



International Network for Economic, Social & Cultural Rights
Red Internacional para los Derechos Económicos, Sociales y Culturales
Réseau international pour les droits économiques, sociaux et culturels
الشبكة العالمية للحقوق الاقتصادية و الاجتماعية و الثقافية

Joint Consultation with CESCR and the CEDAW Committee: Women and Economic, Social and Cultural Rights – Current Challenges and Opportunities for Advancement

Geneva, 7 November 2015



MEETING REPORT



On 7 November 2015, 23 participants took part in a consultation to discuss current challenges and opportunities for advancement in relation to women’s economic, social and cultural (ESC) rights, using a substantive equality framework.¹ These included representatives from ESCR-Net’s Women and ESCR Working Group (WESCR WG), the UN Committee on Economic, Social and Cultural Rights (CESCR), the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee), and the Office of the High Commissioner for Human Rights (OHCHR).

During the consultation participants discussed specific and systemic challenges to the realisation of women’s ESC rights in practice, drawing upon ESCR-Net members’ work in the areas of **land, health and work**, and shared differing and progressive approaches to the application of a **substantive equality perspective**.² The dialogue offered an opportunity for CESCR and the CEDAW Committee to build on each other’s work, and for the group as a whole to consider ways in which civil society and the committees can interact in order to advance women’s ESC rights.

This report sets out the key issues raised and recommendations made to the committees by the WESCR WG, and suggestions made during conversation. These meeting outcomes will be used to guide future collective work by the WESCR WG.

¹ For a complete list of participants, please visit https://www.escr-net.org/sites/default/files/list_of_participants-7nov.pdf

² For the agenda, please visit <https://www.escr-net.org/sites/default/files/agenda.pdf>

Key issues raised and recommendations made by WESCR WG members

The following table references the key issues raised and recommendations made by WESCR WG members to the committees during the course of the introductory presentations for each session.

Please note that this is a very brief summary (particularly of the topics covered in the briefing papers); for a fuller understanding of the issues, contexts and suggested strategies in relation to each issue, please see the WESCR WG's **draft briefing papers** prepared to accompany this consultation.³

PRESENTER	ISSUES / RECOMMENDATIONS TO CESCR AND CEDAW COMMITTEE
Women and land	
Draft briefing paper topics (overview)	(1) current gender neutrality in discourse around land and in land policy (2) impact of customary laws and practices (3) impact of macroeconomic policy and global economic systems
Global Initiative on ESCR: global <i>Mayra Gomez</i>	<ul style="list-style-type: none"> • Harmonise progressive approaches across the committees to women's ESC rights issues related to land, taking into account issues raised in the draft briefing paper • Use the 'Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security'⁴ (Voluntary Guidelines) as a guiding document to interpret the content of a right to land and for issuing recommendations to States
Legal Resource Centre: South Africa <i>Charlene May</i>	<ul style="list-style-type: none"> • Develop a common human rights language, incorporating a gender perspective and women's experiences, to determine what is meant when talking about 'land' • Consider different phrasing of recommendations about customary law and practices, recognising that custom is not stagnant but evolving and can adapt to a human rights language to ensure the elimination or eradication of harmful practices through a process of natural development within a customary context.
FIAN: global <i>Ana Maria Franco Suarez</i>	<ul style="list-style-type: none"> • Support social movement demands related to, and the processes to develop, the: (1) Voluntary Guidelines; and (2) proposed UN Declaration on the rights of peasants and other people working in rural areas⁵ • Highlight issues of state extra-territorial obligations, as well as refugees (whether political, economic, climate change) and displaced persons
Women and health	
Draft briefing paper topics (overview)	(1) social determinants and biological determinants unique to women (2) increasing trend towards criminalisation and other legal barriers to women's health care (3) the need for functioning health systems (4) intersectionality
Center for Reproductive Rights: global <i>Rebecca Brown</i>	<ul style="list-style-type: none"> • Ensure women's specific health needs are understood (through disaggregated statistics, women's participation, etc) and addressed, rather than lost within a 'general health needs' approach that deprioritises women's experiences • Consider specific issues, but also take broader view to address conditions impacting women's autonomy, equality and self-determination, which

³Please read the Briefing papers: [Briefing on the intersection between substantive equality and health](#), [Briefing paper on women and land](#), and [Briefing paper on women and work](#).

