES FOR ADVOCACY

One of the key strategies that GQUAL will use to achieve equal representation is targeting the nomination and selection processes of international tribunals and bodies. These are critical entry points to these positions. Nomination processes define the pool of available candidates, while selection procedures influence voting practices and results. Developing and enforcing nomination and voting policies, measures or practices that take into account gender parity will have a concrete impact on the composition of international tribunals and bodies.

For the most part, nomination is the responsibility of a limited number of State actors, usually within the Executive branch, such as a foreign ministry or department of foreign affairs. For some important positions, the Head of State or consultative organs might be involved. Self-nominations or nominations by non-State actors are notable exceptions. Voting is generally done by State representatives expressing their Government's position in the international organization that hosts the tribunal or body.

Consequently, changing the current practices for nomination and voting will require direct engagement with States or institutional actors and in a majority of instances, this should not present a significant challenge. Many decision makers have adopted commitments of transparency, participation, and adequate representation when it comes to the composition of their national and international institutions. Thus, in some countries, the principles and values that would justify changing the nomination and voting practices to reflect gender equality considerations are in harmony with gains already achieved at other levels, such as parliamentary or ministerial representation.

Planning GQUAL's road map to achieve change in the nomination and voting processes will require the understanding that each national and international process obeys different institutional frameworks, traditions and cultures, and can therefore demand different avenues for change. Thus, strategies for modifying the way in which members of a treaty body or a Special Procedure are elected will be different, and so will the strategies designed to affect discretionary nomination processes at the national level or elections decided by international institutions.

The existing processes for nomination and voting vary with regards to transparency, their participatory nature, and their evaluation of individual merits, expertise, independence, diversity, and moral. In a few instances, gender balance and diversity are criteria that shape the nomination and selection processes, both nationally and internationally¹⁴.

Candidates are nominated generally by their own nations. Voting is done at the international level and is generally a diplomatic process that often involves only a cursory review of the qualifications. Votes are frequently exchanged between countries¹⁵. These exchanges may involve agreements to support preferred candidates in the same election, but might also involve future elections in the same body or concurrent elections in other bodies. Many of these agreements take place in secret, and the candidate most likely will not be involved in the decisions of trading votes.

Given the process for voting, individual attributes such as proficiency and expertise in the specific field, independence, and integrity are more likely to be overlooked. Similarly, collective outcomes that reflect balanced representation in terms of geography, gender, race, skills, experience, and background cannot be ensured as a result of the limitations of the current voting systems.

In order to foster gender parity, GQUAL aims to rethink national and international nominating and voting procedures. This will require convincing States to commit to nominating in parity and to making gender a critical part of their voting decisions. GQUAL will also engage with the international tribunals and bodies, and with their umbrella organizations to adopt changes in their practices, policies, standards, and norms where necessary.

What follows is a brief roadmap of some of the tasks ahead taking into account three main paths: what States can do, what international institutions and monitoring organs can do, and some steps for those engaged in the GQUAL Campaign.

A. WHAT CAN STATES DO TO PROMOTE GENDER PARITY?

Changing the way in which States nominate and vote is critical, as these processes determine the pool of available candidates, and directly influence the possibility that women are elected to international tribunals and monitoring bodies.

1. NOMINATING IN PARITY

There are different ways for Governments to move towards nominating in parity. For example, a Government could make a public pledge to nominate an equal number of women and men to international tribunals and monitoring bodies. They could even go a step further in expressing that commitment through legislation, decrees, or policies that regulate the procedural or substantive aspects of nominations. Depending on how many nominations States may make, or the possibilities given by the rules governing elections of different bodies, they could consider nominating a man and a woman for each position. There are already procedures in international tribunals that account for gender balance in nomination. For example in the European Court of Human Rights, States must present three candidates of different sexes, unless exceptional circumstances justify single sex lists.

If States made a commitment to nominate in parity, the available pool of candidates would contain noticeably more women without even changing the voting system. This step alone could result in more representative international tribunals and bodies¹⁶.

2. VOTING IN PARITY

Voting in parity is the second important pledge States could make. Even if a Government might not have an interest in presenting candidates for a particular election to a body or Tribunal, it might still need to vote to determine the composition of those organs.

