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**Human Rights Council**

**Advisory Committee**

**Twenty-fourth session**

17-21 February 2020

Agenda item 3 (h)

**Requests addressed to the Advisory Committee stemming from
Human Rights Council resolutions and currently under
consideration by the Committee**

Current levels of representation of women in human rights organs and mechanisms

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 Study of the Human Rights Council Advisory Committee

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**Current levels of representation of women in human rights organs and mechanisms**

 I. Background

1. At its forty-first session in June 2019, the Human Rights Council adopted resolution 41/6, in which it requested the Human Rights Council Advisory Committee to prepare a report on “current levels of representation of women in human rights organs and mechanisms such as the Advisory Committee, the treaty bodies and the special procedures established by the Human Rights Council”.

2. The report must be presented to the Council at its forty-seventh session (July 2021) and it must be elaborated in “close cooperation” with the Working Group and the Committee on the Elimination of Discrimination against Women. To elaborate its report, the Advisory Committee is requested “to seek the views, inputs and meaningful participation of relevant stakeholders in an inclusive manner, including Member States, international and regional organizations, the Office of the United Nations High Commissioner for Human Rights, special procedures, national human rights institutions, civil society and academic institutions”[[1]](#footnote-2). In addition, the report must include “good practices” by States and recommendations to assist the Council and Member States in this regard.

3. At its twenty-third session in July 2019, the Advisory Committee designated Advisory Committee members Ion Diaconu, Ludovic Hennebel, José Augusto Lindgren Alves, Ajai Malhotra, Changrok Soh, Mona Omar (Chair) and Elizabeth Salmón (Rapporteur) as members of the drafting group to prepare the said report.

4. The drafting group dedicated first phase of its work to collecting information from States and interested stakeholders with the aim of obtaining the greatest amount of contributions to strengthen the proposed recommendations and to enhance the legitimacy of the report.

 II. Time for change: achieving gender parity on the human rights organs and mechanisms. Why gender parity is important?

5. States must adopt measures aiming to prohibit discrimination and to guarantee equality between men and women. As the Committee on Economic, Social and Cultural Rights has emphasized, one of the fundamental principles of International Law is the equal rights of men and women to the enjoyment of all human rights[[2]](#footnote-3).

6. This equality of rights is fundamental and fair not only because it calls to remedy the over-representation of men in the United Nations’ organs and mandates responsible for administering, implementing and developing International Human Rights Law, but also because it enables women to influence the process of affirmation and development of human rights at the global level. This aim is explicitly contained in article 8 of the Convention on the Elimination of All Forms of Discrimination against Women stating that: “State Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations”.

7. In order to comply with this norm, States must not only refrain from discriminating, but must also adopt affirmative measures to eradicate the barriers that could result in acts of discrimination against women at the time of claiming access, under equal conditions, both de jure and de facto to positions in international organizations.

8. As States have different ways and opportunities to shape the pool of applicants, the composition of short lists and the final composition of an international body, these measures address at least two moments when the States’ commitment to parity should be effective. In the first place, States must nominate, within the sphere of their internal jurisdiction, the candidates who will represent them in the international system or whose candidacies they will present to assume certain positions; secondly, they must vote for the candidates nominated as part of their functions as members of international organizations.

 III. Questionnaire

9. On August 29, the Advisory Committee sent a questionnaire to States and relevant stakeholders requesting their views and inputs on the matter, with a deadline of 15 November 2019, which was later extended to 15 January 2020.

10. The questionnaire included the following questions:

* Do current processes in the State allow for, or encourage, a consideration of gender balance when nominating, electing and appointing experts for human rights organs such as the Advisory Committee and treaty bodies? Do these processes ensure publicity, transparency, and participation by civil society organizations and/or other actors?
* Does the State take into account the gender composition of the treaty bodies or the Advisory Committee at the time of nomination or election?
* Does the State have any good national practices related to the nomination, election and appointing processes for human rights organs such as the Advisory Committee and treaty bodies? Do these processes take into account gender when nominating, electing, or appointing?
* How does the State take into consideration its obligations concerning non-discrimination and women’s right to equal access to participation, as well as its obligations under Article 8 of CEDAW to ensure women’s equal participation in the work of human rights organs when nominating or appointing candidates for those organs and mechanisms?
* How many women has the State nominated to human rights organs and mechanisms in the last five years (such as the Advisory Committee or treaty bodies)?
* Does the State take any action to publicize and encourage women to apply for the special procedures mandate-holders vacancies?
* What are the main challenges in your country regarding the goal of gender balance when nominating and electing candidates for human rights organs and mechanisms such as the Advisory Committee, treaty bodies and the special procedures?
* Are there good practices by the State or other stakeholders oriented towards ensuring gender parity? If your answer is yes, could you please name, describe and/or explain these practices?
* Are there recommendations directed to States, international bodies, or other entities, that you wish to make in order to strengthen and inform this report?