⁴For more information, see <http://www.fao.org/nr/tenure/voluntary-guidelines/en/>

⁵For more information, see <http://www.ohchr.org/EN/HRBodies/HRC/RuralAreas/Pages/2ndSession.aspx>

PRESENTER	ISSUES / RECOMMENDATIONS TO CЕСCR AND CEDAW COMMITTEE
	leading to violations connected with their health
Nazdeek: India <i>Sukti Dihtal</i>	<ul style="list-style-type: none"> Encourage robust monitoring framework within health care systems to address barriers to care, and with inclusion of women through direct community engagement
Hakijamii: Kenya <i>Pauline Vata</i>	<ul style="list-style-type: none"> Require accessible health budgets, through development and implementation of FOI legislation, and request health budget information from governments where not currently accessible by civil society Address issues of money budgeted for health being diverted or not spent due to structural issues connected with devolution resource allocation and increased privatization of health care (including but not limited to PPPs)
Women and work	
Draft briefing paper topics (overview)	(1) Impact of neoliberal model of development, including reductions in public sector, trade and investment liberalisation, labour market deregulation (2) women's labour and migration (3) women in trade unions (3) the need for a common living wage
Asia-Pacific Forum on Women, Law and Development: Asia <i>Tessa Khan</i>	<ul style="list-style-type: none"> Ensure implementation of a living wage (noting that relevant calculations have traditionally assumed a form of work based on male experiences) Protect and strengthen women's rights to organise in the work place Recognise and address unpaid work and care work undertaken by women
National Union of Domestic Employees: Trinidad & Tobago <i>Ida Le Blanc</i>	<ul style="list-style-type: none"> Encourage ratification of ILO Convention 189⁶, to ensure recognition for domestic workers as workers in law and practice (e.g. adequate wages, decent working conditions, contributions to national insurance etc). Address protection of migrant workers who may not speak the language of their destination
Bulgarian Gender Research Foundation: Bulgaria <i>Genoveva Tisheva</i>	<ul style="list-style-type: none"> Address persistent gender pay gap and pensions gap Encourage proactive approach to equality through progressive parental leave and other measures

Meeting outcomes

The participants engaged in a very productive, interesting and open discussion, which the WЕСCR WG considers to be very helpful in guiding its planning for 2016. Key suggestions and opportunities for future collective work by the WЕСCR WG are set out below under the following headings:

- How can civil society engage with, and support the work of, the committees?
- What additional information would the committees like to receive from civil society?
- How can CЕСCR and the CEDAW Committee themselves (and other UN treaty body committees) continue to develop a progressive substantive equality approach to women's ESC rights, through their engagement with state parties, interaction between the committees, and development of their working methods?

⁶For more information, see http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_208561.pdf

Over the next few months, the WESCR WG will take steps to discuss these suggestions and opportunities, and incorporate appropriate measures into projects and activities planned for 2016.

1. How can civil society engage with, and support the work of, the committees?

- **PROVIDE MORE INFORMATION, SPECIFICALLY FROM A GENDERED PERSPECTIVE**
- Increase parallel reporting with a gender perspective, to provide committees with material and questions to put to state parties, i.e. specific information on women’s experiences in relation to the rights being considered.
- In relation to parallel reporting:
 - 1-2 pages, rather than lengthy submissions, may be enough to provide examples to the committees of situations regarding women’s ESCR.
 - Providing that an issue relates to one or more rights set out in the relevant treaty, the issue does not need to be explicitly included in treaty language for the committee to address it, e.g. issues relating to land or violence against women.
 - While it is extremely helpful for civil society groups to attend committee sessions, this is not required and also sometimes a briefing to committee members can take place by skype if organised in advance.
- Similar to the practice of states in providing a common core document⁷ in addition to treaty-specific information, it may be useful for parallel reports to also include a similar core document, where possible (perhaps by a coalition of NGOs). This could provide – from the perspective of civil society rather than the state in question – general information about the reporting State, the general framework for the protection and promotion of human rights, as well as information on non-discrimination and equality, and effective remedies. Such information could be helpful in drawing attention to, among other things, cross-cutting issues, relevant legal frameworks and the interplay between them (e.g. the impact of customary law and practices), and provide a foundation for reporting on specific issues.
- It is important to be aware of and address obstacles to the civil society participation in the state reporting process such as NGOs not attending sessions for fear of reprisals, or parallel reports being ‘vetted’ by governments.
- **PROVIDE INFORMATION RELEVANT TO A CONSIDERATION OF INTERSECTIONALITY**
- An intersectional discrimination analysis is fundamental to progressing substantive equality, but not always possible as states often only provide information disaggregated (at best) by sex, leading to a poor analysis of situations and general rather than specific recommendations to states. Provide disaggregated statistics to the committees where possible.⁸
- If NGOs are not able to access disaggregated information from the state, they:

