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Comité consultatif

Vingt et unième session

6-10 août 2018

Point 4 de l'ordre du jour

Rapport du Comité consultatif sur sa vingt et unième session

Rapport du Comité consultatif sur sa vingt et unième session*

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* Les annexes au présent rapport sont reproduites telles qu'elles ont été reçues.

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I. Résolutions adoptées par le Comité consultatif à sa vingt et unième session

21/1. Activités des fonds voutours et incidences sur les droits de l'homme

Le Comité consultatif du Conseil des droits de l'homme,

Rappelant la résolution 34/3 du Conseil des droits de l'homme en date du 23 mars 2017, dans laquelle le Conseil a pris note avec satisfaction du rapport intermédiaire du Comité consultatif sur les activités des fonds voutours et leurs incidences sur les droits de l'homme¹, et a prié le Comité consultatif de lui présenter un rapport final sur la question à sa trente-neuvième session, pour examen,

Rappelant également la résolution 37/11 du Conseil des droits de l'homme en date du 22 mars 2018, dans laquelle le Conseil a décidé de prier le Comité consultatif de poursuivre ses travaux en vue de lui soumettre son rapport final à sa quarante et unième session,

Rappelant en outre qu'à sa dix-neuvième session, le Comité consultatif a créé un groupe de rédaction, actuellement composé d'Ibrahim Abdulaziz Alsheddi, de Mario Luis Coriolano (Président), d'Ion Diaconu, de Mikhail Lebedev, de Jean Ziegler (Rapporteur) et de Mohamed Bennani,

1. *Note* que le groupe de rédaction et le Comité consultatif ont tenu une réunion pour s'entretenir de la question à l'examen ;

2. *Prie* le groupe de rédaction de présenter au Comité consultatif, à sa vingt-deuxième session, un projet de rapport final, en tenant compte des éléments nouveaux et des informations pertinentes en vue de soumettre son rapport final au Conseil des droits de l'homme à sa quarante et unième session.

9^e séance
10 août 2018

21/2. Effets préjudiciables du terrorisme sur la jouissance des droits de l'homme

Le Comité consultatif du Conseil des droits de l'homme,

Rappelant la résolution 34/8 du Conseil des droits de l'homme en date du 23 mars 2017, dans laquelle le Conseil a prié le Comité consultatif de mener une étude et d'établir un rapport sur les effets préjudiciables du terrorisme sur la jouissance de tous les droits de l'homme et libertés fondamentales, l'accent étant mis tout particulièrement sur les droits économiques, sociaux et culturels, notamment du fait de la réorientation de l'investissement étranger direct, de la réduction des apports de capitaux, de la destruction des infrastructures, de la limitation du commerce extérieur, de la perturbation des marchés financiers, des répercussions négatives sur certains secteurs économiques et des entraves à la croissance économique, en formulant des recommandations au sujet des mesures que les gouvernements, les mécanismes de défense des droits de l'homme des Nations Unies, les organisations régionales et internationales et les organisations de la société civile devraient prendre à cet égard, et de présenter ledit rapport au Conseil à sa trente-neuvième session, en vue de son examen lors du dialogue,

Rappelant également qu'à sa dix-neuvième session, le Comité consultatif a créé un groupe de rédaction, actuellement composé de Lazhari Bouzid, d'Ion Diaconu, de Karla Hananía de Varela, de Ludovic Hennebel, de Mikhail Lebedev, de Xinsheng Liu, d'Ajai Malhotra, de Mona Omar (Rapporteuse), de Katharina Pabel (Présidente) et

¹ A/HRC/33/54.

d'Elizabeth Salmón, et qu'à sa vingt et unième session, M^{me} Hanania de Varela a été désignée comme nouvelle Présidente,

Notant qu'à sa trente-huitième session, le Conseil des droits de l'homme a décidé de prolonger le délai accordé au Comité consultatif pour achever ses travaux et a prié le Comité de lui soumettre son étude à sa quarante-deuxième session,

1. *Prend note* du rapport intermédiaire sur les effets préjudiciables du terrorisme sur la jouissance des droits de l'homme que le groupe de rédaction lui a soumis à sa vingt et unième session ;

2. *Décide* d'adresser aux États Membres, aux organisations internationales et régionales, aux institutions nationales des droits de l'homme et aux organisations non gouvernementales une note verbale pour les inviter à lui soumettre, le 30 novembre 2018 au plus tard, leurs contributions au sujet de la section de l'étude dans laquelle sont formulées des recommandations ayant trait aux effets du terrorisme sur les droits économiques, sociaux et culturels et aux procédures destinées à protéger les civils, en particulier les groupes vulnérables, des effets du terrorisme ;

3. *Prie* les membres du groupe de rédaction de soumettre leurs observations par écrit avant la fin de décembre 2018, afin d'achever l'étude en question et de la présenter au Comité consultatif à sa vingt-deuxième session, en tenant compte des débats qui auront eu lieu à la présente session et des contributions reçues en réponse à la note verbale susmentionnée, en vue de soumettre l'étude finale au Conseil des droits de l'homme à sa quarante-deuxième session.

9^e séance
10 août 2018

21/3. Les effets négatifs du non-rapatriement des fonds d'origine illicite sur la jouissance des droits de l'homme

Le Comité consultatif du Conseil des droits de l'homme,

Rappelant la résolution 34/11 du Conseil des droits de l'homme en date du 23 mars 2017, dans laquelle le Conseil a prié le Comité consultatif de réaliser une étude, dans le prolongement de l'étude demandée par le Conseil des droits de l'homme dans sa résolution 31/22 du 24 mars 2016, sur la possibilité d'utiliser les fonds illicites non rapatriés, notamment par la monétisation et/ou la création de fonds d'investissement, pendant que sont menées à bien les procédures juridiques nécessaires, et conformément aux priorités nationales, en vue d'appuyer la réalisation des objectifs du Programme de développement durable à l'horizon 2030 et de contribuer à promouvoir plus avant les droits de l'homme, conformément aux obligations découlant du droit international des droits de l'homme, et de soumettre cette étude au Conseil à sa trente-neuvième session,

Rappelant également que le Conseil des droits de l'homme, dans sa résolution 34/11 du 24 mars 2017, a demandé au Comité consultatif de solliciter, lors de l'élaboration de l'étude susmentionnée, d'autres vues et les contributions des États Membres, des organisations internationales et régionales compétentes, des organismes des Nations Unies, notamment le Haut-Commissariat des Nations Unies aux droits de l'homme, et de l'Office des Nations Unies contre la drogue et le crime, des institutions nationales de défense des droits de l'homme et des organisations non gouvernementales ainsi que des autres parties prenantes, afin de finaliser ladite étude,

Rappelant en outre qu'à sa dix-neuvième session, le Comité consultatif a créé un groupe de rédaction, actuellement composé d'Ibrahim Abdulaziz Alsheddi, de Mario Luis Coriolano, de Mikhail Lebedev, de Mona Omar, de Changrok Soh, de Jean Ziegler, de Ludovic Hennebel, d'Ajai Malhotra (Président) et de Dheerujlall Baramlall Seetulsingh (Rapporteur),

Notant qu'à sa trente-huitième session, le Conseil des droits de l'homme a décidé de prolonger le délai accordé au Comité consultatif pour achever son étude de sorte qu'il puisse la soumettre au Conseil à sa quarante-deuxième session,

1. *Prend note* de l'exposé préliminaire des grandes lignes de l'étude fait par le groupe de rédaction à sa vingt et unième session ;

2. *Demande* au groupe de rédaction de redistribuer le questionnaire de façon à recueillir les vues des États, selon qu'il conviendra, des organisations internationales et organisations régionales compétentes, des institutions nationales de défense des droits de l'homme et des organisations non gouvernementales et autres parties prenantes qui n'ont pas répondu au questionnaire, et de les inviter à communiquer les noms d'experts renommés, des données concrètes et des statistiques et à faire part des pratiques optimales et des difficultés majeures recensées dans l'utilisation des fonds illicites non rapatriés en vue d'appuyer la réalisation des objectifs du Programme de développement durable à l'horizon 2030, comme mentionné au paragraphe 31 de la résolution 34/11 du Conseil des droits de l'homme ;

3. *Demande également* au groupe de rédaction de soumettre au Comité consultatif, à sa vingt-deuxième session, un rapport final où auront été prises en compte les discussions tenues lors de la présente session et les contributions faites via le questionnaire, dans l'optique de soumettre le rapport final au Conseil des droits de l'homme, à sa quarante-deuxième session.

9^e séance
10 août 2018

21/4. Contribution du développement à la jouissance des droits de l'homme

Le Comité consultatif du Conseil des droits de l'homme,

Rappelant la résolution 35/21 du Conseil des droits de l'homme, en date du 22 juin 2017, par laquelle le Conseil a prié le Comité consultatif de mener une étude sur la manière dont le développement contribue à la jouissance par tous de tous les droits de l'homme, en particulier sur les succès rencontrés et les meilleures pratiques, et de soumettre le rapport correspondant au Conseil des droits de l'homme avant sa quarante et unième session,

Rappelant en outre qu'à sa dix-neuvième session, le Comité consultatif a créé un groupe de rédaction, actuellement composé de Mohamed Bennani, de Lazhari Bouzid, de Mario Luis Coriolano, de Mikhail Lebedev (Rapporteur), de Xinsheng Liu (Président), d'Ajai Malhotra, de Dheerujlall Baramlall Seetulsingh, de Changrok Soh, d'Imeru Tamrat Yigezu et de Jean Ziegler,

1. *Accueille avec satisfaction* les réponses au questionnaire qui a été redistribué à l'issue des débats tenus à la vingtième session du Comité, reçues de 16 États, 11 institutions nationales des droits de l'homme et trois organisations non gouvernementales ;

2. *Prend note* du projet de rapport établi par le Rapporteur, qui contient les réponses au questionnaire et les vues pertinentes des États, des institutions nationales des droits de l'homme et des organisations non gouvernementales concernant les succès rencontrés et les meilleures pratiques recensées pour ce qui est de la contribution du développement à la jouissance des droits de l'homme, ainsi que les difficultés à surmonter et les conclusions et recommandations tirées de ces succès et meilleures pratiques ;

3. *Note* que le groupe de rédaction a tenu une réunion pour débattre de la question ;

4. *Demande* au groupe de rédaction de lui soumettre l'étude à sa vingt-deuxième session en vue de la présentation du rapport correspondant au Conseil des droits de l'homme à sa quarante et unième session, en tenant compte des nouvelles contributions reçues à l'issue du débat tenu à la présente session.