 IV. Responses

11. In this first phase of collection of information, the Committee received responses from 10 States: 4 from the Asia-Pacific (Jordan, Kyrgyzstan, Qatar and Turkey), 2 from the Latin American and Caribbean (Honduras and Mexico) and 4 from the Western European and other States (Italy, Ireland, Greece and Switzerland). No response from members of the African States or the Eastern Europe States was received.

12. The Committee also received inputs from: the national human rights institution in Cyprus (Office of the Commissioner for Administration and Protection Human Rights, Ombudsman​), 4 leading Non-governmental organizations (Women at the Table, Dutch-speaking Council of Women of Belgium, The Danish Institute for Human Rights and International Women´s Rights Action Watch Asia Pacific) and Jane Aeberhard-Hodges, member of the civil society[[3]](#footnote-4).

13. Taking into consideration that not all States provided answers to each of the questions and that those who did so, presented the same answer for more than one question, this report summarizes the answers and points out some similarities and differences among them.

 Consideration of gender balance when nominating, electing and appointing experts for human rights organs

14. Responses of States varied on their consideration of gender balance when nominating, electing and appointing experts for human rights organs such as the Advisory Committee and treaty bodies. For example, Switzerland and Italy stated that they did not take into consideration gender balance when nominating, electing and appointing experts for human rights organs, while for Ireland, support for women candidates was a priority criterion in its decision making process on elections to all human rights organs. Turkey also said it employed a gender balanced approach when nominating experts for organs and mechanisms of international organizations.

15. However, these countries did not indicate whether they had a national instrument or how their current processes for the nomination, election and appointing for human rights organs took into consideration gender balance. Mexico, on the other hand, while highlighting that it did not have a predetermined process for the selection of candidates, stated that each Administration determined the process to be used for the identification and selection of applicants, and which traditionally, were not public. Hence, acknowledging that it did not necessarily take into consideration gender balance in those processes.

16. It is therefore essential that all States include, in their legislation related to process for the selection of candidates, an explicit requirement to respect the gender balance. In case they do not have such a normative instrument, it would beneficial that they create one to that effect.

 Consideration of gender composition of the treaty bodies or the Advisory Committee at the time of nomination or election

17. Regarding the question about whether States take into account the gender composition of the treaty bodies or the Advisory Committee at the time of nomination or election, Mexico stated that its process sought, above all things, to identify the best possible candidates and that experts were selected to hold positions in international organizations for their proven ability and experience to occupy the positions for which they competed and not for their gender.

18. Ireland, Italy and Switzerland held a completely different position. They stated that they did take into account the gender composition of the treaty bodies or the Advisory Committee at the time of nomination or election. Switzerland’s response described its position on the issue as follows:

“Whilst Switzerland does consider the gender composition of a body, the sex or gender of potential Swiss candidates is not the main criterion in Switzerland’s decision to support a candidature or not. Switzerland supports the most competent and qualified person for the job. However, Switzerland strongly advocates gender balanced teams and gender equality in nomination or selection processes. Thus, as long as women are underrepresented, Switzerland will make an extra effort to find a qualified candidate of the underrepresented gender and, in case of two potential candidates with the same qualifications, will opt for the female candidate”.

19. Switzerland’s remarks at the end of its response are noteworthy, since in order to achieve gender parity, it is indeed necessary that States make an extra effort to find a qualified woman candidate. The non-governmental organization “Women at the Table” shared a similar view and recommended that in the election of two candidates of equal merit to a treaty body, preference should be given to the nominee whose gender is under-represented in the present constitution of the treaty body, to further gender balance.

20. Sometimes, factors such as education gap between women and men in many countries make it easier to find qualified men in some areas of expertise. However, States need to intensify their efforts in finding qualified women candidates and political will in this regard therefore becomes fundamental. In addition, it is equally important to avoid the overrepresentation of women in treaty bodies or mandates that only refer to issues related to women or children. This denotes a confinement of women to the role of mothers or stereotypes them as the only group interested in equality rights, non-discrimination and other equality-oriented goals. That is why there is a need gender parity in all bodies or mandates.

