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Consejo de Derechos Humanos

Comité Asesor

21^{er} período de sesiones

6 a 10 de agosto de 2018

Tema 4 del programa

Informe del Comité Asesor sobre su 21^{er} período de sesiones

Informe del Comité Asesor sobre su 21^{er} período de sesiones*

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* Los anexos del presente informe se distribuyen tal como se recibieron.

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I. Medidas adoptadas por el Comité Asesor en su 21^{er} período de sesiones

21/1. Actividades de los fondos buitres y sus repercusiones en los derechos humanos

El Comité Asesor del Consejo de Derechos Humanos,

Recordando la resolución 34/3 del Consejo de Derechos Humanos, de 23 de marzo de 2017, en la que este tomó nota con aprecio del informe relativo a la marcha de los trabajos del Comité Asesor sobre las actividades de los fondos buitres y sus repercusiones en los derechos humanos¹, y solicitó al Comité que presentara un informe definitivo sobre la cuestión al Consejo en su 39^o período de sesiones para su examen,

Recordando también la resolución 37/11 del Consejo de Derechos Humanos, de 22 de marzo de 2018, en la que el Consejo solicitó al Comité Asesor que finalizara el informe y lo presentara al Consejo en su 41^{er} período de sesiones,

Recordando además que, en su 19^o período de sesiones, el Comité Asesor estableció un grupo de redacción, que en la actualidad está integrado por Ibrahim Abdulaziz Alsheddi, Mario Luis Coriolano (Presidente), Ion Diaconu, Mikhail Lebedev, Jean Ziegler (Relator) y Mohamed Bennani,

1. *Observa* que el grupo de redacción y el Comité Asesor celebraron una sesión para debatir el tema;

2. *Solicita* al grupo de redacción que presente un proyecto de informe final al Comité Asesor en su 22^o período de sesiones, teniendo en cuenta los acontecimientos recientes y las aportaciones pertinentes recibidas a fin de presentar el informe definitivo al Consejo de Derechos Humanos en su 41^{er} período de sesiones.

*Novena sesión
10 de agosto de 2018*

21/2. Efectos negativos del terrorismo en el disfrute de los derechos humanos

El Comité Asesor del Consejo de Derechos Humanos,

Recordando la resolución 34/8 del Consejo de Derechos Humanos, de 23 de marzo de 2017, en la que el Consejo solicitó al Comité Asesor que llevara a cabo un estudio y preparara un informe sobre los efectos negativos del terrorismo en el disfrute de todos los derechos humanos y las libertades fundamentales, con especial atención a los derechos económicos, sociales y culturales, entre otras cosas como resultado del desvío de inversión extranjera directa, la reducción de las entradas de capital, la destrucción de infraestructura, la limitación del comercio exterior, las perturbaciones de los mercados financieros, los efectos negativos en determinados sectores económicos y la obstaculización del crecimiento económico, y que recomendara las medidas que debían adoptar los Gobiernos, los mecanismos de derechos humanos de las Naciones Unidas, las organizaciones regionales e internacionales y las organizaciones de la sociedad civil a ese respecto, y que presentara el informe al Consejo en su 39^o período de sesiones para que se examinara durante el diálogo interactivo,

Recordando además que, en su 19^o período de sesiones, el Comité Asesor constituyó un grupo de redacción, que en la actualidad está integrado por Lazhari Bouzid, Ion Diaconu, Karla Hananía de Varela, Ludovic Hennebel, Mikhail Lebedev, Xinsheng Liu, Ajai Malhotra, Mona Omar (Relatora), Katharina Pabel (Presidenta) y

¹ A/HRC/33/54.

Elizabeth Salmón, y que, en el 21^{er} período de sesiones la Sra. Hananía de Varela fue nombrada Presidenta del grupo,

Observando que, en su 38^o período de sesiones, el Consejo de Derechos Humanos decidió prorrogar el plazo para que el Comité Asesor ultimara el estudio y lo presentara al Consejo en su 42^o período de sesiones,

1. *Toma nota* del informe provisional sobre los efectos negativos del terrorismo en el disfrute de los derechos humanos presentado por el grupo de redacción en su 21^{er} período de sesiones;