9^e séance
10 août 2018

21/5. Politiques nationales et droits de l'homme

Le Comité consultatif du Conseil des droits de l'homme,

Rappelant la résolution 35/32 du Conseil des droits de l'homme en date du 23 juin 2017, dans laquelle le Conseil a demandé au Comité consultatif d'élaborer une étude qui pourrait aider les États à mettre en œuvre le Programme de développement durable à l'horizon 2030 en intégrant les droits de l'homme dans les politiques nationales, sur la base du recueil établi par le Haut-Commissaire des Nations Unies aux droits de l'homme, et de lui la présenter dans le cadre de son cycle ordinaire de soumission de rapports à sa quarante-cinquième session, à l'occasion du cinquième anniversaire de l'adoption du Programme 2030,

Rappelant également qu'à sa dix-neuvième session, le Comité consultatif a créé un groupe de rédaction, actuellement composé de Mario Luis Coriolano, d'Ion Diaconu (Rapporteur), de Karla Hananía de Varela, de Ludovic Hennebel, d'Ajai Malhotra, de Kaoru Obata, de Mona Omar, de Katharina Pabel, d'Elizabeth Salmón, de Dheerujall Baramlall Seetulsingh et de Changrok Soh (Président),

1. *Se félicite et prend note* de la version préliminaire actualisée des grandes lignes de l'étude élaborée par le groupe de rédaction ;

2. *Se félicite* de la participation d'un membre du groupe de rédaction à la deuxième réunion du Forum des pays d'Amérique latine et des Caraïbes sur le développement durable et de celle du Rapporteur à la réunion du Forum politique de haut niveau sur le développement durable qui a eu lieu en 2018 ;

3. *Note* que le groupe de rédaction et le Comité consultatif ont tenu des réunions pour examiner la question, notamment les rapports oraux du Rapporteur et d'un membre du groupe de rédaction devant les forums sur le développement durable ;

4. *Décide* de poursuivre l'échange de vues sur ce sujet avec des experts externes et des membres du Haut-Commissariat, en vue d'élaborer l'étude conformément à la résolution 35/32 du Conseil des droits de l'homme ;

5. *Invite* les membres du groupe de rédaction à poursuivre les discussions intersessions et à continuer de participer et de contribuer aux consultations régionales sur la mise en œuvre du Programme de développement durable à l'horizon 2030, et à informer le Comité consultatif, à sa vingt-deuxième session, de ses activités liées à l'élaboration du rapport qui sera soumis au Conseil des droits de l'homme pour adoption à sa quarante-cinquième session ;

6. *Prie* le Haut-Commissariat de lui rendre compte de tous les documents établis par les organismes des Nations Unies et d'autres organisations internationales sur les différentes questions relatives à la mise en œuvre du Programme de développement durable à l'horizon 2030 lorsqu'ils sont disponibles.

9^e séance
10 août 2018

21/6. Appel mondial pour une action concrète en vue de l'élimination totale du racisme, de la discrimination raciale, de la xénophobie et de l'intolérance qui y est associée et de l'application intégrale et du suivi de la Déclaration et du Programme d'action de Durban

Le Comité consultatif du Conseil des droits de l'homme,

Rappelant la résolution 72/157 de l'Assemblée générale, du 19 décembre 2017, dans laquelle l'Assemblée a prié le Conseil des droits de l'homme de continuer de suivre de près la situation mondiale en matière d'égalité raciale et, à cet égard, par l'intermédiaire de son Comité consultatif, de réaliser une étude sur les moyens les mieux adaptés d'évaluer la situation et de déceler les lacunes et les chevauchements d'activités potentiels,

1. *Désigne* les membres suivants du Comité consultatif pour faire partie du groupe de rédaction : Ajai Malhotra, Ion Diaconu, Mona Omar, Hanania de Varela, Mikhail Lebedev, Dheerujlall Seetulsingh, Ludovic Hennebel et Elizabeth Salmón ;

2. *Note* que le groupe de rédaction a élu Dheerujlall Seetulsingh Président et Ludovic Hennebel Rapporteur ;

3. *Note également* que le groupe de rédaction et le Comité en formation plénière ont tenu des réunions pour débattre de la question à l'examen ;

4. *Salue* la participation active d'experts extérieurs à ce débat et la grande richesse de l'échange de vues, et note que le débat a produit des contributions intéressantes qui seront utiles aux travaux du groupe de rédaction ;

5. *Invite* les organes et les mécanismes compétents, notamment ceux qui sont énumérés ci-après, à soumettre des contributions et à poursuivre leur collaboration : le Groupe de travail d'experts sur les personnes d'ascendance africaine ; le Rapporteur spécial sur les droits de l'homme et l'extrême pauvreté ; le Rapporteur spécial sur les formes contemporaines de racisme, de discrimination raciale, de xénophobie et de l'intolérance qui y est associée ; le Rapporteur spécial sur les formes contemporaines d'esclavage, y compris leurs causes et leurs conséquences ; le Comité spécial sur l'élaboration de normes complémentaires ; les organes conventionnels de l'ONU compétents, dont le Comité des droits de l'homme et le Comité pour l'élimination de la discrimination raciale ; les mécanismes de suivi de Durban, dont le Groupe de travail intergouvernemental sur l'application effective de la Déclaration et du Programme d'action de Durban et le groupe d'éminents experts indépendants sur la mise en œuvre de la Déclaration et du Programme d'action de Durban ;

6. *Prie* le groupe de rédaction de lui soumettre une version préliminaire du plan général de l'étude à sa vingt-deuxième session ;

7. *Encourage* les diverses parties intéressées à contribuer aux travaux en cours.

9^e séance
10 août 2018

21/7. Rôle de l'assistance technique et du renforcement des capacités dans le développement d'une coopération mutuellement avantageuse aux fins de la promotion et de la protection des droits de l'homme

Le Comité consultatif du Conseil des droits de l'homme,

Rappelant la résolution 37/23 du 23 mars 2018, dans laquelle le Conseil des droits de l'homme l'a prié de mener une étude sur le rôle de l'assistance technique et du renforcement des capacités dans le développement d'une coopération mutuellement avantageuse aux fins de la promotion et de la protection des droits de l'homme,

1. *Désigne* comme membres du groupe de rédaction chargé de préparer l'étude susmentionnée les membres du Comité consultatif dont le nom suit : Mohamed Bennani, Lazhari Bouzid, Ion Diaconu, Ludovic Hennebel, Xinsheng Liu, Ajai Malhotra, Kaoru Obata, Elizabeth Salmón, Dheerujlall Seetulsingh et Changrok Soh ;

2. *Note* que le groupe de rédaction a élu Xinsheng Liu Président et Lazhari Bouzid Rapporteur ;

3. *Note également* que le groupe de rédaction et le Comité consultatif en formation plénière ont tenu des réunions pour s'entretenir de la question à l'examen ;

4. *Salue* l'active participation aux débats de toutes les parties prenantes ainsi que l'échange de vues qui a eu lieu, et constate que les débats ont apporté de précieuses contributions qui seront très utiles aux travaux du groupe de rédaction ;

5. *Décide* d'adresser une note verbale aux États Membres et aux autres parties prenantes, y compris les organisations internationales, les institutions nationales de défense

des droits de l'homme et les organisations non gouvernementales, dans laquelle il leur demande de présenter, le 30 novembre 2018 au plus tard, des contributions sur le rôle de l'assistance technique et du renforcement des capacités dans le développement d'une coopération mutuellement avantageuse aux fins de la promotion et de la protection des droits de l'homme, en particulier des données concrètes, des statistiques, des renseignements sur les meilleures pratiques et les défis majeurs, afin que ces informations soient prises en compte dans l'étude ;

6. *Demande* au groupe de rédaction de lui présenter une ébauche des grandes lignes de l'étude à sa vingtième-deuxième session, en tenant compte des réponses à la note verbale susmentionnée, et de lui soumettre le projet d'étude à sa vingt-troisième session ;

7. *Encourage* les diverses parties prenantes à participer aux travaux en cours.

9^e séance
10 août 2018

II. Adoption de l'ordre du jour et organisation des travaux

A. Ouverture et durée de la session

1. Le Comité consultatif du Conseil des droits de l'homme, créé en application de la résolution 5/1 du Conseil en date du 18 juin 2007, a tenu sa vingt et unième session à l'Office des Nations Unies à Genève, du 6 au 10 août 2018. La session a été ouverte par la Présidente de la vingt et unième session, Katharina Pabel.

2. À la 1^{re} séance, le 6 août 2018, le Vice-Président du Conseil des droits de l'homme, Juan Eduardo Eguiguren, a prononcé une allocution d'ouverture.

3. À la même séance, le chef du Service de l'Examen périodique universel du Haut-Commissariat des Nations Unies aux droits de l'homme (HCDH) a fait une déclaration au nom du Haut-Commissaire.

4. À la même séance également, les participants ont observé une minute de silence en hommage aux victimes de violations des droits de l'homme dans le monde.

B. Composition du Comité consultatif

5. Le Comité consultatif se compose des personnes dont le nom suit² : Ibrahim Abdulaziz Alsheddi (Arabie saoudite, 2018) ; Mohamed Bennani (Maroc, 2020) ; Lazhari Bouzid (Algérie, 2019) ; Mario Luis Coriolano (Argentine, 2018) ; Ion Diaconu (Roumanie, 2020) ; Karla Hananía de Varela (El Salvador, 2019) ; Ludovic Hennebel (Belgique, 2020) ; Mikhail Lebedev (Fédération de Russie, 2019) ; Xinsheng Liu (Chine, 2019) ; Ajai Malhotra (Inde, 2020) ; Kaoru Obata (Japon, 2019) ; Mona Omar (Égypte, 2019) ; Katharina Pabel (Autriche, 2018) ; Elizabeth Salmón (Pérou, 2020) ; Dheerujlall Baramlall Seetulsingh (Maurice, 2020) ; Changrok Soh (République de Corée, 2020) ; Imeru Tamrat Yigezu (Éthiopie, 2018) ; Jean Ziegler (Suisse, 2019).

C. Participation

6. Ont participé à la session les membres du Comité consultatif et des observateurs d'États Membres de l'Organisation des Nations Unies, ainsi que d'organisations non gouvernementales.

² L'année indiquée entre parenthèses est l'année d'expiration du mandat du membre concerné (la date d'échéance est le 30 septembre).

D. Séances

7. Au cours de sa vingt et unième session, le Comité consultatif a tenu neuf séances plénières et quatre séances privées. Les groupes de rédaction ont tenu des séances privées sur les activités des fonds voutours et leurs incidences sur les droits de l'homme, les effets préjudiciables du terrorisme sur la jouissance de tous les droits de l'homme, les effets négatifs du non-rapatriement des fonds d'origine illicite sur la jouissance des droits de l'homme, le rôle de l'assistance technique et du renforcement des capacités dans le développement d'une coopération mutuellement avantageuse aux fins de la promotion et de la protection des droits de l'homme, les politiques nationales et les droits de l'homme, et la contribution du développement à la jouissance des droits de l'homme. Le Comité consultatif a également tenu des séances privées avec le Bureau du Conseil des droits de l'homme, ainsi qu'avec des coordonnateurs régionaux et des coordonnateurs de groupes politiques. Le Comité consultatif a en outre tenu une séance publique avec des représentants d'organisations non gouvernementales.