⁷ See Compilation of Guidelines on the Form and Content of the Reports to be Submitted by States Parties to the International Human Rights Treaties, UN Doc. HRI/GEN/2/Rev.6 (3 June 2009).

⁸ For guidance, see OHCHR, *Human Rights Indicators: A Guide to Measurement and Implementation* (2012), UN Doc. HR/PUB/12/5, http://www.ohchr.org/Documents/Publications/Human_rights_indicators_en.pdf

- Should advise the committees that the state is not collecting and/or providing access to such information – which in itself may be a violation of the treaty.
- Could make qualitative assessments of intersectionality to allow committees to raise relevant issues with states. These could be in the form of anecdotal case studies or smaller sampling of data.
- **PROVIDE EXAMPLES OF PROGRESSIVE APPROACHES/BEST PRACTICE, IN ADDITION TO INFORMATION ABOUT VIOLATIONS**
- **SPECIFIC OPPORTUNITIES FOR WESCR WG INPUT/ENGAGEMENT IN THE SHORT-TERM**
- WESCR WG to finalise and disseminate the briefing papers on substantive equality approaches to women’s ESC rights and, respectively, land, health and work.
- WESCR WG to draft and disseminate the proposed WESCR WG briefing paper on the overview of/introduction to substantive equality and women’s ESC.
- WESCR WG to consider developing a targeted program on parallel reporting on women’s ESC rights using a substantive equality approach, including regular information on upcoming sessions, resource development, identification of WG members available to provide legal support to others, collection of member submissions, etc.
- WESCR WG to review and input into drafts of upcoming General Recommendations/Comments (GCs/GRs): (1) on rural women – likely to be adopted by the CEDAW Committee in February 2016 session; and (2) just and favourable conditions of work – likely to be adopted by CESCR sometime in 2016. These can also inform the WESCR WG draft briefing papers.
- WESCR WG to review and input into proposed future GCs/GRs, which may include:
 - CEDAW Committee: (1) women and girls in education (2) the impact of climate change and natural disasters on women; (3) the impact of gender stereotypes. In relation to the latter, OHCHR noted that focus on gender stereotypes is a very important entry point to progress CEDAW Article 5 objectives because issues of gender stereotypes occur in every state without exception and such a narrative reduces defensiveness connected with a focus on issues viewed as relevant for some states only, e.g. customary practices.
 - CESCR: (1) ESCR and corporate actors; (2) environment and development; (3) science and technological progress (Article 15).
- As the individual complaints and inquiry procedures are underutilised for both treaties at present, WESCR WG and ESCR-Net more generally could play a key role in formulating requests for inquiries and cases.
- Treaty bodies are continuing to develop follow up procedures and moving towards simplified reporting procedures – it is important for civil society to be aware of changing processes and impact on their engagement with the committees (e.g. the introduction of a simplified reporting procedure means that pre-sessions will become the most significant time for NGO engagement in order to ensure certain issues are raised).
- OHCHR is preparing a report on the realisation of the right to work, to be submitted to the Human Rights Council prior to its March 2016 session⁹—OHCHR welcomes information from the WESCR WG to highlight women’s experiences.

⁹ Pursuant to HRC Resolution A/HRC/RES/28/15, available at http://ap.ohchr.org/documents/alldocs.aspx?doc_id=24860

- It was noted that OHCHR may stop producing the background note currently provided to (at least some of) the committees during state reporting, and a member of the CEDAW Committee would like support from civil society to encourage this to continue.

