



Letter to Ambassadors of Permanent Missions to the United Nations

Re: Elections for the UN Committee on Economic, Social and Cultural Rights

24 September 2015

Dear Ambassador,

We are writing to you in connection with the up-coming elections for the UN Committee on Economic, Social and Cultural Rights. The note verbal was circulated last week announcing that nominations for membership must be submitted by 9 December 2015 with elections to be held in April 2016.

We write on behalf of a group of NGOs who work with the Committee and who are concerned about three elements regarding the current composition of the Committee:

1. Gender representation and the under-representation of women;
2. Expertise on women's economic, social and cultural rights; and
3. Independence of members.

1. Gender representation on the Committee on Economic, Social and Cultural Rights

Currently the membership of the Committee consists of 15 men and 3 women. This is concerning because it provides a poor example of gender balance in an important human rights body and it highlights a systemic problem in surfacing, pursuing and promoting highly qualified female candidates for membership to the Committee. It is also clearly inconsistent with the human rights principles of non-discrimination and equality between men and women, which are enshrined in the United Nations Charter¹ and the Universal Declaration of Human Rights² and of all the major international human rights treaties.³

¹ United Nations Charter Article 1, paragraph 3 & Article 8.

² Article 2

³ ICESCR Art 2(2) & 3, ICCPR Art 2(2) & 3, CEDAW, CRC Art 2(1), CRPD Art 3(b) &(g)



The Covenant on Economic, Social and Cultural Rights itself states: *The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.*⁴

The Committee's General Comment 16 on '*the equal right of men and women to the enjoyment of all economic, social and cultural rights*'⁵ reinforces the importance of not just de jure equality, but also de facto, or substantive, equality.

The importance of balanced gender representation on treaty bodies has also been expressly underlined in a number of General Assembly and Human Rights Council resolutions. In the General Assembly's 'treaty body strengthening resolution', States are encouraged '*in the election of treaty body experts, to give due consideration, as stipulated in the relevant human rights instruments, to balanced gender representation....*'⁶

Human Rights Council resolution 6/30: '*Encourages Member States to promote gender balance by, inter alia taking all the necessary measures, including budgetary and institutional measures, to guarantee the full participation of women in medium- and high-level ranks, regularly nominating more women candidates for election and appointment to the human rights treaty bodies and mechanisms... .*'⁷

The General Assembly also adopted a resolution in 2004 on 'Improvement of the status of women in the United Nations system'⁸ in which it '*Strongly encourages Member States to support the efforts of the United Nations and the specialized agencies, funds and programmes to achieve the goal of 50/50 gender distribution, especially at senior and policy-making levels, by identifying and regularly submitting more women candidates for appointment to positions in the United Nations system... .*'

The current dramatic under-representation of women on the Committee is inconsistent with international human rights law and with the view of the international community as expressed through the various resolutions mentioned above. **We therefore strongly urge you to consider nominating more women candidates for appointment to the Committee and supporting such candidates.**

2. Expertise on women's economic, social and cultural rights

In addition to supporting qualified women candidates to the Committee, we would encourage you to support candidates with established track records on women's economic, social and cultural rights. Today, women represent approximately 70% of the 1.2 billion people living in poverty throughout the

⁴ Covenant on Economic, Social and Cultural Rights, Article 3

⁵ CESCR General Comment 16, E/C.12/2005/4, (2005), esp paragraph 2

⁶ A/RES/68/268 Paragraph 13

⁷ HRC/RES/6/30 'Integrating the human rights of women throughout the United Nations system' paragraph 2

⁸ A/RES/59/164 'Improvement of the status of women in the United Nations system', paragraph 13



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world. Inequality with respect to the enjoyment of economic, social and cultural rights is a central fact of women's lives in every region of the world. Ongoing inequality in the sphere of these rights contributes to the continuing subordination of women and makes them especially vulnerable to violence, exploitation and other forms of abuse. As we know, throughout the world, economic, social and cultural rights violations are not gender-neutral - they intersect with, reinforce and effect gender discrimination in a myriad of ways. These complicated relationships are important to address in order to ensure that progressive and well-meaning policies advancing economic, social and cultural rights do, in fact, effectively empower and support women.