8. À la 4^e séance, le 7 août 2018, le Comité consultatif a organisé une manifestation commémorative et un débat d'experts sur le thème « De la recherche à l'action » (*How Research leads to action*) pour marquer son dixième anniversaire. Au cours de cette manifestation, une brochure et une courte vidéo sur le Comité, préparée par des étudiants de Ludovic Hennebel, ont été présentées. Kaoru Obata, Mario Luis Coriolano, Katharina Pabel et Imeru Tamrat Yigezu ont fait des déclarations en qualité d'experts. Elizabeth Salmón a animé le débat, auquel ont participé les autres membres du Comité consultatif et des observateurs.

E. Adoption de l'ordre du jour

9. À sa 1^{re} séance, le 6 août 2018, le Comité consultatif a adopté son ordre du jour (A/HRC/AC/21/1) (pour la liste des documents publiés à l'occasion de la vingt et unième session du Comité, voir l'annexe I).

F. Organisation des travaux

10. À sa 1^{re} séance, le 6 août 2018, le Comité consultatif a adopté le projet de programme de travail élaboré par le secrétariat.

III. Demandes actuellement à l'examen, adressées au Comité consultatif en application de résolutions du Conseil des droits de l'homme

1. Arrangements régionaux pour la promotion et la protection des droits de l'homme

11. À sa 1^{re} séance, le 6 août 2018, en application de la décision 32/115 du Conseil des droits de l'homme, le Comité consultatif a délibéré sur les arrangements régionaux pour la promotion et la protection des droits de l'homme. Le Rapporteur du groupe de rédaction, Changrok Soh, a présenté le rapport final (A/HRC/39/58), qui sera soumis au Conseil pour examen à sa trente-neuvième session. Au cours du débat qui a suivi, des déclarations ont été faites par des membres du Comité consultatif (voir annexe II). Le Rapporteur du groupe de rédaction a ensuite fait des observations pour conclure le débat.

2. Appel mondial pour une action concrète en vue de l'élimination totale du racisme, de la discrimination raciale, de la xénophobie et de l'intolérance qui y est associée et de l'application intégrale et du suivi de la Déclaration et du Programme d'action de Durban

12. À sa 2^e séance, le 6 août 2018, le Comité consultatif a tenu, conformément à la résolution 72/157 de l'Assemblée générale, un débat sur la situation concernant l'égalité raciale dans le monde et sur les moyens d'évaluer la situation et d'identifier les lacunes et les chevauchements éventuels. Dans ce contexte, le représentant de l'Afrique du Sud a fait un exposé sur la question. Au cours du débat qui a suivi, des membres du Comité et un représentant des États observateurs ont fait des déclarations (voir annexe II).

3. Rôle de l'assistance technique et du renforcement des capacités dans le développement d'une coopération mutuellement avantageuse aux fins de la promotion et de la protection des droits de l'homme

13. À sa 2^e séance, le 6 août 2018, le Comité consultatif a tenu, conformément à la résolution 37/23 du Conseil des droits de l'homme, un débat sur le rôle de l'assistance technique et du renforcement des capacités dans le développement d'une coopération mutuellement avantageuse aux fins de la promotion et de la protection des droits de l'homme. Dans ce contexte, le représentant de la Chine a fait un exposé sur la question. Au cours du débat, des déclarations ont été faites par des membres du Comité et un représentant d'une organisation intergouvernementale (voir annexe II).

4. Politiques nationales et droits de l'homme

14. À sa 3^e séance, le 7 août 2018, le Comité consultatif a tenu, en application de la résolution 35/32 du Conseil des droits de l'homme, un débat sur les politiques nationales, les droits de l'homme et les objectifs de développement durable. Le Rapporteur du groupe de travail, Ion Diaconu, a informé les autres membres du Comité de sa participation à des réunions organisées par le Forum politique de haut niveau pour le développement durable, qui s'est tenu à New York du 16 au 19 juillet 2018, et a présenté un plan préliminaire du rapport mis à jour. Mario Luis Coriolano a présenté un exposé sur sa participation à la session du Forum des pays d'Amérique latine et des Caraïbes sur le développement durable. Au cours du débat qui a suivi, des déclarations ont été faites par des membres du Comité consultatif et un représentant d'un État observateur (voir annexe II).

5. Activités des fonds voutours et leurs incidences sur les droits de l'homme

15. À sa 6^e séance, le 8 août 2018, le Comité consultatif a, en application de la résolution 34/3 du Conseil des droits de l'homme, tenu un débat sur les activités des fonds voutours et leurs incidences sur les droits de l'homme. Au cours du débat, des déclarations ont été faites par des membres du Comité (voir annexe II).

6. Effets négatifs du non-rapatriement des fonds d'origine illicite sur la jouissance des droits de l'homme

16. À sa 6^e séance, le 8 août 2018, le Comité consultatif a tenu, en application des résolutions 31/22 et 34/11 du Conseil des droits de l'homme, un débat sur les effets négatifs du non-rapatriement des fonds d'origine illicite sur la jouissance des droits de l'homme. Le Rapporteur du groupe de rédaction, Dheerujlall Baramlall Seetulsingh, a présenté le plan préliminaire de l'étude. Au cours du débat, des déclarations ont été faites par des membres

du Comité et des représentants d'États observateurs (voir annexe II). Le Rapporteur du groupe de rédaction a ensuite fait des observations pour conclure le débat.

IV. Mise en œuvre des sections III et IV de l'annexe à la résolution 5/1 du Conseil des droits de l'homme, en date du 18 juin 2007, et de la section III de l'annexe à la résolution 16/21 du Conseil, en date du 25 mars 2011

A. Examen des méthodes de travail

17. Le 9 août 2018, le Comité consultatif a examiné en séance privée ses méthodes de travail.

B. Ordre du jour et programme de travail annuel, y compris les nouvelles priorités

18. À sa 8^e séance, le 9 août 2018, le Comité consultatif a consacré un débat à des documents de réflexion et des propositions de recherche. Des membres du Comité ont soumis à son examen des projets de documents de réflexion et des propositions de recherche sur les thèmes suivants :

- Accès à la justice (Mario Luis Coriolano) ;
- Budget et droits de l'homme (Mario Luis Coriolano) ;
- Transformation numérique : incidence des nouvelles technologies sur les droits de l'homme (Changrok Soh) ;
- Droits économiques, sociaux et culturels à l'ordre du jour des juridictions internationales (Ion Diaconu) ;
- Instauration de l'égalité des sexes et de la parité au sein du Comité consultatif (Elizabeth Salmón).

19. À sa 9^e séance, le 10 août 2018, le Comité consultatif a décidé de soumettre au Conseil des droits de l'homme, pour examen, une proposition de recherche sur le thème « Droits économiques, sociaux et culturels à l'ordre du jour des juridictions internationales » (voir annexe III).

20. À la même séance, le Comité consultatif a examiné un document de réflexion sur l'instauration de l'égalité des sexes et de la parité au sein du Comité consultatif, établi par Elizabeth Salmón (voir annexe IV). Il a été souligné que le Conseil des droits de l'homme pourrait prendre en compte les principes énoncés dans le document de réflexion en question lors de la désignation d'un nouveau membre du Comité consultatif.

21. Au cours du débat qui a suivi, des membres du Comité consultatif, des représentants d'États observateurs, un observateur d'une organisation intergouvernementale et un observateur d'une organisation non gouvernementale ont fait des déclarations (voir annexe II).

C. Désignation des membres du Groupe de travail des communications

22. Conformément aux paragraphes 91 à 93 de l'annexe à la résolution 5/1 du Conseil des droits de l'homme, le Comité consultatif doit désigner cinq de ses membres parmi les représentants de chacun des groupes régionaux, compte dûment tenu des principes de l'équilibre entre les sexes, pour constituer le Groupe de travail des communications. En cas de vacance de poste, le Comité désigne un expert indépendant et hautement qualifié choisi parmi les membres du même groupe régional. Comme il est nécessaire de disposer de

compétences indépendantes et d'assurer une continuité dans l'examen et l'évaluation des communications, les experts indépendants et hautement qualifiés qui siègent au Groupe de travail ont un mandat de trois ans renouvelable une seule fois.

23. Les membres actuels du Groupe de travail des communications ont été désignés par le Comité consultatif à ses onzième, treizième et dix-septième sessions (voir A/HRC/AC/11/2, par. 29, A/HRC/AC/13/2, par. 36 et 37, et A/HRC/AC/17/2, par. 26).

24. Étant donné que le mandat de trois membres du Groupe de travail, à savoir Imeru Tamrat Yigezu (Groupe des États d'Afrique), Katharina Pabel (Groupe des États d'Europe occidentale et autres États) et Mario Luis Coriolano (Groupe des États d'Amérique latine et des Caraïbes) expire le 30 septembre 2018, le Comité a décidé, à sa 9^e séance, le 10 août, de désigner Karla Hananía de Varela, Ludovic Hennebel et Mona Omar membres du Groupe.

V. Rapport du Comité consultatif sur sa vingt et unième session

25. À la 10^e séance, le 10 août 2018, le Rapporteur a présenté le projet de rapport du Comité consultatif sur sa vingt et unième session. Le Comité a adopté le projet de rapport *ad referendum* et a décidé de charger le Rapporteur d'en établir la version définitive.

26. À la même séance, Karla Hananía de Varela, Ibrahim Abdulaziz Alsheddi, Ludovic Hennebel et Mona Omar ont prononcé des déclarations de clôture. Après le traditionnel échange de félicitations et de remerciements, la Présidente a formulé des observations finales et prononcé la clôture de la vingt et unième session du Comité consultatif.