 Challenges within the countries in tackling the issue of gender balance when nominating and electing candidates for human rights organs, mechanisms and the special procedures

21. Regarding the question on the main challenges within the countries in tackling the issue of gender balance when nominating and electing candidates for human rights organs, mechanisms and the special procedures, the answers were diverse as well. For example, Italy has considered that it encountered no specific challenge in that regard, whereas Mexico identified two types of challenges: a normative challenge and a social challenge. The normative challenge refers to the need to change the legal framework in order to ensure and promote gender equality in a State as well as the elimination of stereotypes of gender roles. The social challenge, which is not exclusive to Mexico but exists in many countries, consists mainly in the lack of conciliation between family and work life, an uneven distribution of domestic responsibilities that prevents women to apply for more time-consuming positions.

22. The social challenge is one of the main obstacle in the way towards gender parity. It is not sufficient to do an extra effort to find a qualified woman candidate, it is also vital to find qualified women candidate able to undertake the important positions in human rights organs. To this effect, Jane Aeberhard-Hodges in her response offered relevant ideas such as provision of childcare and adaptation of meeting hours to counter this social challenge.

23. Ireland referred to other challenges of a more political nature, stating that in the election of candidates for human rights organs etc., it weighed the importance of gender balance against other criteria such as regional representation, rotation, candidate’s expertise and bilateral relations. Often, the absence of women candidates, either in total or from specific regions, Ireland highlighted, was the main challenge in tackling gender imbalance.

24. For Kyrgyzstan, one of the challenges was the lack of knowledge of English, underscoring that this issue did not affect only women and that besides, so far Kyrgyzstan had only nominated one candidate for a human rights organ, who is a woman.

25. Another important challenge – the lack of transparency – was not mentioned by any country. Nevertheless, it is relevant to note that the non-governmental organization “International Women´s Right Actions Watch Asia Pacific” rightly noted this challenge, stating that as main challenges to tackling the issue of gender balance the lack of transparency, access to information, and formal processes for public participation in the nomination and election processes across various countries. The organization found that selection processes were generally ad-hoc, concentrated in the executive branches of government, such as the Ministry of Foreign Affairs, and the identity of the candidate was rarely disclosed before the official nomination or, in some instances, only when the government-selected candidate had been successfully elected. The organization further underscored that such an approach left the issue of gender balance to the good will of the government officials, with minimal opportunity for monitoring and accountability relating to gender representation, qualifications, and other relevant factors.

 Good practices

26. As a means to guarantee gender equality, Italy highlighted that it had established, in its State law no. 215/2012, provisions to promote gender balance in local governments and regional councils as well as provisions on equal opportunities in the composition of selection boards for competitions in the public administrations. It further underscored that at the electoral level, for Municipalities with less than 5,000 inhabitants, to be valid, candidates’ lists must include both sexes. For the Municipalities between 5,000-15,000 inhabitants, in addition to the above quota – by which none of the two sexes can exceed of 2/3 the other one -, the gender preference was added. As for the selection boards to positions in Public Administration, Italy stated that at least 1/3 was reserved to women.

27. Honduras stated that it had established by Article 105 of the “Ley Electoral y de las Organizaciones Políticas” a minimum threshold of 30%, applicable to the positions of deputies and alternates to the National Congress, to the Central American Parliament, Mayors, among others.

28. Mexico stated that in May 2019, the Senate of the Republic unanimously approved a constitutional reform establishing the obligation to consider the principle of gender parity in the integration of the Executive, Legislative and Judicial Powers. And that once that reform was approved by at least 17 local congresses, its Constitution would establish that the executive, legislative and judicial bodies of the federal entities and the municipalities must be composed equally of women and men. Mexico further stated that it was “in the process of building its new feminist foreign policy that will seek to be congruent between foreign and national policies, and impulse women’s empowerment, gender equality and gender parity not only within the Mexico’s Ministry of Foreign Affairs but in every single documents, resolutions, and positions Mexico is part of”.

29. Such a constitutional reform by the Mexican Senate, therefore truly seeks gender parity in representative organs and other important positions, and it is highly encouraged to approve such reforms so that they become binding.