Changing States' current voting patterns to take into account adequate gender representation would have a significant impact on the outcomes of elections. States could use half of their votes for women, or as many votes needed to achieve parity.

To illustrate, in many bodies, States often have as many votes as vacancies exist. If there are 10 vacancies, a State could commit to vote for at least five women. If a particular body had no or few women already serving, a State could show its commitment to gender equality by devoting more than its pledged amount of votes to women.

Voting in parity is less clear for mandates that have only one person, such as Special Rapporteurships. In this situation, States or selection bodies could target spaces where women have been historically absent or underrepresented and commit to vote for women in those bodies. For example, the next Special Rapporteur on Freedom of Expression should be a woman, since that position has always been held by men.

Changing voting patterns would reinforce the incentive to nominate qualified women. If women are underrepresented on a particular tribunal or body, and States have committed to vote in parity, States could nominate more women knowing they might indeed have a greater chance of being elected.

One difficulty of this pledge would be tracking it, since most exchanges and votes are still secret for these organs. However, a State could commit to evaluate all its individual votes for international tribunals and bodies on an annual basis to review how many women and men they voted for, and publish that information. Short of individual State or institutional changes of policies or practices, the strength of the pledge would primarily be seen in the election results.

3. TRANSPARENT PARTICIPATORY MECHANISMS AND PRACTICES

A procedural measure to increase representation is to ensure that States promote transparent participatory mechanisms and practices for the nomination and selection of candidates. In most countries, decisions on candidate nomination are still taken through processes that are not participatory or subject to public scrutiny. Even though most nominations are discretionary, the lack of publicity around such processes both limits the candidate pool and does not allow for debate around the conditions and qualifications required from candidates.

In fostering transparency, States should list available positions, request applications from qualified individuals or nominations from the public through civil society organizations or professional associations. This may already engage a broader, more diverse group of qualified candidates.

The skills and qualifications for such positions should be clearly defined to promote merit-based decisions and to account for different career paths. And with this information, civil society will be better positioned to advocate for individuals from underrepresented groups. It should be noted that in some States many fruitful debates about the composition of critical institutions have led to norms or policies to foster women's equal representation. Formal or informal review processes might provide useful comparisons between candidates, elevate the cost of presenting poor candidates, and reward the presentation of qualified candidates.

Even if Governments do not make nomination or voting pledges and their decisions in these issues remain discretionary, transparency can be a step forward. Moving in this direction will likely have an impact on the legitimacy and representative character of the bodies or institutions that the candidates eventually join.

B. WHAT CAN INTERNATIONAL TRIBUNALS AND BODIES AND THE INTERNATIONAL ORGANIZATIONS THAT HOST THEM DO TO PROMOTE GENDER PARITY?

The lack of women at international tribunals and bodies can also be affected by the institutional arrangements, norms, policies, and practices of the international organizations that host them. Moreover, standards, doctrine, and soft law, can also affect the composition of these bodies.

1. FOSTER TRANSPARENCY

Similar to its importance in State practice, transparency is also important for international and regional bodies. This is particularly true regarding the dissemination of information about current and historic compositions of each body, upcoming vacancies, domestic and international nomination and voting criteria and procedures.

Various bodies have instituted practices that attempt to promote transparency¹⁷ by including policies for posting vacancies, expanding the number of external actors able to participate in the evaluation of candidates, public presentations, etc. These practices should be shared, evaluated and expanded to promote broader public engagement with the process.

2. THE ADOPTION OF RULES TO PROMOTE OR ENSURE GENDER PARITY

Most selection processes for international tribunals and bodies do not have mechanisms that focus on collective outcomes¹⁸. If the process for selection of members of an international body does not include mechanisms that ensure some collective outcomes, the final composition of the body may end up not reflecting diversity to which States are committed to promote, or the competences and specific backgrounds that might be relevant at a point in time. In the Americas, for example, often times States have talked about the value of diverse legal systems for universality. However, that shared understanding has not necessarily affected their choice of candidates from the Caribbean region for the I-A Court, with the result of a regional tribunal composed solely of civil law jurists¹⁹.