Annexes

[Anglais seulement]

Annex I

Documents issued for the twenty-first session of the Advisory Committee

Documents issued in the general series

<i>Symbol</i>	<i>Agenda item</i>	
A/HRC/AC/21/1	1	Provisional agenda and annotations
A/HRC/AC/21/2	4	Report of the Advisory Committee on its twenty-first session

Documents issued in the limited series

<i>Symbol</i>	<i>Agenda item</i>	
A/HRC/AC/21/L.1	3 (k)	The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights
A/HRC/AC/21/L.2	3 (f)	Negative impact of terrorism on the enjoyment of human rights
A/HRC/AC/21/L.3	3 (i)	National policies and human rights
A/HRC/AC/21/L.4	3 (h)	Contribution of development to the enjoyment of human rights
A/HRC/AC/21/L.5	3 (e)	Activities of vulture funds and their impact on human rights
A/HRC/AC/21/L.6	3 (g)	Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights
A/HRC/AC/21/L.7	3 (j)	A global call for concrete action for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

Annex II

List of speakers

<i>Agenda item</i>		<i>Meeting and date</i>	<i>Speakers</i>
2. Requests addressed to the Advisory Committee stemming from Human Rights Council resolutions			
(a) Requests currently under consideration by the Committee	(i) Regional arrangement for the promotion and protection of human rights	1st meeting 6 August 2018	Members: Ion Diaconu, Imeru Tamrat Yigezu, Dheerujlall Baramlall Seetulsingh, Elizabeth Salmón, Mona Omar, Ludovic Hennebel, Lazhari Bouzid, Karla Hananía de Varela, Mario Luis Coriolano, Ajai Malhotra
	(ii) A global call for concrete action for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action	2nd meeting 6 August 2018	Members: Ludovic Hennebel, Mona Omar, Lazhari Bouzid, Ion Diaconu, Dheerujlall Baramlall Seetulsingh, Ajai Malhotra Observer intergovernmental organization: Azerbaijan
	(iii) The role of technical assistance and capacity-building in fostering mutually beneficial cooperation in promoting and protecting human rights	2nd meeting 6 August 2018	Members: Xinsheng Liu, Lazhari Bouzid, Mario Luis Coriolano, Ion Diaconu, Dheerujlall Baramlall Seetulsingh Observer State: European Union
	(iv) National policies and human rights	3rd meeting 7 August 2018	Members: Mario Luis Coriolano, Changrok Soh, Ajai Malhotra, Karla Hananía de Varela, Ibrahim Abdulaziz Alsheddi Observer State: Peru

<i>Agenda item</i>	<i>Meeting and date</i>	<i>Speakers</i>
(v) Activities of vulture funds and their impact on human rights	6th meeting 8 August 2018	Members: Mohamed Bennani, Ludovic Hennebel

<i>Agenda item</i>	<i>Meeting and date</i>	<i>Speakers</i>
(vi) Negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human right	6th meeting 8 August 2018	Members: Dheerujlall Baramlall Seetulsingh (Rapporteur), Jean Ziegler, Mario Luis Coriolano Observer States: Egypt and Tunisia

<i>Agenda item</i>	<i>Meeting and date</i>	<i>Speakers</i>
3. Implementation of sections III and IV of the annex to Human Rights Council resolution 5/1 of 18 June 2007 and section III of the annex to Council resolution 16/21 of 25 March 2011		

<i>Agenda item</i>	<i>Meeting and date</i>	<i>Speakers</i>
(b) Agenda and annual programme of work, including new priorities	8th meeting 9 August 2018	Members: Lazhari Bouzid, Mario Luis Coriolano, Karla Hananía de Varela, Ludovic Hennebel, Xinsheng Liu, Dheerujlall Baramlall Seetulsingh, Observer States: Peru, Brazil, Guatemala, Intergovernmental organization: European Union Non-governmental organization: United Nations Watch

Annex III

Research proposal

Promoting economic, social and cultural rights through jurisdictional means

In all States, economic, social and cultural human rights can be claimed before internal judicial bodies, to the extent they are provided for in the national legislation, taking into account the obligations established for the State authorities, for the employers and for other stakeholders.

At the international level, claims and complaints concerning these rights are increasingly examined by regional courts and by international and quasi-jurisdictional bodies, created by States in order to consider such cases and to assist them to raise the level of application of their commitments in this field.

Economic, social and cultural rights are thus recognized as justiciable, taking into account their specificity as human rights which have to be realized progressively by States, using to the maximum their resources available, according to the 1966 Covenant.

First, the courts of human rights existing in Europe, the Americas and Africa receive and consider cases concerning economic, social and cultural rights, in accordance with their status and procedures.

The European Court of Human Rights (ECtHR) developed an extensive practice of cases concerning violation of such rights, which are connected to, or whose exercise is a condition for respecting civil and political rights. The jurisprudence of ECtHR includes cases of violation of the rights to health, to adequate conditions of living, to a healthy environment, to housing, to a social benefit, to culture and education or to freedom of expression indispensable to scientific research and creative activity¹, related to the interdiction of inhuman and degrading treatment, to the right to private and family life, to the right to a fair trial or to the principle of non-discrimination. The Court of Justice of the European Union examined cases concerning the freedom of enterprise, the freedom of circulation of goods and persons, as well as cases of gender discrimination, of the right to a fair trial and to an effective remedy in member States.²

The Inter-American Court of Human Rights (IACHR) examined an increasing number of claims of violation of economic, social and cultural rights, including some 15 cases after 2000, concerning the right to work, the right to property concerning social security pensions, the right to land of indigenous communities, the right to education and the right to enjoy one's own culture.³

The African Court of Human and People's Rights, created by the Optional Protocol to the African Charter of human and Peoples' Rights of 2004, examined an important number of cases concerning human rights, including the economic, social and cultural rights, such as

¹ Cases *Ananyev and others v. Russia*, petitions nr. 42525/07 and 60800/08, decision of 10 January 2012; *Omeryildiz v. Turkey*, petition nr. 48939/99 decision of 30 November 2004; *tatar v. Romania*, petition nr. 67021/01, decision of 27 January 2009; *Calvel and Ciglio v. Italy*, petition nr. 32967/96, decision of 12 June 2003; *Sorguc v. Turkey*, petition nr. 17089/03, decision of 23 June 2009 and others.

² Cases *Garcia Ayelo*, nr. 148/02, decision of 2003; *Puid*, nr. 4/15, decision of 14 November 2013; *Giordano*, nr. 611/12 P, decision of 14 October 2014; *Test-Achats*, nr. C-236/09, decision of 30 April 2011 and others.

³ Cases *Lagos del Campo v. Peru*, nr. 12795, decision of 31 August 2017; *Sawhoyamaka Indigenous Community v. Paraguay*, decision of 29 March 2006; *Girls Yean and Bosico v. Dominican Republic*, decision of 8 September 2005; *Artavia Murillo and others (In Vitro Fertilization) v. Costa Rica*, decision of 28 November 2012 and others.

the right to a minimum age of girls for marriage, the consent to marriage, the right to inheritance and the obligation to eliminate traditional practices and attitudes that undermine the rights of women and children, the right to enjoy the best attainable state of physical and mental health, the right to work, the rights of indigenous peoples to the land they traditionally used.⁴

Quasi-jurisdictional bodies created by human rights treaty bodies to examine communications with regard their implementation are also very active in Europe, Latin-America and Africa in promoting economic, social and cultural rights.

The European Committee on social rights considered complaints, individual or collective concerning the right to work, the protection of children and of families, the rights to association and to collective negotiation, protection of Roma groups and others.⁵

The Inter-American-Commission of Human Rights considered communications concerning the rights of indigenous peoples to life and to health, to maintaining their way of life including their right to education, to physical, cultural and spiritual welfare, to the protection of children and of family life.⁶

The African Commission of the Human and People's Rights examined in the beginning mainly cases concerning the rights of indigenous peoples and gradually moved to communications claiming violations of some economic, social and cultural rights.⁷

The jurisprudence of the bodies created by international treaties on human rights offers also interesting cases.

The Human Rights Committee considered individual communications both with regard to rights of indigenous peoples according to article 27 of the Covenant and with regard to human rights to family and private life, to freedom of expression in a language freely chosen, to the right to a name as an important aspect of his identity, to the right to education in connection with non-discrimination or to violations of religious freedoms by the absence of alternatives to the military service.⁸

The Committee on the elimination of racial discrimination considered complaints of discrimination on racial and ethnic grounds in the offer of postal services, in the protection

⁴ Cases nr. 046/2016, Association for the Progress and the Defense of Women's Rights and The Institute for Human Rights and Development in Africa v. Mali, decision of 11 May 2018; nr. 002/2016, George Maili Kemboge v. Tanzania, decision of 11 May 2018; o22/2015, Rutabingwa Chrysanthé v. Rwanda, decision of 11 May 2018; 001/2013, Ernest Francis Mtingwi v. Malawi, declared inadmissible; 006/2012, African Commission of Human and Peoples' Rights (on behalf of the Ogiek Community) v. Kenya, decision of 26 May 2017 and others.

⁵ Complaints nr. 68/2011 and nr. 84/2012 of the European Council of Police trade-Unions v. France; complaints of Defense for Children International nr. 62/2010 and 98/2013 v. Belgium; individual complaint nr. 85/2013 concerning Sweden; complaints of the European Roma Rights Center nr. 6120/10 v. Portugal and nr. 2720/05 v. Italy and others.

⁶ IACHR, case Yanomani v. Bresil, nr. 7615, resolution nr. 12/85; case Maya Indigenous Community of Toledo v. Belize, nr. 12053, Report nr. 40/04; case Rochac a. o. v. El Salvador, nr. 12577, resolution of 7 November 2012 and others.

⁷ Cases CERAC and CESR v. Nigeria, nr. 155/96, opinion of 27 May 2002; Endorois Welfare Council v. Kenya, nr. 276/2003, opinion of 4 February 2010; Amnesty International v. Zambia, case nr. 212/98, opinion of 5 May 1999; Sudan Human Rights Organization & Center on Housing Rights and Evictions (COHRE) v. Sudan, no. 179/03 and 296/05 opinion of 2009; Free Legal Assistance Group a.o. v. Zaire, nr. 25/89, 47/90, 56/91 and 100/93, opinion of 4 April 1996

⁸ Cases Kitok v. Sweden, nr. 197/1995, opinion of 27 July 1998; Paader a. o. v. Finland, nr. 2102/2011, opinion of 26 March 2014; Francis Hopu and Tepoaitu Bessert v. France, n0. 549/1993, opinion of 1995; Walter Hoffman and Gwen Simpson v. Canada, nr. 1220/2003, opinion of 2007; Raihon Hudoyberganov v. Turkmenistan, nr. 931/2000, opinion of 2007; A. R. Coerial and M. A. Aurik v. The Netherlands, nr. 453/1991, decision of 2005; Yeo Boom Yoon and Myung Jin Choi v. Republic of Korea, nr. 1321, 1322/2004, opinion of 3 November 2006; Karen Noelia Llantoy Huaman v. Peru, nr. 1153/2003, opinion of 24 October 2005; X. v. Columbia, nr. 1361/2005, opinion of 14 May 2007.

of the right to work, the equal access to banking services, to education and to housing for Roma individuals.⁹

The Committee on the elimination of discrimination against women examined cases concerning claims of granting protection to children and family by refusing a residence permit to a minor mother and her child, of domestic violence against women, of discrimination based on gender, racial origin and socio-economic background, of forceful sterilization, of gender discrimination concerning access to citizenship.¹⁰

The Committee against torture also referred in one of its cases to social rights and retained that the violation of such rights amounts to inhuman and degrading treatment.¹¹

The Committee on the rights of the child, in function since January 2014, examined also cases concerning economic and social rights of children, such as the best interest of the child, family rights, the right to identity, among cases on civil and political rights.¹²

The Committee on the rights of all migrant workers and of members of their families does not receive claims because the Optional Protocol to the respective Convention is not yet in force.

