**THURSDAY 29 OCTOBER**

**AFTERNOON: Article 15. Institutional arrangements**

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Open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights

*Sixth session (26-30 October 2020)*

*Item 4: Article 15. Institutional arrangements*

Given the highly gendered dimension of business-related human rights abuses that requires gender analysis and integration of a gender perspective, we urge to include gender expertise as a criterion in the selection of experts of the Committee created under the Legally Binding Instrument. This should be  in addition to ensuring gender balance of Committee members.  We therefore suggest the following amendment to the last sentence of Article 15.1a: *“The members of the Committee shall serve in their personal capacity and shall be of high moral standing and recognized competence in the field of human rights, public international law or other relevant fields,* ***and shall have gender expertise****.”*

In accordance with Article 7  of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), which requires  States Parties to take all appropriate measures to eliminate discrimination against women in political and public life and, in particular, to ensure to women, on equal terms with men, the right to participation in public and political life and with the UN Human Rights Council resolution 41/6 which “encourages the United Nations and other international institutions, to promote a balanced gender representation and equitable geographical distribution in the composition of international bodies at all levels”[[1]](#footnote-1),we stress that  gender balance in the monitoring of the treaty implementation can and should be achieved, rather than merely being “given consideration”.

Currently,  gender balance among human rights treaty bodies experts is still far from being reality. For instance:

* 86% of experts in the Committee on Migrant Workers are men[[2]](#footnote-2);
* 70% of experts in the Committee on Enforced Disappearances are men[[3]](#footnote-3);
* 70% of experts in the Committee against Torture are men[[4]](#footnote-4).
* 67% of experts in the Committee on the Rights of Persons with Disabilities are men[[5]](#footnote-5);
* 65% of experts in the Committee on Economic, Social and Cultural Rights are men[[6]](#footnote-6);

Only the CEDAW Committee has a higher proportion of female experts with two male experts[[7]](#footnote-7).

We therefore urge for clear provisions guaranteeing, at least, gender parity understood as the equal participation of men and women among the Committee envisaged in the draft LBI (Art. 15). We thus suggest deleting the term “*gender balanced*” in article 15. 1 b) and replacing it with the term “*gender equal*”. In the election of experts by the State parties, consideration should also be given to diversity more broadly  as well as to diversity of skills and experiences.

Finally, we note that our coalition does not have a position yet on the competences and functions of the future institutional mechanism. These will have to be carefully analysed in conjunction with the final obligations laid out in the legally binding instrument and its Optional Protocol. We, however, wish to underline that the following minimum principles should underpin the creation of a future Committee:

* Ensuring participation of the widest range of stakeholders and strengthened role for civil society in the work of the Committee and in the Conference of State Parties,
* Competence of the Committee to receive individual communications against States and also against companies,
* Effective national and monitoring mechanisms to be developed to complement the Committee’s work.

1. <https://undocs.org/A/HRC/RES/41/6>, para. 15 [↑](#footnote-ref-1)
2. <https://www.ohchr.org/EN/HRBodies/CMW/Pages/Membership.aspx> [↑](#footnote-ref-2)
3. <https://www.ohchr.org/EN/HRBodies/CMW/Pages/Membership.aspx> [↑](#footnote-ref-3)
4. <https://www.ohchr.org/EN/HRBodies/CMW/Pages/Membership.aspx> [↑](#footnote-ref-4)
5. <https://www.ohchr.org/EN/HRBodies/CMW/Pages/Membership.aspx> [↑](#footnote-ref-5)
6. <https://www.ohchr.org/EN/HRBodies/CMW/Pages/Membership.aspx> [↑](#footnote-ref-6)
7. <https://www.ohchr.org/EN/HRBodies/CMW/Pages/Membership.aspx> [↑](#footnote-ref-7)