

Report of Thematic Briefing with CEDAW Committee on Women and ESCR and Launch of Primer on Women's Economic, Social and Cultural Rights



BEIJING+15:
Make the Link! ESC Rights are Women's Human Rights

The International Network for Economic, Social and Cultural Rights (ESCR-Net), International Women's Rights Action Watch – Asia Pacific (IWRAW-Asia Pacific), and the Centre on Housing Rights and Evictions (COHRE) released a [primer on women's economic, social and cultural rights](#) (ESCR) during the 45th session of the CEDAW Committee in Geneva on January 29th. The launch was accompanied by a thematic briefing with the CEDAW Committee member on the importance of highlighting women's ESCR in concluding observations and general comments and the Committee's role in advancing understanding of the importance of ESCR in women's lives.



The goal of the thematic briefing was to share with the Committee members that many women's groups around the world are increasingly recognizing and working on advancing women's ESCR at the national level, however, implementation of women's ESCR continues to be lacking. In addressing this gap, the **CEDAW Committee is a critical ally and strategic mechanism for supporting an integrated and interdependent analysis of women's human rights**, one that recognizes the critical role of ESCR in the lives of women and in the goal of achieving women's substantive equality, and that provides essential recommendations that specifically recognize the need for States to implement positive measures to ensure realization of all women's human rights. The briefing was attended by 11 CEDAW

Committee members and several key points of intervention were identified for follow up, including continuing to support the production of resources on women's ESCR and dialogue between various UN bodies mandated to address particular aspects of women's ESCR.

Below is a summary of the presentations and discussion during this event.

The briefing was jointly organized and facilitated by **IWRAW Asia Pacific, COHRE and ESCR-Net**. **Mayra Gomez, Senior Expert on Women and Housing Rights at COHRE** acted as moderator. Mayra welcomed the groups and introduced the speakers and structure of the briefing. **Rebecca Brown, Coordinator of the Women and ESCR working group within ESCR-Net** then provided background to how this event came about, particularly pointing out that ESCR-Net's International Strategy Meeting in Nairobi in December 2008, provided the space for these groups and other from around the world to come together and discuss what the current gaps and opportunities are in terms of realization of women's ESCR. At the International Strategy Meeting, women's groups from around the world agreed that in light of the concluding observations and decisions under the Optional Protocol made by the CEDAW Committee, it remained a critical point of engagement for women's groups seeking to highlight the importance of ESCR for women. In preparation for the briefing, **IWRAW Asia Pacific** commissioned a paper which analysed the approach of the CEDAW Committee to women's ESCR, through interpretation of the text of the treaty, General Recommendations and Concluding Observations.

Ximena Andión Ibañez, International Advocacy Director at the Center for Reproductive Rights then gave an overview of the situation of women's ESC rights within the CEDAW Committee to date and what we hope might be some possibilities moving forward. Ximena noted that women represent nearly 70% of the global poor and face multiple barriers to access education, health, employment opportunities, housing, among other economic and social rights. Women's poverty is a central manifestation, and a direct result of women's lesser social, economic and political power. In turn, women's poverty reinforces their subordination, and constrains their enjoyment of every other right. There is growing evidence that globalization and the global neo-liberal economic agenda which encourages diminishing the size of governments, cutting social programs, privatizing public services, and deregulating markets – has had a negative impact on the economic and social conditions of women. Furthermore, in the midst of the global economic crisis women are in even greater disadvantaged positions. Also, multiple layers of oppression that many women face due to their gender, race, ethnicity, religion, socio-economic class, age, immigration status, language, education, disability, sexual orientation, gender identity, among others, inhibit the full realization of women's human rights.

Thus, obstacles to realizing women's economic and social rights today are multiple, multifaceted and often interconnected. In this context of these old and emerging challenges to realizing women's ESC rights, it is now even more critical to delve deeper into economic, social and cultural issues impacting women, and to push for greater development/implementation of women's ESC rights. This is particularly important in the context of CEDAW, because the promise of the anti-discrimination and gender equality embedded in the convention cannot be realized without fully embracing the intersectional realities of women's lives and the status of women's ESC rights.

Important developments have occurred on the content of the normative framework on ESC rights in the last 10 years. Many of these developments are due to the work of the CEDAW Committee and other treaty monitoring bodies, particularly CESCR Committee. It is clear now that ESC rights can't be

regarded as just programmatic aspirations and that States Parties don't have the discretion regarding if the rights are operationalized at the national level. International human rights law, and particularly the CEDAW Convention as interpreted by the Committee, guarantees women not only non-discrimination but also formal and more importantly substantive equality. ESC rights must be interpreted and implemented in a manner that ensures substantively equal exercise and enjoyment of these rights. Substantive equality on ESCR rights requires that rights be interpreted, and that policies and programs - through which rights are implemented - be designed in ways that take women's socially constructed disadvantage into account, that secure for women the equal benefit, in real terms, of laws and measures, and that provide equality for women in their material conditions.