The Committee on economic, social and cultural rights received, through the Optional Protocol of 2008, in force since 2013, the competence to consider communications from individual and from other States parties (if such a procedure is accepted by the two States concerned). The Optional Protocol was ratified by 23 States, out of the 168 States parties to the Covenant. It just started its activity.

Notably, its mandate differs from those of other treaty bodies, as its principal mission is not to ascertain violations of the provisions of the Covenant, but to assist the State concerned to find ways and means to implement the provisions of the Covenant. For that purpose, it can:

- Make available its good offices with the view to reaching a friendly settlement between the State party and the communicant;
- Transmit its views and recommendations to the parties concerned, after considering the reasonableness of the steps taken by the State concerned and taking into account that this State can take a range of possible policy measures to implement the rights set forth in the Covenant;
- Consult relevant documentation from other UN bodies and agencies, international organizations, as well as from the regional human rights systems;
- Transmit, with the agreement of the State concerned, to UN specialized agencies, funds and programmes and other appropriate bodies its views and recommendations concerning the need for technical advice or assistance in connection with the issues raised and the advisability of measures likely to contribute to assisting the State to achieve progress in the implementation of the respective human rights.

The Committee received until now a number of communications concerning rights to health, to social security, to housing, to education and rights related to employment and to discrimination. The communications received concern Spain, Ecuador, Luxemburg and Italy. Several cases solved concerning Spain retain the attention by the careful examination of the situation and by stressing the need of reasonable arguments of the State party on the

⁹ Cases *Nikolas Regerat a. o. v. France*, no. 24/2002, opinion of 16 April 2003; *Jilmaz Dogan v. The Netherlands*, no. 1/1984, opinion of 10 August 1988; *Z. B. Ahmed Habassi v. Denmark*, nr. 10/1997, opinion of 6 April 1999; *Murat Er v. Denmark*, nr. 40/2007, opinion of 8 August 2007; *L. R. and other Slovak citizens of Roma origin v. Slovakia*, nr. 31/2003, opinion of 10 March 2005; *I. G. v. Republic of Korea*, nr. 5/2012, opinion of 1 May 2015.

¹⁰ Cases *Zhen Zhen Zheng v. The Netherlands*, nr. 15/2007, opinion of 26 October 2009; *A. T. v. Hungary*, nr. 2/2003, opinion of 26 January 2005; *Maria de Lourdes da Silva Pimentel*, nr. 17/2008, opinion of 25 July 2011; *A. S. v. Hungary*, nr. 4/2004, opinion of 25 August 2006; *Constance Ragan Salgado v. UK*, nr. 11/2006, opinion of 22 January 2007.

¹¹ Case *Hajrizi Dzemajl a. o. v. Yugoslavia*, nr. 161/2000, opinion of 2 December 2002.

¹² Cases *I. A. M. v. Denmark*, nr. 3/2016, opinion of 25 January 2018; *M. E. B. v. Spain*, nr. 009/2017, opinion of 2 June 2017; *R. L. v. Spain*, nr. 18/2017, opinion of 25 January 2018.

measures taken to the maximum of its available resources and of legislative guarantees to protect individuals and families' right to housing, while cases concerning Ecuador with regard mainly to the right to work and to social security were found inadmissible¹³, for different reasons.

¹³ Cases I. D. G. v. Spain, nr. 002/2014, opinion of 17 June 2015; M. B. D. v. Spain, nr.5/2015, opinion of 5 July 2017; Jaime Frain Arellano Medina v. Ecuador, nr.7/2015 opinion of 29 March 2018.

Annex IV

Mainstreaming gender equality and ensuring gender parity in the Advisory Committee

I. Introduction

In its resolution 6/30, the Human Rights Council requested the Advisory Committee to integrate regularly and systematically a gender perspective into the implementation of their mandate. In response, during its first session in August 2008, Mr. Ansar Burney, Ms. Chinsung Chung, Ms. Purification Quisumbing, Mr. Shigeki Sakamoto and Ms. Mona Zulficar requested to operationalize gender mainstreaming, including action-oriented mechanisms that would facilitate the implementation of the Committee's mandates. On 22 January 2009, they presented the "Draft Guidelines on methods to operationalize gender mainstreaming, including action-oriented mechanisms". However, the composition of the main human rights bodies and mechanisms shows that this objective has not been met.

At its 20th session in February 2018, the Advisory Committee held a discussion on reflection papers and research proposals. Following the discussions (A/HRC/AC/20/2 Resolution), the Advisory Committee recognized the importance that its membership reaches gender parity and that ensuring gender mainstreaming in all its activities would be an extremely valuable advance.

During this session, at its 6th meeting, on 22 February 2018, it requested Elizabeth Salmón to prepare a reflection paper on mainstreaming gender equality and ensuring gender parity in the Advisory Committee for consideration at its twenty-first session.

II. Background: the representation of women in the organs of the United Nations system

Women are underrepresented in both the treaty bodies and the special procedures of the Human Rights Council. There is only a significant presence of women in the bodies or mandates that refer to issues related to women or childhood. This denotes a stigmatization of women in the role of mothers or as the only ones interested in equality rights, not discrimination, among others, of women themselves.

The current composition of the Committees (excluding the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child) reflects an average female participation of 29.66%. The Committee on the Elimination of Racial Discrimination included the most women (8 out of 18 members) and the Committee on the Rights of Persons with Disabilities with the lowest number (1 of 18 members). It should be noted that the Subcommittee for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment has 48% (12 of 25 members). This average does not adequately reflect the presence of women and even less the promotion of gender equality. Nor does it comply with the commitment of the United Nations to incorporate the gender approach in all its strata.

B. The treaty bodies

Committee on the Elimination of Racial Discrimination

The Committee for the Elimination of Racial Discrimination is made up of 18 experts,¹ chosen from among the nationals of the States Parties. It is responsible for monitoring the

¹ Article 8.1 of the International Convention on the Elimination of All Forms of Racial Discrimination.

compliance and implementation by the States Parties of the provisions of the Convention on Discrimination. Its members are nationals of the State Party that nominates them.

The term of each member is four years. The members are renewed by halves every two years, and they can be re-elected. Its members elect a president, three vice-presidents and a rapporteur.² 8 of its 18 members are women (38.88%). There are two vice- chairpersons: Ms. Li Yanduan and Ms. McDougall Gay and Ms. Izsák-Ndiaye as Rapporteur.

Human Rights Committee

The Human Rights Committee is composed of 18 members³. They are proposed by the States Parties to the International Covenant on Civil and Political Rights, and elected by secret ballot⁴. Its final conformation must not contain more than one national of the same State.⁵

Likewise, an equitable geographical distribution must be maintained and the different forms of civilization and the main legal systems should be represented⁶. Its members elect a president, three vice-presidents, and a rapporteur⁷ responsible for preparing the annual report on the activities of the Committee for the General Assembly. Only 7 of the 18 current members are women (38.88%). Ms. Ivana Jelic serves as Vice President and Ms. Margo Waterval as Rapporteur.

Committee on Economic, Social and Cultural Rights

The Committee on Economic, Social and Cultural Rights is made up of 18 members. They are nationals of the State Party that nominates them, and they are elected by secret ballot of the Economic and Social Council of the United Nations. The final composition of the Committee must not have more than one national of the same State⁸.

The term of each member is four years, they are renewed by halves every two years, and they can be re-elected. The members elect a president, three vice-presidents and a rapporteur, respecting the criterion of proportional geographic distribution. 5 of its 18 members are women (27.77%). Ms. Maria Virginia Bras Gomes is President, Heisso Shin Vice President and Lydia Carmelita Ravenberg is Rapporteur. Hence, 3 of the 5 positions of representation available are occupied by women.

Committee on the Elimination of Discrimination against Women

This committee is made up of 23 experts, with a high moral and a recognized career in the field of human rights⁹. These experts are elected by the States Parties by secret ballot, taking into account an equitable geographical distribution as well as the representation of the different forms of civilization, and the main legal systems of the world.¹⁰

The mandate of each member is four years, they are renewed by halves every two years¹¹. Its members elect a president, three vice-presidents and a rapporteur¹². 22 of the 23 members of the Committee are women (95.65%). The 5 positions of representation available are held by women.

² Article 15, Rules of procedure of the Convention on the Elimination of All Forms of Racial Discrimination.

³ Article 28, International Covenant on Civil and Political Rights.

⁴ Article 29, International Covenant on Civil and Political Rights.

⁵ Article 31.1, International Covenant on Civil and Political Rights.

⁶ Article 31.2, International Covenant on Civil and Political Rights.

⁷ Article 17, Rules of procedure of the Human Rights Committee.

⁸ Economic and Social Council resolution 1985/17.

⁹ Article 17.1. of the Convention on the Elimination of All Forms of Discrimination against Women.

¹⁰ Article 17.1. of the Convention on the Elimination of All Forms of Discrimination against Women.

¹¹ Article 17.5. of the Convention on the Elimination of All Forms of Discrimination against Women.

¹² Article 16 Rules of procedure on the Elimination of All Forms of Discrimination against Women.

Committee against Torture

The Committee against Torture was established by article 17 of the Convention against Torture as the control body of that international instrument, in charge of supervising and monitoring the implementation of the provisions of said convention. This committee is composed of 10 experts chosen from among the nationals of the State Party that nominates them¹³, by secret ballot.¹⁴

The mandate of each member is four years, and the members may be re-elected. Their renewal is by halves every two years. Like the other Committees, their members must elect a president, three vice-presidents and a rapporteur. 4 of its 10 members are women (40%). 2 of the 4 representation positions available are occupied by women. Ms. Essadia Belmir and Felice Gaer serve as Vice Presidents.

Committee on the Rights of the Child

The Committee for the Rights of the Child is made up of 18 experts¹⁵. The mandate of each member is four years, they are renewed by halves every two years, and they can be re-elected¹⁶. Its members must elect a president, four vice-presidents and a rapporteur¹⁷. 9 of its 18 members are women (50%). 3 of the 6 available representation positions are occupied by women.

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

This committee is made up of 14 members¹⁸. They are elected by the States Parties (by secret ballot), taking into account an equitable geographic distribution, (including the nationality of the States of the employer and the worker) as well as the representation of the main legal systems of the world¹⁹. 3 of the 14 members are women (21.42%). 3 of the 5 available representation positions are held by women.

Committee on Enforced Disappearances

The Committee on Enforced Disappearances is composed of 10 experts, elected by the States parties. It should take into account an equitable geographical distribution, relevant legal experience and a balanced gender representation²⁰. The election is made by secret ballot²¹. Its members are elected for four years²². 3 of the 10 experts that comprise it are women (30%). 2 of the 4 representative positions available are held by women.

Committee on the Rights of Persons with Disabilities

In its beginnings, the Committee on the Rights of Persons with Disabilities was made up of 12 experts. Once it obtained 60 ratifications, its composition was increased by six more members and reached 18 members²³. Like the other international human rights treaties of

¹³ Article 17.1. of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁴ Article 17.2. of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

¹⁵ Article 43.2. of the Convention on the Rights of the Child.