One exception to the lack of attention to the final collective composition of a body is the attention paid to geographic diversity. For example, at the Human Rights Council, the composition of the State members is decided based on a regional slate, and at the European Courts of Justice and of Human Rights there needs to be one judge per member State.

However, no such effective system has been created to ensure gender parity and adequate gender diversity as a collective outcome. Some steps have been taken to highlight the need to improve women's representation in different bodies. The United Nations has established guidelines for treaty bodies and Rapporteurs that request that States give "due consideration" to a balanced gender representation amongst other criteria²⁰. The European Court of Human Rights requires States to submit both men and women candidates. The International Criminal Court developed a highly sophisticated voting system that requires States to vote for a minimum number of candidates from each regional group, legal expertise and gender²¹.

While these guidelines and mechanisms show commitment to gender equality, they have not always resulted in adequate representation of women. It is here where the institutions that set down the rules and guidelines for the election and composition of international bodies, such as governing institutions of international organizations, Assemblies of State Parties to a particular treaty, and also the international bodies themselves, have a critical role to play in developing mechanisms and guidelines that can promote and guarantee gender parity.

An important recent development is the Convention on Persons with Disabilities, which requires there to be sitting members with disabilities. This could be replicated by incorporating binding provisions to include underrepresented groups or beneficiary groups in any new treaties.

GQUAL aims to study and learn from existing experiences and to engage with international organizations to produce changes in the selection processes.

3. MONITOR PROGRESS AND DEVELOP STANDARDS

Human rights bodies, their Secretariats, the governmental institutions of the regional organizations, the Office of the High Commissioner for Human Rights and the Human Rights Council should study the gender composition of international tribunals and bodies that operate under their watch. Through such a study they can assemble best practices in nomination, voting, and selection that result in adequate representation and use them to help amend the procedures that do not achieve that goal.

These bodies or institutions could publish observations, recommendations, and comments that analyze substantive and procedural aspects of the human rights law that affects membership. Such affected rights could include the rights to participate in public life, equality, non-discrimination, positive obligations, non-regression, and the special protection for women and other underrepresented groups. The issue of women's representation in international bodies should also be included when documenting issues of equality in the administration of justice system, access to justice, participation in political life, etc.

C. A COLLECTIVE EFFORT TO FIGHT UNDERREPRESENTATION: GQUAL, THE CAMPAIGN

Women are an incredibly diverse group of people who live in different societies and experience different levels of exclusion and inequality in their daily lives. Across the globe, there are thousands of competent, qualified women that can fill positions in international tribunals and bodies, and represent a diversity of political opinion, religious belief, and geographic origin that could enrich these bodies. Women should be participating in the deliberation and decisions taken in the international sphere regarding issues not only critical to them, but fundamental for shaping the present and the future of international law, human rights, commerce, criminal law, and the environment. This would not only be right, but it could make for better justice, with more legitimacy, and further impact.

However, as the study presented in this paper shows, women's underrepresentation persists. Narrowing the gap illustrated in our study of international tribunals and bodies would require electing around 300 women globally. Hence, the paucity of women currently serving on international tribunals and bodies seems to indicate a deeply rooted structural inequality in access to these organs.

The action that followed the study of the numbers revealed above, is the GQUAL Declaration, which establishes the road map for action and a Campaign based on these commitments. The main paths are based on affecting nomination and voting patterns; influencing mechanisms, standards, policies; and promoting research, advocacy, and collective action, all with the aim to pursue gender parity in international tribunals and bodies.

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The work ahead for the Campaign includes monitoring nomination processes and advocating for change at the State and international level; mapping specific strategies for the different lines of intervention; strengthening a broad range of allies to work and share experiences and expertise in different regions, and topics; and, documenting processes and results and assembling data to support further mobilization of fellow civil society organizations, States, and international bodies.

An integral part of that process consists in deepening these discussions on a local, regional, and global



level, and filling the knowledge gap prevalent in many legal and social areas that are relevant to ensuring adequate representation of women in the international arena.