2. What additional information would the committees like to receive from civil society?

- Committee members requested short resource documents, which could perhaps be combined with lunch briefings for committees (and governmental officials, other NGOs, etc), to provide useful information in relation to topics which are not widely well understood by States and others at present, including:
 - Gender pay gaps, with emphasis on the concept of equal pay for work of equal value.
 - The concepts of minimum/living/fair wage and women’s ESC rights, including the right to an adequate standard of living.
 - Unpaid care work/unequal sharing of responsibilities by women and men (including best practices, and measures towards redistribution not just recognition of issue).
 - Impact of prevailing global economic and social models on women’s ESC rights enjoyment.
- Further, the committee members mentioned a number of areas where civil society could provide specific information in parallel reporting, including:
 - Whether NGOs are systematically following up on state implementation on UN treaty body views and concluding observations, including examples of positive implementation.
 - Relevant draft laws and situations in practice regarding state extra-territorial obligations.
 - Regulation of the private sector, and division of roles within a state.
 - The health issues (other than sexual and reproductive health concerns) that particularly affect women and are not being addressed by the committees (e.g. stigmatisation of menstrual hygiene management; women’s experience of diseases associated with malnutrition and residence in informal settlements).
 - Women’s human rights issues connected with the informal and unpaid work sectors.

3. How can the committees themselves continue to develop a progressive substantive equality approach to women’s ESC rights?

- **CONTINUE TO CONSIDER AND DEVELOP A SUBSTANTIVE EQUALITY ANALYSIS**
- Each committee noted that they apply a substantive equality analysis in practice, but could develop this further, both in relation to the framework used and its application to women’s ESC rights. In addition to suggestions outlined above, possible action to enhance this include:
 - Emphasising that ICESCR Article 3 is of immediate effect and the most direct way to question states on gender equality, which should be regularly linked with each of the other ICESCR provisions to increase government accountability.
 - Exchanging information about substantive equality frameworks and practice between the committees. Potential topics include: the level of detail in recommendations/views; how to guide states to modify social and cultural patterns of conduct; the indicators used to

assess gender inequality relating to particular rights (e.g. CEDAW uses three interrelated indicators for gender equality in work: 'glass ceiling', 'gender pay gap', 'sticky floor').

- **DEVELOP A COMMON HUMAN RIGHTS LANGUAGE**
- Providing more information from a gendered perspective, to both committees, and interaction between the committees (e.g. through future joint briefings) could assist in the development of a common human rights language and harmonisation regarding progressive approaches in relation to particular issues, e.g. what does 'land' mean as understood in the context of women's experiences?
- **DEVELOP EFFECTIVE FOLLOW UP PROCEDURES INCORPORATING A SUBSTANTIVE EQUALITY PERSPECTIVE**, sharing experience between the committees regarding such procedures (which are at different stages of practice in each committee)
- **DEVELOP WORKING METHODS THAT FACILITATE A BROAD UNDERSTANDING OF WOMEN'S ESC RIGHTS**
- The committees are open to both internal review of their working methods and harmonisation across treaty bodies, and welcome further discussion and support from civil society on ways to ensure progressive harmonisation.
- The committees should consider and harmonise a progressive approach in their working methods regarding individual complaints. Currently, there is a lack of clear information regarding whether amicus interventions in cases (as independent third parties, rather than in connection with one or the parties) are permitted, and, if so, the process for requesting leave to intervene. In addition, committees should work towards providing at least summary information of each case on their websites, to allow consideration of whether or not to request to intervene, as independent third party material providing a gender perspective on ESC rights issues could assist the committees to advance a substantive equality analysis.

The **International Network for Economic, Social and Cultural Rights (ESCR-Net)** unites over 270 NGOs, grassroots groups, and advocates across 70 countries, facilitating strategic exchange, building solidarity, and coordinating collective advocacy to secure social and economic justice through human rights. ESCR-Net members define common strategies and advance joint action foremost through international working groups, including the **Working Group on Women and ESCR** which is composed of about 40 members – NGOs, social movements, and individual advocates – working across regions to advance women's ESC rights and substantive equality. Through engagement with UN bodies, capacity building, and advocacy at multiple levels, the Working Group is collectively striving to ensure women's experiences and analyses are at the center of domestic and international policy-making and legal developments.