¹⁶ Article 43.6. of the Convention on the Rights of the Child.

¹⁷ Article 17.1, Rules of procedure of The Committee on the Rights of the Child.

¹⁸ Article 72.1.b) of the International Convention on the protection of the rights of all migrant workers and their families.

¹⁹ Article 72.2 a) of the International Convention on the protection of the rights of all migrant workers and their families.

²⁰ Article 26.1. of the International Convention on the protection of the rights of all migrant workers and their families.

²¹ Article 26.2. of the International Convention on the protection of the rights of all migrant workers and their families.

²² Article 26.4. of the International Convention on the protection of the rights of all migrant workers and their families.

²³ Article 34.2. of the Convention on the Rights of Persons with Disabilities.

the United Nations system, the Convention on the Rights of Persons with Disabilities establishes that “an equitable distribution, the representation of different forms of civilization and the main legal systems”²⁴ must be taken into consideration at the time of choosing the members of the Committee. The interesting point is the addition that it should be reflect “a balanced gender representation and the participation of experts with disabilities”. At present, only Theresia Degener is part of this Committee and serves as President.

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment

At its inception, the Subcommittee on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment was composed of 10 experts. Once it obtained 50 ratifications, its composition was increased by 15 more members and reached 25 members.²⁵

Members must be nationals of a State Party to the Protocol²⁶, they must have a high moral standing and a recognized track record in the judicial field²⁷. Additionally, “a balanced gender representation”²⁸ is required, in addition to the criteria of equitable geographic distribution and representation of the various forms of civilization and legal systems.²⁹

The term of each member is 4 years and they can be re-elected once³⁰. Its members elect 4 vice-presidents and a president. 12 of the 25 members are women (48%) and 3 of the 5 positions of representation available are occupied by women.

	<i>Total number of members</i>	<i>Criteria for election</i>	<i>Number of women members</i>	<i>Women in positions</i>
Committee on the Elimination of Racial Discrimination	18	High moral integrity Recognized impartiality Nationals of the States Parties that postulate them. Not more than one national of the same State Equitable geographical distribution. Representatives of different forms of civilization and the main legal systems. secret ballot	8 (44.44%)	1 Chairperson, 3 Vice- Chairpersons, 1 Rapporteur 2 vice Chairpersons and 1 Rapporteur

²⁴ Article 34.4. of the Convention on the Rights of Persons with Disabilities.

²⁵ Article 5.1 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

²⁶ Article 6.2 a) of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

²⁷ Article 5.2 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

²⁸ Article 5.4 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

²⁹ Article 5.3 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

³⁰ Article 9 of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

	<i>Total number of members</i>	<i>Criteria for election</i>	<i>Number of women members</i>	<i>Women in positions</i>
Human Rights Committee	18	High moral integrity Recognized impartiality Nationals of the States Parties that postulate them. Not more than one national of the same State Equitable geographical distribution Representatives of different forms of civilization and the main legal systems. secret ballot	7 (38.88 %)	1 Chairperson, 3 Vice- Chairpersons, 1 Rapporteur 1 Vice-Chairperson and 1 Woman Rapporteur
Committee on Economic, Social and Cultural Rights	18	High moral integrity Recognized impartiality Nationals of the States Parties that postulate them. Not more than one national of the same State Equitable geographical distribution Representatives of different forms of civilization and the main legal systems. secret ballot	5 (27.77%)	1 Chairperson, 3 Vice- Chairpersons, 1 Rapporteur 1 woman Chairperson, 1 Woman Vice Chairperson and 1 Woman Rapporteur

	<i>Total number of members</i>	<i>Criteria for election</i>	<i>Number of women members</i>	<i>Women in positions</i>
Committee on the Elimination of Discrimination against Women	23	High moral integrity Recognized impartiality Recognized career in the field of human rights Nationals of the States Parties that postulate them. Not more than one national of the same State Equitable geographical distribution Representation of the different forms of civilization and the main legal systems of the world secret ballot	22 (95.65%)	1 Chairperson, 3 Vice-Chairpersons, 1 Rapporteur No woman representative
Committee against Torture	10	Persons of high moral character Recognized impartiality Recognized competence in the field of human rights Nationals of the State party that postulates them Equitable geographical distribution Legal experience secret ballot	4 (40%)	1 Chairperson, 3 Vice-Chairperson 1 Rapporteur 2 woman Vice-Chairperson

	<i>Total number of members</i>	<i>Criteria for election</i>	<i>Number of women members</i>	<i>Women in positions</i>
Committee on the Rights of the Child	18	High moral integrity Recognized impartiality Recognized trajectory this field Nationals of the States Parties that postulate them. Not more than one national of the same State Equitable geographical distribution Representation of the main legal systems secret ballot	9 (50%)	1 Chairperson, 4 Vice-Chairperson, 1 Rapporteur 1 woman Chairperson and 2 woman Vice- Chairperson
Committee on the Protection of the Rights of all Migrant Workers and Members of their Families	14	Persons of high moral character Recognized impartiality Recognized competence in the field covered by the Convention Nationals of the States Parties that postulate them Equitable geographical distribution, including both States of origin and States of employment. Representation of the main legal systems secret ballot	3 (21.42%)	1 Chairperson, 3 Vice-Chairperson, 1 Rapporteur 2 woman Vice- Chairperson and 1 Woman Rapporteur

	<i>Total number of members</i>	<i>Criteria for election</i>	<i>Number of women members</i>	<i>Women in positions</i>
Committee on the Rights of Persons with Disabilities	18	Persons of high moral character Recognized impartiality Nationals of the States Parties that postulate them. Equitable geographical distribution Representation of the different forms of civilization and the main legal systems Representation of balanced gender Participation of experts with disabilities secret ballot	1 (0.06%)	1 woman Chairperson
Committee on Enforced Disappearances	10	High moral integrity Recognized impartiality Recognized competence in the field of human rights Nationals of the States Parties that postulate them. Equitable geographical distribution. Relevant legal experience Representation of balanced gender secret ballot	3 (30%)	1 Chairperson, 3 Vice- Chairpersons, 1 Rapporteur 1 woman Chairperson and 1 woman Vice- Chairperson

	<i>Total number of members</i>	<i>Criteria for election</i>	<i>Number of women members</i>	<i>Women in positions</i>
Subcommittee on Prevention of Torture	25	Persons of high moral character Recognized impartiality Recognized trajectory in this field Nationals of a State party Equitable geographical distribution Representation of the different forms of civilization and the main legal systems Balanced gender representation secret ballot	12 (48%)	1 Chairperson, 4 Vice-Chairpersons 3 woman vice- Chairpersons

C. Special Procedures of United Nations Human Rights Council

In general, special procedures entrust mandate-holders to review, supervise, advice and publicly report on human rights situations in specific countries or territories, known as country mandates, or on main problems of human rights violations at the global level, known as thematic mandates.

The mandate-holders of the special procedures are chosen by the President of the Human Rights Council, based on the recommendations made by the Consultative Group. Following resolution 5/1 of the Human Rights Council, when choosing mandate-holders, the following factors should be taken into account: gender balance, equitable geographic representation and an appropriate representation of different legal systems.³¹

Currently, there are 44 thematic mandates and 12 country mandates. However, only 4 female experts are responsible for country mandates: Ms. Rhona Smith (Special Rapporteur on the situation of human rights in Cambodia), Ms. Marie-Thérèse Keita Bocoum (Independent Expert on the situation of human rights in Central African Republic), Ms. Sheila B. Keetharuth (Special Rapporteur on the situation of human rights in Eritrea) and Ms. Yanghee Lee (Special Rapporteur on the situation of human rights in Myanmar). In this way, women who hold country mandates represent 33.33% of the total.

This situation of under-representation in which women find themselves is not present in the case of thematic mandates, in which the participation of woman reaches 65.90%. 15 of them work as Special Rapporteurs, 12 are part of Working Groups and 2 are Independent Experts. It is worthwhile to note that the Working Group on the issue of Discrimination against Women in Law and in Practice is composed exclusively of 5 women.

³¹ Human Rights Council. "Resolution 5/1. Institution-building of the United Nations Human Rights Council", 18 June 2007, para. 40.

D. The Advisory Committee in perspective: identifying problems and challenges

According to resolution 5/1 of 18 June 2007 of the Human Rights Council, its Advisory Committee is composed of 18 experts. Their candidacies are proposed by the Member States of the United Nations. Experts are elected by the Council in secret ballot and must represent the different regions of the world (5 from African States; 5 from Asian States; 2 from Eastern European States; 3 from Latin American and Caribbean States, and 3 from Western European and other States).

In conjunction with the geographical distribution criteria mentioned above, resolution 5/1 establishes that gender balance should be taken into account at the time of the selection of experts. At its sixth session, the Council adopted Decision 6/102 “Follow-up to Human Rights Council resolution 5/1”. In this new resolution, he reiterated that “in electing members of the Advisory Committee, the Council should give due consideration to gender balance and appropriate representation of different civilizations and legal systems”.³²

Two main themes have been identified to achieve gender parity in the Advisory Committee. The first is related to the fact that the States submit the candidacies. The second one is to assess the role played by the women elected as members of the Advisory Committee.

Regarding the first element, practice shows that, since its inception, only 10 States have proposed female candidates. This certainly reduces the scope for action of the Human Rights Council when selecting future members of the Advisory Committee. Indeed, since the Advisory Committee began its functions, the trend has been that States very rarely proposed women.

Thus, in the framework of the seventh session of the Council, on 26 March 2008, the first 18 members of the Advisory Committee were elected. Only four were women had been included: Chinsung Chung (Republic of Korea), Purification V. Quisumbing (Philippines), Halima Embarek Warzazi (Morocco) and Mona Zulficar (Egypt). At the time of presenting this report, the figure is repeated because there are only 4 women (or 22.22%) who make up the Advisory Committee: Karla Ananía de Varela (El Salvador), Mona Omar (Egypt), Katharina Pabel (Austria) and Elizabeth Salmón (Peru).³³

Out of a total of 45 experts who have been part of the Advisory Committee of the Human Rights Council, only 13 have been women, which represents 32.5% of the total. The States that, at some time, have nominated female candidates have been Austria, Egypt, El Salvador, the Philippines, France, Guatemala, Morocco, Peru, Republic of Korea and Romania. Egypt has done so on three occasions and has become the State that has most times proposed women as members of the Committee.

Regarding the role played by the women elected as members of the Advisory Committee, it is interesting to note that only 3 women have had the possibility of presiding the Advisory Committee, which represents 27.27% of the total. As is known, Article 103 of the Regulations of the General Assembly of the United Nations establishes that the Advisory Committee elects a president, two vice-presidents and a rapporteur to form the Bureau.