Certainly the Campaign benefits from building on the existent research, expertise, and reflection; and hopes to encourage a robust understanding of different aspects of the problem, its causes, and possible solutions. Some areas of inquiry to pursue include: studying practices of nomination in most countries; tracking the nominating and voting records of countries; researching the possibilities of cross fertilization in corporate diversity and gender representation in international tribunals and bodies; collecting data on the judges and lawyers working as staff of international courts and human rights bodies; examining the formal and informal practices for appointments; looking at racial, ethnic, and gender stereotypes and how they play into the perception of performance of international judges; inquiring about the role of international institutions in fostering gender balance; developing statistical studies of selection probabilities given by different changes of patterns or rules for voting; identifying the specific needs of elected women judges; working on a reinterpretation of article 8 of CEDAW; reflecting on the rationale for secret voting for international tribunals and human rights mechanisms; etc.



Moreover, the Campaign hopes to create synergies with valuable initiatives that pursue a more fair landscape for all, including ongoing broader discussions and strategies tackling intersectionality, exclusion, and inequality.



Ultimately, the goal of gender parity in international tribunals and bodies can advance if a large and diverse number of academics, activists, persons in power, humanitarians, opinion makers, international tribunals, bodies, and institutions commit to tackle this problem together. Representation is not only a just claim, it is a means to ensure the equal participation of women in building a better world as stated in the Beijing Declaration. Gender equality in international representation is a small, achievable step with global impact.

ANNEX: NUMBERS AS OF SEPTEMBER 17, 2015

International Tribunals

	<i>Tribunal</i>	<i>Current Members</i>	<i>Current Women (%)</i>	<i>Total Historical # of Members</i>	<i>Total # of Women (%)</i>
1945	International Court of Justice	15	3 (20%)	106	4 (3.77%)
2002	International Criminal Court	18	6 (33%)	40	14 (35%)
1994	International Tribunal for the Law of the Sea	21	1 (5%)	40	1 (2.5%)
1995	International Criminal Tribunal for Rwanda	10 ²²	2 (20%)		
1993	International Criminal Tribunal for the former Yugoslavia	17 permanent judges 3 Ad Hoc Judges	2 permanent judges (11.7%) 1 Ad Hoc Judge	51 permanent judges 35 Ad Hoc Judges	9 permanent judges (17.6%) 14 Ad Hoc Judges
TOTAL → 81 permanent positions			14 (17%)	237	28 (11.8%)

Regional Courts

	<i>Tribunal</i>	<i>Current Members</i>	<i>Current Women (%)</i>	<i>Total Historical # of Members</i>	<i>Total # of Women (%)</i>
1952	European Court of Justice	28	5 (17.8%)	95	8 (8.42%)
1979	Court of Justice of the Andean Community	4	2(50%)		
1907	Central American Court of Justice	6	2 (33%)		
2005	Caribbean Court of Justice	7	1 (14%)	10	2 (20%)
1991	ECOWAS Community Court of Justice	7	1 (14%)	17	5 (29.4%)
1999	East African Court of Justice	10	1 (10%)	23	4 (17%)
TOTAL → 62 positions			12 (19.35%)	145	19 (13%)

Regional Human Rights Tribunals

	<i>Tribunal</i>	<i>Current Members</i>	<i>Current Women (%)</i>	<i>Total Historical # of Members</i>	<i>Total # of Women (%)</i>
1979	Inter-American Court of Human Rights	7	0 (0%)	35	4 (11%)
1959	European Court of Human Rights	45 ²³	14 (31%)	175	35 (20%)
2004	African Court on Human and People's Rights	11	2 (18%)	22	4 (18%)
TOTAL → 63			16 (25.4%)	232	43 (18.5%)

International Commissions

	<i>Commission</i>	<i>Current Members</i>	<i>Current Women (%)</i>	<i>Total Historical # of Members</i>	<i>Total # of Women (%)</i>
1959	Inter-American Commission on Human Rights	7	3 (42.8%)	66	11 (16.6%)
1987	African Commission on Human and People's Rights	11	6 (54.5%)	44	16 (36%)
2010	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children	20	17 (85%)		
1993	ASEAN Intergovernmental Commission on Human Rights	10	3(30%)	20	5 (25%)
TOTAL → 48 positions			29(60%)	130	32(24.6%)