The CEDAW Convention does not perpetuate the divide between civil and political rights and ESC rights. CEDAW holistically addresses civil and political rights as well as economic, social and cultural rights and recognizes that enjoyment of all these rights are inextricably linked to one another. This treaty provides a strong legal framework for the protection of ESC rights. The CEDAW Committee has made significant inroads in terms of providing substantive guidance on the inter-linkages between substantive economic, social and cultural rights, and women's right to equality, particularly through the more recent General Recommendations. In its Concluding Observations the Committee has also widely addressed ESC rights. The Committee has addressed issues related to the right to work, education, health, social security, food and cultural rights. It is interesting to note that certain rights that are related to the right to an adequate livelihood such as food, water or sanitation haven't been addressed as extensively by the Committee. The reasoning behind this is that many of them are not explicitly contained in the Convention but we think that shouldn't prevent the Committee from addressing them considering the impact they have in guaranteeing women's equal enjoyment of human rights. The Concluding Observations on ESC rights have been more focused on the State actions and less on the responsibility of non-state actors such as enterprises, international financial institutions, which are also extremely relevant in the context of ESC rights.

Therefore, the CEDAW Committee it is well-situated to further guide States parties with regard to the protection and promotion of women's ESC rights because of the convention's comprehensive nature, encompassing the full range of human rights, including civil, political, economic, social *and* cultural rights. However, further work is still required to examine and better articulate the link between women's economic, social and cultural rights and women's right to substantive equality. Examining the essential elements of economic, social and cultural rights, and engendering each of these elements with a perspective that explicitly looks at its impact on women is required.

The CEDAW Committee should continue to articulate clearly and comprehensively the content of substantive equality in relation to women's full enjoyment of their economic, social and cultural rights and the centrality of these rights to realize gender equality in all General Recommendations, Concluding Observations and decisions/views on individual cases. In other words, provide a *gender-sensitive analysis* of substantive economic, social and cultural rights and their relationship to the fulfillment of women's right to equality, perhaps considering the feasibility of issuing new General Recommendations in the area of women's ESC, taking into account the substantive scope of these rights as also considered by the ESCR Committee. Also, considering that there is a vast series of statements and jurisprudence by other UN treaty monitoring bodies, Special Rapporteurs, UPR reports, etc., that provide guidance in terms of women's ESC rights we think it is important for the CEDAW Committee to take these into account while considering the performance of States parties in ensuring women's economic, social and

cultural rights and addressing gender-based discrimination and inequality. This could be done by establishing a consistent dialogue with other treaty monitoring bodies, particularly with the CESCR Committee, to share experiences and views on women's ESC rights. Therefore, because of CEDAW's central role ensuring women's equality, the Committee's work in this area will be key in advancing substantive fulfillment of economic and social rights for women.

Two representatives from national and regional level organizations who were in Geneva to present their shadow reports to the CEDAW Committee during the reporting session contributed their perspective on the importance of the CEDAW recognizing the relevance of women's ESCR in their observations and decisions. **Irene Grijalbo Idigoras, from Alianza del Movimiento de Mujeres de Panamá**, also presenting on behalf of the Latin American and Caribbean Committee for the Defense of Women's Rights (CLADEM), Organización Nacional de Mujeres Indígenas de Panamá (CONAMUIP) and the Panamanian Association of Transgender Persons (PATP) acknowledged that often women's NGOs tend to focus on civil and political rights or violence issues, but the space of this briefing allowed them to focus on the conditions in which women live and well as the relationship between civil and political rights and ESCR and the impacts they have on women. Preparing for this discussion on women's ESCR also allowed them to see the differences in the types of discrimination in terms of enjoyment of ESCR that different groups of women face, such as rural women, LGBT women, etc. Finally, Irene indicated that NGOs need more guidance from the CEDAW Committee on what to ask of States in their shadow reports and on the scope of state obligations on these issues. She observed that the development of a General Comment on women's ESCR could aid in this process.

Leontine Bijleveld, a representative of the Dutch CEDAW Network, discussed the importance of examining the intersectionality of the impact of lack of ESCR on minority and migrant women and the corresponding need for more disaggregated data, not only by gender, but also broken down by disability, age, sexual orientation, etc. Leontine also discussed the Netherlands NGO strategy of using the information created for the CEDAW shadow report for shadow reports to other Committees to ensure women's ESCR is integrated as well as to increase understanding of the issues within all UN bodies.

From there, the discussion was opened up for comment and input from the **CEDAW Committee members**, specifically **Cornelis Flinterman of the Netherlands and Pramila Patten of Mauritius** were invited to give their response. Both members, in addition to other members present, enthusiastically reiterated their agreement that ESCR are central rights in the lives of women given their socialized roles. Specifically, the Committee members recognized the historical background of the development of human rights which has resulted in the current marginalization of ESCR and that the CEDAW Committee's role is to look at marginalization of women in the enjoyment of these rights.

CEDAW Committee members pointed out that a dialogue between UN bodies charged with various aspects of women's ESC rights is critical in ensuring responsiveness to the lives of women and the General Comment on Older Women, which is currently under development was pointed out as a process which integrated comments of the Committee on Economic, Social and Cultural Rights.

Further opportunities which were also welcomed by the CEDAW Committee included: more resources which provide greater conceptual understanding of the ESC rights protected under CEDAW and what the gender implications are when there is lack of access; support for claimants to use the Optional Protocol to CEDAW to better define the nature and scope of ESCR under this Convention; facilitation of

further discussions between the CEDAW and CESCRC Committees on overlapping issues related to women's ESCR.

Moving forward, we will be considering how to leverage this fruitful discussion with the Committee into ongoing advocacy which continues to reinforce and emphasize that realization of ESCR is an essential strategy in addressing women's poverty and inequality.

Get Involved!

If you would like more information or would like to be involved in this work moving forward, please contact Rebecca Brown at rbrown@escr-net.org.