³² Human Rights Council. “Decision 6/102. Follow-up to Human Rights Council resolution 5/1”, 27 September 2007. Available from: http://ap.ohchr.org/documents/E/HRC/decisions/A_HRC_DEC_6_102.pdf

³³ For the election of 7 members in 2010, eight candidates were submitted, only Egypt and the Republic of Korea had nominated women (25%). In 2011, to fill 7 seats again, 7 candidatures were received, of which three were women (42.8%). In 2012, 4 new members had to be elected and among the 4 nominations submitted, only Austria had nominated a woman (25%). In 2013, it was again required to reoccupy 7 places. Out of the 7 candidates, there was only one woman (14.28%). In February 2014, El Salvador proposed the candidacy of Karla Hananía de Varela. On September 2014, the mandate of 7 members ended and of the 7 candidatures received, only Guatemala, France and Romania proposed women experts (42.85%). This has been replicated in 2015 where of four candidacies, only one was a woman (25%). In 2016, 7 new members had to be elected and there were a total of 8 candidates, of which only Egypt and El Salvador proposed female candidates (25%). During its 36th session, the Council was to elect 7 new members of the Advisory Committee. Eight candidatures were received until August 2017 and, as happened in the previous elections, only two were women (25%).

Every year, women have had an active participation in this space of representation. However, of the 11 presidents that the Committee has had, only 3 have been women: Halima Embarek Warzazi (2009), Purification V. Quisumbing (2010) and Katharina Pabel (2018). With the exception of 2010 and 2018, there has always been at least one woman in the position of vice president. On four occasions, the Committee has had two vice presidents: Chinsung Chung and Mona Zulficar (2008), Katharina Pabel and Anantonia Reyes Prado (2015), Laura-Maria Crăciunean and Karla Hanania de Varela (2016) and Laurence Boisson de Chazournes and Anantonia Reyes Prado (2017). Only in 2014 and 2016, one woman held the position of rapporteur.

Women members of the Committee have been part of very important drafting groups such as those on education and training in the field of human rights; promotion and protection of human rights in post-disaster and conflict situations and the negative impact of corruption on human rights. In some cases, these groups have been chaired by women such as Mona Zulficar in the “Drafting Group on the Promotion of Human Rights” peoples to peace”, Anantonia Reyes Prado in the “Drafting Group on the global problem of unaccompanied migrant children and adolescents and human rights”, and Katharina Pabel in the “Drafting group on regional agreements for the promotion and protection of human rights” and in the “Drafting Group on the negative impact of the non-repatriation of funds of illicit origin on the enjoyment of human rights”.

It is particularly important that, in its resolution 6/30, the Human Rights Council requested the Advisory Committee: “regularly and systematically to integrate a gender perspective into the implementation of their mandate including when examining the intersection of multiple forms of discrimination against women and to include in their reports information on and qualitative analysis of human rights of women and girls, and welcomes the efforts made by most special procedures and other human rights mechanisms in that regards”³⁴. In response, at its first session, the Advisory Committee adopted a recommendation on integrating the human rights of women throughout the United Nations system, requesting the preparation of draft guidelines on methods to operationalize gender mainstreaming, including action-oriented mechanisms.

On 24 January 2009, Ms. Chinsung Chung, Ms. Mona Zulficar, Ms. Purification V. Quisumbing, Mr. Ansar Ahmed Burney and Mr. Shigeki Sakamoto presented the draft guidelines³⁵. In this paper, it was proposed that the United Nations bodies specializing in gender issues should use their expertise to promote gender mainstreaming in other system entities, women’s representation should increase at all levels of United Nations Organization, financial resources should be allocated for the implementation of gender mainstreaming, sustained and effective support for gender specific units and focal points, the creation of new bodies focused on integrating the gender perspective, the preparation of qualitative analyses on the way in which the gender perspective is incorporated in the discussions and reports of the United Nations and the periodic monitoring of the progress on this issue.

III. Gender parity initiatives in the United Nations System

Over the years, efforts have been made to promote gender parity in the United Nations System. A first precedent is the Vienna Declaration and Program Action that was adopted on 25 June 1993 during the World Conference on Human Rights. This statement affirms the inalienability of women’s human rights, equality and the elimination of all forms of gender discrimination. In addition, it emphasizes the need for the United Nations to take these principles into account in its work on human rights, calls for the adoption of “new

³⁴ Human Rights Council. “Resolution 6/30. Integrating the human rights of women throughout the United Nations system”, 14 December 2007.

³⁵ Advisory Committee, Human Rights Council. “Integrating the human rights of women throughout the United Nations system”. Draft Guidelines on methods to operationalize gender mainstreaming, including action-oriented mechanisms”, A/HRC/AC/2/CRP.4, 22 January 2009.

procedures to reinforce the fulfillment of commitments in favor of equality and women's human rights"³⁶ and encourages the appointment and promotion of more women.

Later, in September 1995, the Beijing Declaration and Platform for Action was adopted at the Fourth World Conference on Women. The Beijing Platform for Action seeks the empowerment of women. The Declaration urges the United Nations to adopt measures and develop mechanisms to "achieve an overall equality of women and men"³⁷ and "to present women as candidates for appointment to senior positions in the United Nations, the specialized agencies and other organizations and organs of the United Nations system"³⁸. It also urges national governments to take similar measures to achieve gender parity, particularly in higher positions that involve decision-making.

On 14 December 2007, the Human Rights Council adopted resolution 6/30 on "Integrating the human rights of women throughout the United Nations system". In general, the resolution promotes the integration of a gender perspective in the work of the United Nations system. Specifically, it points out the need for more women to hold higher positions and urges the implementation of more measures to achieve the objective of perfect parity and the participation of more women at all levels of decision-making.

Resolution 62/137 "Follow-up to the Fourth World Conference on Women and full implementation of the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly" was adopted on 18 December of 2007 by the General Assembly as a continuation of the Beijing Declaration and Platform for Action and the Fourth World Conference on Women. This resolution calls for action by the agencies and the United Nations system for the effective implementation of the Beijing Declaration and Platform for Action and the adoption of additional measures for the integration of a gender perspective and "ensure full representation and full and equal participation of women in decision-making [...]"³⁹.

Moreover, on 9 September 2011, the United Nations High Commissioner for Human Rights adopted the "Gender Equality Policy" with the objective of promoting and institutionalizing gender equality and the integration of a gender perspective within the office itself. It seeks the inclusion and participation of women, and the integration of the principle of non-discrimination in all areas of the mandate of the High Commissioner. A few years later, on 9 April 2014, the General Assembly adopted resolution 68/268 "Strengthening and improving the effective functioning of the human rights treaty body system", which encourages gender parity to be taken into consideration in the appointment of experts by the States.

In June 2015, the Consultative Group for the Human Rights Council adopted the "Guidelines on Gender Parity", recommending that available vacancies be widely disseminated to reach women and urging the establishment of quotas on the list of the finalists proposed to the presidency of the Human Rights Council. Some months later, the High Commissioner presented the summary report of the annual discussion on "integration of a gender perspective: panel on gender parity", which took place on 15 September 2015. In this discussion, the High Commissioner emphasized that gender parity is fundamental and reaffirmed the need to implement the Beijing Declaration and Platform for Action to achieve it.

On 7 June 2017, the Economic and Social Council adopted the resolution on "Mainstreaming gender perspective into all policies and programs in the United Nations system", in which it requested a strengthening of capacities and better use of existing resources to achieve the incorporation of the gender perspective. It also called for the intensification of "the efforts to achieve gender parity in the appointments of the Professional and higher categories of the United Nations system"⁴⁰. The concept of gender parity or equal representation has been incorporated into the United Nations system through

³⁶ Vienna Declaration and Programme of Action Programa de Acción de Viena, 25 June 1993, para 40.

³⁷ Beijing Declaration and Platform for Action, September 15, 1995, paragraph 193 a).

³⁸ Beijing Declaration and Platform for Action, September 15, 1995, paragraph 193 b).

³⁹ General Assembly resolution 62/137, paragraph 7 c).

⁴⁰ Resolution 2017/9 of the Economic and Social Council, paragraph 7, m).

“gender mainstreaming”. Gender mainstreaming is a broader concept than formal equal representation. It requires a gender dimension to be integrated into the design, implementation, monitoring and evaluation of all policies and institutions so that women and men are able to benefit equally and inequality is not perpetuated⁴¹.

The Secretary General of the United Nations has also commented on the situation of women in the organization. In fact, on 27 July 2017, it issued a report called “Improvement in the status of women in the United Nations system”. In this document, he presented the state of institutional culture and representation of women in the United Nations system, referring to the Beijing Declaration and Platform for Action among them. A series of recommendations were presented to improve the situation of women in the United Nations as “the mandatory selection of women when the parity goals have not been reached and the qualification and experience of the candidates meet the requirements of the position”⁴², “the mandatory inclusion of at least 50% of women on the shortlist”⁴³ or “accentuate the competitiveness of United Nations policy on the balance between work and personal life”⁴⁴. Also, on 13 September 2017, the Secretary General presented the “System-wide Strategy on Gender Parity” that aims to achieve gender parity in the United Nations. The document provides figures, an analysis of the current situation in the United Nations system and examples of good practices and recommendations, in addition to the points that each entity could develop in an implementation plan and a sample of minimum standards to achieve perfect parity.

Finally, it is relevant to mention the 17 Sustainable Development Goals identified by the United Nations in 2015. Through this, the United Nations calls upon States to incorporate women in decision-making positions in the field of economic development. The fifth objective aims at achieving gender equality. Some of its goals are to eliminate discrimination against women and Girls (5.1) and to ensure effective participation and equal opportunities in decision-making and political and economic life (5.5). Gender equality is integrated into the rest of the objectives as it is essential to advance in the fields of education, health, elimination of poverty, among others.

IV. Time for change: achieving gender parity on the Advisory Committee. Why gender parity is important?

States must adopt measures aimed at prohibiting discrimination and ensuring equality between men and women. As the Committee on Economic, Social and Cultural Rights has pointed out, one of the fundamental principles of International Law is the equal rights of men and women to the enjoyment of all human rights.⁴⁵

This equality of rights is fundamental and fair; not only because it calls for overcoming the over-representation of men in the United Nations’ organs and mandates responsible for administering, implementing and developing International Human Rights Law, but because it makes women able to influence the process of affirmation and development of human rights at the global level. This is explicitly contained in article 8 of the Convention on the Elimination of All Forms of Discrimination against Women that says: “State Parties shall

⁴¹ Christine Chinkin, Women, Rights of, International Protection, in Max Planck Encyclopedia of Public International Law 27 (2010). Cited by International Human Rights Clinic of the University of California, Berkeley. “Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign”, IHRLC Working Papers Series No. 4, October 2017, p.11.

⁴² Report of the Secretary General “Improvement of the situation of women in the United Nations system”, paragraph 83 c i).