30. Furthermore, it is important to affirm that States are not the only entities responsible for taking measures to achieve gender parity. In this sense a number of international organizations made some calls (not necessarily followed) to promote women participation. The United Nations has also generated a series of instruments, resolutions and made calls to ensure that women have access to the UN System on equal terms with men. In addition, the International Criminal Court has an important practice in the selection of judges respecting gender parity. Nevertheless, only 6 of its 18 members are currently women (33.33%).

31. At the regional level, organizations such as the Council of Europe, the Organization of American States or the African Union have adopted some measures to guarantee gender parity or, at least, to incorporate the criterion of gender equality in the selection processes. The Council of Europe has issued Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights that include some gender balance requirements. Currently, however, only 16 of its 49 members are women (32.65%).

32. Along the same lines, the General Assembly of the Organization of American States in 2016 and 2017 underscored gender equality as one of the requirements to be taken into account in the selection of judges to the Inter-American Court of Human Rights and members of the Inter-American Commission of Human Rights. However, these measures have not been effective yet. Indeed, in the case of the Inter-American Court only 1 of its 7 judges is a women (14.28%) – Elizabeth Odio Benito, who serves as President – while, on the contrary, 5 of the 7 members of the Inter-American Commission are women (71.42%).

33. The African Charter on Human and People's Rights and its Protocol on the Rights of Women in Africa also contain similar provisions. In January 2016, the Executive Council of the African Union approved the "Decision on the modalities of implementation of the criteria of equitable geographic and gender representation in the organs and institutions of the African Union” which also led to the adoption of “Modalities on the implementation of the criteria of equitable geographical representation and gender in organs and institutions of the African Union”. It is noteworthy that in the case of both the African Commission on Human and People´s Rights and the African Court on Human and People´s Rights, 6 of their 11 members are women (54.54%).

34. Regarding best practices specifically related to nomination, election and appointing processes for human rights, the non-governmental organization “International Women´s Rights Action Watch Asia Pacific” considered that some could be initiated by civil society:

“For example, before the official nomination is announced, some organizations will identify a suitable candidate that they believe should be put forward by their State, organize public events (such as town halls) to profile their nominees and encourage the public to engage with the process, and engage the media through press briefings or interviews to broadly publicize the role of the Committee, the qualifications of the nominee, and the benefits of their State meaningfully contributing to the UN human rights system”.

 Recommendations

35. “International Women´s Rights Action Watch Asia Pacific” addressed recommendations to OHCHR, States, NHRIs and civil society. Most of them pursue civil society engagement with nomination and election processes of experts for human rights organs and mechanisms as well as transparency and accountability in these processes.

36. “Women at the Table” recommended, on nomination, adoption of formal, open and transparent procedures for selecting and nominating candidates, including having gender equality within the nomination process as a specific criterion.

37. Therefore, as rightly underscored by these two non-governmental organizations, transparency in the process of nominating, electing and appointing experts for human rights organs is indeed one of the main concerns and should be addressed by nominating States.

 V. Conclusion

38. The responses to the questionnaire thus highlight that States and civil society recognize the importance of women participation on equal terms with men in representative organs. Although States identified different challenges to achieving gender balance when nominating, electing and appointing experts for human rights organs, they showed willingness to achieve this goal, while civil society provided very useful recommendations to make this aspiration a reality.

39. In addition, it is noteworthy that although several countries and international bodies have been introducing relevant measures to advance the goal of gender-parity, those measures are neither comprehensive nor consistent – not sufficiently coordinated with preexisting domestic or international legal framework – and do not always reach the status of binding norms.

40. It would therefore be important to have an encompassing assessment of the situation to enable clearer conclusions on the current state of gender-parity oriented policies (i.e. normative frameworks, degree of compliance to them, political will in countries and regional bodies, existing proposals at national, regional and UN level, normative constraints and other normative modifications needed to implement gender-parity oriented measures).

1. Human Rights Council. “Resolution 41/6. Elimination of all forms of discrimination against women and girls”, 11 July 2019, paragraph 17. [↑](#footnote-ref-2)
2. General Comment No. 16: Equal rights of men and women to the enjoyment of economic, social and cultural rights (Article 3 of the International Covenant on Economic, Social and Cultural Rights), August 11, 2005, paragraph 1. [↑](#footnote-ref-3)
3. <https://www.ohchr.org/EN/HRBodies/HRC/AdvisoryCommittee/Pages/LevelsRepresentationWomen.aspx> [↑](#footnote-ref-4)