Hybrid Tribunals

	<i>Tribunal</i>	<i>Current Members</i>	<i>Current Women (%)</i>	<i>Total Historical # of Members</i>	<i>Total Historical # of Women (%)</i>
2003	Extraordinary Chambers in the Courts of Cambodia	23	3 (13%)	33	6 (18%)
2002	Special Court for Sierra Leone	15	4 (27%)		
2013	Residual Special Court for Sierra Leone	16	5 (31%)		
2009	Special Tribunal for Lebanon	11	3 (27.27%)	12	3 (25%)
TOTAL → 65 positions			15 (23%)		

UN Bodies

	<i>Committee → Current Members</i>	<i>Current Members</i>	<i>Current Women (%)</i>	<i>Total Historical # of Members</i>	<i>Total # of Women (%)</i>
1976	Human Rights Committee	18	5 (27%)		
1985	Committee on Economic, Social and Cultural Rights	18	3 (17%)		
1969	Committee on the Elimination of Racial Discrimination	18	4 (22%)		
2004	Committee on the Protection of the rights of All Migrant Workers and Members of their Families	14	3 (21%)		
2010	Committee on Enforced Disappearances	10	2 (20%)		
1979	Committee on the Elimination of Discrimination Against Women	23	22 (96%)		
1990	Committee on the Rights of the Child	18	9 (50%)		
1969	Committee on the Rights of Persons with Disabilities	18	6 (33%)		
1987	Committee Against Torture	10	3 (30%)		
2007	Subcommittee on Prevention of Torture	25	13 (52%)		
TOTAL → 172 positions			70 (40%)		

UN Special Procedures

	<i>Special Procedure</i>	<i>Current Members</i>	<i>Current Women (%)</i>	<i>Total Historical # of Members</i>	<i>Total # of Women (%)</i>
2000	SR Adequate Housing	1	1 (100%)	3	2 (66%)
2000	WG People African Descent	5	2 (40%)	15	6 (40%)
1991	WG Arbitrary Detention	5	1 (20%)	19	4 (21%)
2011	IExp Promotion of democratic and equitable international order	1	0 (0%)	1	0 (0%)
1998	SR Education	1	0 (0%)	3	1 (33%)
1980	WG Enforced Disappearances	5	2 (40%)	23	2 (8.7%)
2012	SR Safe, Clean, Healthy Environment	1	0 (0%)	1	0 (0%)
1982	SR Extrajudicial, summary, and arbitrary executions	1	0 (0%)	5	1 (20%)

1998	SR Extreme poverty	1	0 (0%)	4	2 (50%)
2000	SR Right to food	1	1 (100%)	3	1 (33%)
2005	IExp foreign debt	1	0 (0%)	4	0 (0%)
2010	SR freedom of association	1	0 (0%)	1	0 (0%)
1993	SR freedom of expression	1	0 (0%)	4	0 (0%)
1986	SR freedom of religion	1	0 (0%)	4	1 (25%)
2002	SR physical and mental health	1	0 (0%)	3	0 (0%)
2000	SR human rights defenders	1	0 (0%)	3	2 (66%)
1994	SR independence of judges and lawyers	1	1 (100%)	4	2 (50%)
2001	SR indigenous people	1	1 (100%)	3	1 (33%)
2004	SR on IDP-s	1	0 (0%)	3	0 (0%)
2005	WG use of mercenaries	5	2 (40%)	11	6 (54.5%)
1999	SR migrants	1	0 (0%)	3	1 (33%)
2005	SR minority issues	1	1 (100%)	2	2 (100%)
2013	IExp older persons	1	1 (100%)	1	1 (100%)
2011	SR truth, justice, reparations	1	0 (0%)	1	0 (0%)
1993	SR discrimination	1	0 (0%)	4	0 (0%)
2007	SR slavery	1	1 (100%)	2	2 (100%)
2005	IExp hrr and international solidarity	1	1 (100%)	2	1 (50%)
2005	SR counterterrorism	1	0 (0%)	2	0 (0%)
1985	SR torture	1	0 (0%)	5	0 (0%)
1995	SR environmentally sound waste management	1	0 (0%)	5	1 (20%)
2004	SR trafficking	1	1 (100%)	3	3 (100%)
2011	WG hrr and corporations	5	1 (20%)	6	2 (33%)
2008	SR water	1	0 (0%)	2	1 (50%)
2010	WG discrimination against women	5	5 (100%)	7	7 (100%)
1994	SR violence against women	1	1 (100%)	4	4 (100%)
2012	SR Belarus	1	0 (0%)	1	0 (0%)
1993	SR Cambodia	1	1 (100%)	6	1 (16.67%)
2013	SR Central African Republic	1	1 (100%)	1	1 (100%)
2014	IExp Côte d'Ivoire	1	0 (0%)	2	0 (0%)
2004	SR Korea	1	0 (0%)	2	0 (0%)
2012	SR Eritrea	1	1 (100%)	1	1 (100%)
1995	SR Haiti	1	0 (0%)	4	0 (0%)
2011	SR Iran	1	0 (0%)	1	0 (0%)