2. *Decide* enviar una nota verbal a los Estados Miembros, las organizaciones internacionales y regionales, las instituciones nacionales de derechos humanos y las organizaciones no gubernamentales, en la que les pide que, a más tardar el 30 de noviembre de 2018, presenten aportaciones específicas sobre la sección del estudio en que se formulan recomendaciones sobre los efectos del terrorismo en los derechos económicos, sociales y culturales y sobre los procedimientos para proteger a los civiles, en particular a los grupos vulnerables, de los efectos del terrorismo;

3. *Solicita* a los miembros del grupo de redacción que presenten sus observaciones por escrito antes de finales de diciembre de 2018, para poder concluir el estudio y presentarlo al Comité Asesor en su 22^o período de sesiones, teniendo en cuenta las deliberaciones mantenidas en su actual período de sesiones y las aportaciones recibidas en relación con la mencionada nota verbal, con miras a presentar la versión definitiva del estudio al Consejo de Derechos Humanos en su 42^o período de sesiones.

*Novena sesión
10 de agosto de 2018*

21/3. Repercusiones negativas en el goce de los derechos humanos de la no repatriación de los fondos de origen ilícito

El Comité Asesor del Consejo de Derechos Humanos,

Recordando la resolución 34/11 del Consejo de Derechos Humanos, de 23 de marzo de 2017, en la que el Consejo solicitó al Comité Asesor que realizara un estudio, como continuación del solicitado por el Consejo en su resolución 31/22, de 24 de marzo de 2016, sobre la posibilidad de utilizar los fondos ilícitos no repatriados, mediante la monetización y/o el establecimiento de fondos de inversión, entre otras medidas posibles, siempre respetando los procedimientos legales necesarios y de acuerdo con las prioridades nacionales, con miras a apoyar el logro de los objetivos de la Agenda 2030 para el Desarrollo Sostenible, contribuir a potenciar la promoción de los derechos humanos, y de conformidad con las obligaciones dimanantes del derecho internacional de los derechos humanos, y que presentara el estudio solicitado al Consejo en su 39^o período de sesiones,

Recordando también que el Consejo de Derechos Humanos, en su resolución 34/11, también solicitó al Comité Asesor a que, cuando elaborara dicho estudio, recabara otras opiniones y las aportaciones de los Estados Miembros, las organizaciones internacionales y regionales competentes, los órganos de las Naciones Unidas, incluida la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos, y la Oficina de las Naciones Unidas contra la Droga y el Delito, las instituciones nacionales de derechos humanos y las organizaciones no gubernamentales y otras partes interesadas pertinentes a fin de ultimar el mencionado estudio,

Recordando además que, en su 19^o período de sesiones, el Comité Asesor estableció un grupo de redacción, que en la actualidad está integrado por Ibrahim Abdulaziz Alsheddi, Mario Luis Coriolano, Mikhail Lebedev, Mona Omar, Changrok Soh, Jean Ziegler, Ludovic Hennebel, Ajai Malhotra (Presidente) y Dheerujlall Baramlall Seetulsingh (Relator),

Observando que, en su 38^o período de sesiones, el Consejo de Derechos Humanos decidió prorrogar el plazo para que el Comité Asesor terminara el estudio, de modo que se presentase al Consejo en el 42^o período de sesiones,

1. *Toma nota* del proyecto preliminar de esquema del estudio presentado por el grupo de redacción en su 21^{er} período de sesiones;

2. *Solicita* al grupo de redacción que vuelva a distribuir el cuestionario para recabar las opiniones de los Estados, según proceda, las organizaciones internacionales y regionales competentes, las instituciones nacionales de derechos humanos y las organizaciones no gubernamentales y otras partes interesadas que no hayan respondido al cuestionario, y los invite a que hagan aportaciones relativas a nombres de expertos reconocidos, datos concretos, estadísticas, mejores prácticas y principales dificultades en la utilización de los fondos ilícitos no repatriados con miras a apoyar la consecución de los objetivos de la Agenda 2030 para el Desarrollo Sostenible, de acuerdo con lo dispuesto en el párrafo 31 de la resolución 34/11 del Consejo de Derechos Humanos;

3. *Solicita también* al grupo de redacción que, teniendo en cuenta los debates mantenidos en el actual período de sesiones y las aportaciones hechas a través del cuestionario, presente un informe definitivo al Comité Asesor en su 22^o período de sesiones, con miras a someterlo a la consideración del Consejo de Derechos Humanos en su 42^o período de sesiones.