⁴³ Report of the Secretary General “Improvement of the situation of women in the United Nations system”, paragraph 83 c ii).

⁴⁴ Report of the Secretary General “Improvement of the situation of women in the United Nations system”, paragraph 83 d).

⁴⁵ Committee DESC. “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.

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”.⁴⁶

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 women⁴⁷ at the time of claiming access, under equal conditions, both *de jure* and *de facto*⁴⁸ to positions in international organizations. The CEDAW Committee has recognized that there are few opportunities in which men and women represent their States at the international level on an equal footing⁴⁹. And as we have seen above, this disparity is also reproduced in the composition of United Nations bodies that supervise human rights

As there are a number of opportunities for States to shape the pool of applicants, the composition of any short list and the final composition of the international body⁵⁰, these measures involve at least two actions linked to the two moments in which States influence the composition of the organs and procedures of the United Nations. In effect, the States, within the sphere of their internal jurisdiction, must nominate the candidates who will represent them in the international system or whose candidacies they will present to assume certain positions and, then, they must vote for the candidates nominated as part of their functions as members of international organizations⁵¹.

In this way, States should incorporate into their national legal systems selection transparent and open procedures that respect gender parity, as a reasonable criterion based on the application of the principle of non-discrimination⁵². The second measure is to ensure that

⁴⁶ Similarly, article 7 of CEDAW establishes that “States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right: (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies; (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government; (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country”. In its General Recommendation N° 23, the Committee states that the obligation contained in article 7 includes all spheres of public and political life meaning the exercise of legislative, judicial, executive and administrative power and the participation of civil society through distinctive groups and organisations (UN Committee on the Elimination of Discrimination Against Women. General Recommendation N° 23: Political and Public Life, A/52/38, 1997, para. 5).

⁴⁷ International Human Rights Clinic of the University of California, Berkeley. “Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign”, IHRLC Working Papers Series No. 4, October 2017, p.3. See more: UN Committee on the Elimination of Discrimination Against Women. General Recommendation N° 23: Political and Public Life, A/52/38, 1997, paras. 38, 43 and 50.

⁴⁸ UN Human Rights Committee. General Comment N° 18: Non-Discrimination, U.N. Doc. HRI/GEN/1/Rev.9, 10 November 1989; UN Committee on Economic, Social and Cultural Rights. General Comment 16: The Equal Right of Men and Women to the Enjoyment of All Economic, Social and Cultural Rights (Art. 3 of the Covenant), U.N. Doc. E/C.12/2005/3, 11 August 2005; UN Committee on the Rights of Persons with Disabilities. General Comment N° 3: Article 6: Women and Girls with Disabilities, U.N.Doc. CRPD/C/GC/3, 2 September 2016.

⁴⁹ UN Committee on the Elimination of Discrimination Against Women. General Recommendation N° 23: Political and Public Life, A/52/38, 1997, para 38.

⁵⁰ International Human Rights Clinic of the University of California, Berkeley. “Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign”, IHRLC Working Papers Series No. 4, October 2017, p.1.

⁵¹ International Human Rights Clinic of the University of California, Berkeley. “Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign”, IHRLC Working Papers Series No. 4, October 2017, p.13–15.

⁵² International Human Rights Clinic of the University of California, Berkeley. “Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign”, IHRLC Working Papers Series No. 4, October 2017, p.8.

the final composition of the bodies for which they present candidacies also take into account the objective of achieving a fair and equal representation of women. The question here is that States must exert influence when the rules regulating processes of appointment to positions in tribunals or other organs are adopted to guarantee that they conform to the gender balance requirements of Article 8 CEDAW⁵³.

Additionally, in this second moment, it is relevant that the international organization itself establishes clear guidelines for the selection process according to, among other criteria, gender parity. If “fair representation” of the sexes is not aspired to or required, women increase their participation in a very low or random way⁵⁴. The absence of fair representation has resulted in a series of civil society initiatives that aim to strengthen these processes⁵⁵.

As noted above, the United Nations has generated a series of instruments, resolutions and express appeals to ensure that women access the System on equal terms with men. Also, organizations like the International Criminal Court have an important practice in the selection of judges respecting gender parity⁵⁶. At the regional level, organizations such as the Council of Europe, the Organization of American States or the African Union have adopted various measures to guarantee gender parity or, at least, incorporate the criterion of gender equality in the selection processes⁵⁷. In the context of the Council of Europe, 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 have been issued⁵⁸. Additionally, 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 Rights⁵⁹. Equally, the African Charter on Human and People’s Rights and its Protocol on the Rights

⁵³ Sarah Wittkopp, Article 8, in *The UN Convention on the Elimination of All Forms of Discrimination Against Women, A Commentary*, edited by Marsha A. Freeman, Christine Chinkin, and Beate Rudolf, Oxford Commentaries on International Law (2013), at 224.

⁵⁴ Nienke Grossman, *Achieving Sex-Representative International Court Benches*, 110 *Am.J.Int’l L.* 82 (2016) at p. 82 and *Shattering the Glass Ceiling in International Adjudication*, 56 *Va.J.Int’l L.*

⁵⁵ An example is the International Geneva Gender Champions initiative launched in July 2015 at <http://genevagenderchampions.org> or the Gqual Campaign or Gender Parity in International Representation launched in September 2015 at the United Nations in New York at <http://www.gqualcampaign.org>.

⁵⁶ Article 36. Qualifications, nomination and election of judges

Article 8 (a) The States Parties shall, in the selection of judges, take into account the need, within the membership of the Court, for:

(i) The representation of the principal legal systems of the world;
(ii) Equitable geographical representation; and
(iii) A fair representation of female and male judges.

Furthermore, the Assembly of State Parties created an Advisory Committee on Nominations to the International Criminal Court. Report of the Bureau on the Establishment of an Advisory Committee on Nominations of Judges of the International Criminal Court, ICC Doc. ASP710/36 (Dec.21, 2011).

⁵⁷ It’s true that “...at least the acknowledgement of the need to take into account gender balance as one of the requirements of the selection process of new members of international courts and tribunals constitute a step in the right direction”. See Claudia Martin, *Framework of Article 8 of the Convention on All Forms of Discrimination against Women*, Draft Paper presented at the GQUAL Conference, The Hague, October 2017.

⁵⁸ Guidelines of the Committee of Ministers on the selection of candidates for the post of judge at the European Court of Human Rights, CM (2012)40-add, 29 March 2012 at https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=09000016805cb080.

⁵⁹ AG/RES. 2887 (XLVI-O/16), Promotion and Protection of Human Rights, June 14, 2016. In the practice of the last three selection processes, civil society set up a panel of independent experts that evaluates and issues an opinion on the profile of the candidates. Your final report is a good input in the election process but does not constitute a binding element. In the final report of the independent panel for the election of commissioners and commissioners for the Inter-American Commission on Human Rights on June 5, 2017, p. 44 it is recommended that “Given the historical underrepresentation of women and over-representation of men in the Commission and in the Court, at least one candidate should be of the under-represented sex (“under-represented”)”.

of Women in Africa have provisions in the same sense⁶⁰ more recently, in January 2016, the Executive Council of the African Union also 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”⁶¹.

Finally, it should also be borne in mind that Article 8 of the Charter of the United Nations provides that the organization “shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs”. This provision must be broadly understood including the organs of the United Nations system, even if this implies nomination and selection processes in which the States participate.

This development must continue to be strengthened because the participation of women has not reached the expected parity nor will it do so if concrete and sustainable measures are not taken. It should not be ignored that the gender disparities in international institutions undermine the international commitment to equality and non-discrimination⁶² and does not reflect the explicit commitment of the United Nations in favor of the full incorporation of women in all its decision-making bodies.

⁶⁰ See articles 13 y 18. All citizens shall have “the right of equal Access to the public service of his country” and the “State shall ensure the elimination of every discrimination against women”. Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa, article 9(2): “States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making”.

⁶¹ Retrieved from: <http://www.acdhhs.org>. See Strengthening from Within. Legal framework and practice in the selection of Judges and Human Rights Commissioners. Open Society Justice Initiative and International Commission of Jurists, 2017.

⁶² International Human Rights Clinic of the University of California, Berkeley. “Achieving gender parity on international judicial and monitoring bodies. Analysis of the International Human Rights laws and standards relevant to the GQUAL campaign”, IHRLC Working Papers Series No. 4, October 2017, p.5.

Annex

Draft guidelines on gender equality and mainstreaming gender in the work of the Advisory Committee

Preamble

Recalling the principles and rights set forth in the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights, article 8 of the Convention on the Elimination of All Forms of Discrimination against Women and other relevant instruments in the field of human rights, and the Beijing Declaration and Platform for Action,

Taking into account resolution 5/1 of 18 June 2007 of the Human Rights Council, which established that gender balance should be taken into account in electing the members of the Advisory Committee, as well as Decision 6/102 of September 27, 2007,

Considering Resolution 6/30 of the Human Rights Council of December 14, 2007, which specifically called upon the Advisory Committee to integrate the gender perspective into its mandate in a regular and systematic manner,

Noting General Assembly resolutions 55/69, 56/127, 57/180, 58/144, 59/164 on the improvement of the status of women in the United Nations System,

Recalling that, through resolution 62/137 of February 2008, the General Assembly requested that the Secretary General join efforts to achieve a gender balance throughout the United Nations system,

Taking into account the report of the Secretary General “Improvement in the Status of Women in the United Nations system” of July 27, 2017,

Considering that, despite the express appeals of the institutions, the tendency of under-representation of women in the organs of the United Nations, in particular, in the Advisory Committee, has not been reversed

Recognizing that it is mandatory to adopt new and better measures to elect candidates in a 50/50 ratio in the Advisory Committee,

Recommend the following guidelines:

I. States

The States should disseminate as widely as possible, including at the national level, the calls for positions in the Human Rights Council Advisory Committee for the purpose of including women or striving for gender parity.

States should strive to establish transparent and participatory national mechanisms that guarantee that women can participate on equal terms at each stage of the process before submitting candidacies to those positions.

II. Consultative Group

The Consultative Group should include no more than three persons of the same gender in the list of five preselected persons that it prepares to fill vacancies in both treaty and extra-conventional mechanisms. Likewise, no more than two candidacies of the same gender should be included in the final list of three names that is submitted to the President of the Human Rights Council.

III. Secretariat

The Secretariat should make the widest possible dissemination of the calls to the Advisory Committee. This call should include, in particular, women's organizations and non-governmental organizations that work in the promotion and protection of women's rights.

The Secretariat may extend the deadline or make a new call if there are not enough candidates to guarantee that the lists comply with the figures mentioned in section 2.

IV. Human Rights Council

The Presidency of the Human Rights Council should take into account the principle of gender parity in all its actions and select as a priority women who meet, on equal terms with men, the requirements to occupy a position in the Advisory Committee.

The Presidency will hold a gender parity report informing it on the gender unbalances occurring in all mandates dependent upon the Human Rights Council.