2013	SR Mali	1	0 (0%)	1	0 (0%)
1992	SR Myanmar	1	1 (100%)	5	1 (20%)
1993	SR Palestine	1	0 (0%)	6	0 (0%)
1993	IExp Somalia	1	0 (0%)	6	1 (16.6%)
1993	IExp Sudan	1	0 (0%)	8	1 (12.5%)
2011	SR Syria	1	0 (0%)	1	0 (0%)
1990	SR sale of children, prostitution, and pornography	1	1 (100%)	5	3 (60%)
2009	SR cultural rights	1	1 (100%)	1	1 (100%)
2014	SR persons with disabilities	1	1 (100%)	1	1 (100%)
TOTAL → 76 positions			30 (39.4%)	218	67 (30.7%)

Other

	<i>Committee → current members</i>	<i>Current Members</i>	<i>Current Women (%)</i>	<i>Total Historical # of Members</i>	<i>Total # of Women (%)</i>
1995	World Trade Organization Appellate Body	7	1 (14%)	25	4 (16%)

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1 As a result of the June 2015 elections, a woman will join this Court in 2016. There will then be one woman out of 7 judges.

2 M Baker and L Greenwood, "Getting a Better Balance on International Arbitration Tribunals" (2012), Vol. 28 No. 4. The Journal of the London Court of International Arbitration at 656. As cited by Annalise Nelson at 656, covering institutional and party appointments. <http://kluwerarbitrationblog.com/blog/2012/11/02/the-representation-of-women-in-arbitration---one-problem-two-issues/#fn-6188-1>

3 See Annex. In the last twenty years there have been several academics, and research projects that have reviewed gender disparities in international tribunals. See for example, N Grossman, "Sex on the Bench: Do Women Judges Matter to the Legitimacy of International Courts?" (2012), Vol 12. No. 2. Chicago Journal of International Law.

4 The ICJ had its first female member in 1995 and up to September 2015, 3 out of 15 members were women, equivalent to 20%.

5 Three out of seven members were women, two of them from the Caribbean (one from Jamaica, and another one from the Dominican Republic), one from South America (Chile). In 2010, 2 out of seven members were women, when the Chilean female judge was replaced by a Chilean male judge.

6 In total, 4 out of 35 members of the I-A Court since its establishment have been women, equivalent to 11.4%. Notably, while all of the women judges served only one term, many of the 32 men served the maximum two terms. Of those, Margaret Mac Cauley, an Afro descendant practitioner from Jamaica, bringing some of the richness of the common law system to a predominantly Latin American system; Sonia Picado, an eminent jurist from Costa Rica; Radhys Abreu, a diplomat from the Dominican Republic; and Cecilia Medina, a renowned academic and former member of the Committee on CPR, a former refugee, from Chile. There has never been an afro descendant man or women in the IA Court that did not come from the Caribbean. There has never been a self identified indigenous member of the Court.

7 Leigh Swigart and Daniel Terris. "Who Are International Judges?" In The Oxford Handbook of International Adjudication, 624 (2014). Oxford: Oxford University Press.

8 I use gender parity, adequate representation, and gender balance interchangeably for the purpose of the paper. Though I am conscious that they represent different criteria, and might not result in equal solutions in some of the bodies reviewed here.