In addition, with the coming into force of the Optional Protocol, the Committee will also inevitably play an important role in the adjudication of women's economic, social and cultural rights. It is vital, therefore, that the Committee have explicit expertise on the specific issues that women face in terms of poverty, gender discrimination, exclusion from social benefits, and negative stereotyping.

3. Independence of members

Finally, we believe that it is critical for the proper functioning of the UN treaty bodies that their members are independent of States. The concept of independence of Committee members is supported by the ECOSOC resolution that established the Committee which provides that Committee members should be '*experts with recognized competence in the field of human rights, serving in their personal capacity*'.⁹

The requirement to serve in one's personal capacity means that candidates must not be, or appear to be, influenced by any State or other body whilst carrying out their role as Committee member. Holding government positions, including diplomatic appointments, concurrently with Committee membership, is consequently incompatible with expectations of independence and impartiality.

General Assembly's 'treaty body strengthening resolution' reinforces the importance of the independence of treaty body members. Relevantly, the resolution:

*'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, respecting fully the independence of treaty body members and the importance of avoiding any act that would interfere with the exercise of their functions.'*¹⁰

This issue is also addressed in the '*Addis Ababa Guidelines on the independence and impartiality of members of the human rights treaty bodies*'¹¹ which were adopted by the Chairpersons of all UN treaty bodies. These Guidelines provide useful elaboration of the meaning of independence. For instance:

⁹ ECOSOC Resolution 1985/17, paragraph (b)

¹⁰ General Assembly Resolution A/RES/68/268 Strengthening and enhancing the effective functioning of the human rights treaty body system (Treaty body strengthening resolution, 9 April 2014), paragraph 35

¹¹ Guidelines on the independence and impartiality of members of the human rights treaty bodies (Addis Ababa guidelines): HRI/MC/2012



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The independence and impartiality of members of the human rights treaty bodies is essential for the performance of their duties and responsibilities and requires that they serve in their personal capacity. Treaty body members shall not only be independent and impartial, but shall also be seen by a reasonable observer to be so.

Real or perceived conflicts of interest and challenges to the requirements of independence and impartiality may be generated by many factors, such as a member's nationality, place of residence, current and past employment, membership of or affiliation with an organization, or family and social relations.¹²

They may not be subject to direction or influence of any kind, or to pressure from the State of their nationality or any other State or its agencies and they shall neither seek nor accept instructions from anyone concerning the performance of their duties. Consequently, members are accountable only to their own conscience and the relevant treaty body and not to their State or any other State.¹³

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 shall consequently 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.¹⁴

Therefore, we urge States to consider **the independence and impartiality of candidates for the Committee on Economic, Social and Cultural Rights** and not nominate or support candidates who are, or could be perceived to be, influenced by any State.

In addition to this letter to UN Permanent Missions, we will be working to identify and encourage qualified female candidates who meet the high level of expertise, independence and impartiality set out above. We would welcome your involvement in these initiatives and invite you to be in contact with us if this is of interest.

Yours sincerely,

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Together with the following civil society organisations:

¹² *op. cit.* paragraph 2 & 3

¹³ *op. cit.* paragraph 5

¹⁴ *op. cit.* paragraph 12



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International Service for Human Rights
Avocats Sans Frontières
Community Resource Centre Foundation (Thailand)
International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA)
Legal Resources Centre (South Africa)
International Disability Alliance
Platform Against Impunity
Initiative for Social and Economic Rights (Uganda)
Make Mothers Matter
Human Rights Law Centre (Australia)
Women's Refugee Commission
International Commission of Jurists
Accion Solidaria on HIV/Aids
CIVILIS Human Rights
Jackie Dugard - head of Gender Equity Office, University of the Witwatersrand, Sth Africa
Socio-Economic Rights Institute of South Africa
FIDH
Amnesty International
Centre for Economic Social Cultural Rights in Africa

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