9 Representation is one aspect affecting legitimacy, but there are other critical pieces such as nomination, selection mechanisms, the measures of control and tenure, their own decisions, the prestige of the regional institution where they sit, etc. Efforts to ensure adequate representation and gender balance, transparent and participatory selection and nomination processes, will make a significant contribution to many international tribunals and bodies.

10 Julie Mertus, "When Adding Women Matters: Women's Participation in the International Criminal Tribunal for the former Yugoslavia". Seton Hall Law Review, Vol. 38: 1297, 2008, available at <http://law.shu.edu/Students/academics/journals/law-review/Issues/archives/upload/Mertus-final.pdf>

11 Deborah L. Rhode and Amanda Packel, "Diversity on corporate boards: How much difference does 'difference' make?". Delaware Journal of Corporate Law, 39, No. 2, Fall 2014.

12 J Linehan. "Women and Public International Litigation: a background paper prepared for the Project on International Courts and Tribunals" (2002). Project on International Courts and Tribunals. At p. 3.; N Grossman, "Sex on the Bench: Do Women Judges Matter to the Legitimacy of International Courts?" (2012), Vol 12. No. 2. Chicago Journal of International Law. At p. 656.

13 Julie Mertus, "When Adding Women Matters: Women's Participation in the International Criminal Tribunal for the former Yugoslavia". Seton Hall Law Review, Vol. 38: 1297, 2008, available at <http://law.shu.edu/Students/academics/journals/law-review/Issues/archives/upload/Mertus-final.pdf>

14 Other outcomes of voting processes of international bodies are secured by voting mechanisms or by controlling available slots. For example, the United Nations Human Rights Council fixes regional representations in its membership; voting at a regional or global scale tends to secure some level of regional representation in the composition of bodies; and minimum voting thresholds are used to ensure the legitimacy of candidates.

15 J Linehan. "Women and Public International Litigation: a background paper prepared for the Project on International Courts and Tribunals" (2002). Project on International Courts and Tribunals. At p. 6.

16 We assume that gender is not a reason not to vote a candidate in the imperfect vote trading system that many bodies have as described in this paper.

- 17 There are interesting practices of identifying needs, and proposing candidates in more open, transparent, representative, and participatory processes, with decisions taken in a justified manner. See, L Burgorgue Larsen. "Between Idealism and Realism: A few comparative reflections and proposals on the appointment process of the Inter-American Commission and Court of Human Rights members." (2014). The Center for Civil and Human Rights, University of Notre Dame. <http://humanrights.nd.edu/assets/133831/burgorguelarsenia1.pdf>; Laurence Burgorgue-Larsen. "De Lege Ferenda: Reflections and proposals for improving the selection of candidates and election of the members of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights" (2014) in "The Selection Process of the Inter-American Commission and Court on Human Rights". CEJIL. Position Paper No. 10. http://cejil.org/sites/default/files/Documento%20de%20Coyuntura%20No.%2010_3.pdf
- 18 In many international bodies, there is a lack of collective or individual systems to review competences. Among the notable exceptions, we find the European Court on Human Rights and the ICC.
- 19 Another example is that of violence and discrimination against women in the Americas, which is a cause of national and international concern; however the Court lacks an expert in this area and has no woman on the bench. In this regard, current members of the Tribunal and the Executive Secretaries, Registrars of the Tribunal, practitioners, and academics could help identify unfulfilled needs or salient challenges. In this respect, I value enormously, the thoughtful contribution of Tracy Robinson, then President of the IACHR to CEJIL's publication on the selection process, calling for diversity to be taken into account. See, Tracy Robinson, "Why Diversity Matters", in "The Selection Process of the Inter-American Commission and Court of Human Rights: Reflections on Necessary Reforms". CEJIL, Position Paper No. 10, 2014.
- 20 United Nations General Assembly. Resolution 68/268. Par. 12 and 13. http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/68/268
- 21 Coalition for the International Criminal Court. "Procedures for the election of judges to the International Criminal Court". Fact Sheet. http://www.iccnw.org/documents/CICCF5-ElectionsProcedures_10May10_en.pdf
- 22 Only refers to the Appeals Chamber and President of the ICTR.
- 23 As of June 2015, 3 positions are vacant.