*Novena sesión
10 de agosto de 2018*

21/4. Contribución del desarrollo al disfrute de los derechos humanos

El Comité Asesor del Consejo de Derechos Humanos,

Recordando la resolución 35/21 del Consejo de Derechos Humanos, de 22 de junio de 2017, en la que el Consejo solicitó al Comité Asesor que llevara a cabo un estudio sobre las formas en que el desarrollo contribuía al disfrute de todos los derechos humanos por todas las personas, en particular sobre las mejores experiencias y prácticas, y que presentara el informe al Consejo antes de su 41^{er} período de sesiones,

Recordando también que, en su 19^o período de sesiones, el Comité Asesor estableció un grupo de redacción, integrado actualmente por Mohamed Bennani, Lazhari Bouzid, Mario Luis Coriolano, Mikhail Lebedev (Relator), Xinsheng Liu (Presidente), Ajai Malhotra, Dheerujlall Baramlall Seetulsingh, Changrok Soh, Imeru Tamrat Yigezu y Jean Ziegler,

1. *Toma nota con aprecio* de las respuestas al cuestionario distribuido nuevamente tras el debate celebrado en el 20^o período de sesiones del Comité, presentadas por 16 Estados, 11 instituciones nacionales de derechos humanos y 3 organizaciones no gubernamentales;

2. *Toma nota* del proyecto de informe preparado por el Relator, en el que se integran las respuestas al cuestionario y las opiniones de los Estados, las instituciones nacionales de derechos humanos y las organizaciones no gubernamentales sobre las mejores experiencias y prácticas en lo que respecta a la contribución del desarrollo al disfrute de los derechos humanos, así como sobre las dificultades, conclusiones y recomendaciones derivadas de esas experiencias y prácticas;

3. *Observa* que el grupo de redacción celebró una sesión para debatir el tema;

4. *Solicita* al grupo de redacción que presente el estudio al Comité Asesor en su 22^o período de sesiones con miras a someter el informe a la consideración del Consejo de Derechos Humanos en su 41^{er} período de sesiones, teniendo en cuenta las nuevas aportaciones recibidas tras el debate celebrado durante el actual período de sesiones del Comité.

*Novena sesión
10 de agosto de 2018*

21/5. Políticas nacionales y derechos humanos

El Comité Asesor del Consejo de Derechos Humanos,

Recordando la resolución 35/32 del Consejo de Derechos Humanos, de 23 de junio de 2017, en la que el Consejo solicitó al Comité Asesor que preparase un estudio que pudiera ayudar a los Estados a aplicar la Agenda 2030 para el Desarrollo Sostenible, por medio de la integración de los derechos humanos en las políticas nacionales, tomando como base la recopilación preparada por el Alto Comisionado de las Naciones Unidas para los Derechos Humanos, y que lo presentara en su ciclo ordinario de presentación de informes al Consejo en su 45º período de sesiones, con ocasión del quinto aniversario de la aprobación de la Agenda 2030,

Recordando también que, en su 19º período de sesiones, el Comité Asesor estableció un grupo de redacción, que en la actualidad está integrado por Mario Luis Coriolano, Ion Diaconu (Relator), Karla Hananía de Varela, Ludovic Hennebel, Ajai Malhotra, Kaoru Obata, Mona Omar, Katharina Pabel, Elizabeth Salmón, Dheerujlall Baramlall Seetulsingh y Changrok Soh (Presidente),

1. *Se congratula y toma nota* de la versión actualizada del esquema del estudio elaborada por el grupo de redacción;

2. *Celebra* la participación de un miembro del grupo de redacción en la segunda reunión del Foro de los Países de América Latina y el Caribe sobre el Desarrollo Sostenible y la participación del Relator en el foro político de alto nivel sobre el desarrollo sostenible de 2018;

3. *Observa* que el grupo de redacción y el Comité Asesor celebraron sesiones para debatir el tema, en las que el Relator y un miembro del grupo de redacción presentaron informes orales ante los foros sobre el desarrollo sostenible;

4. *Decide* proseguir el intercambio de opiniones sobre este tema con expertos externos y miembros de la Oficina del Alto Comisionado para los Derechos Humanos, a fin de preparar el estudio de conformidad con lo solicitado en la resolución 35/32 del Consejo de Derechos Humanos;

5. *Invita* a los miembros del grupo de redacción a que prosigan los debates entre períodos de sesiones y continúen participando y haciendo aportaciones en las consultas regionales sobre la aplicación de la Agenda 2030 para el Desarrollo Sostenible, y a que informen al Comité Asesor en su 22º período de sesiones sobre sus actividades relacionadas con la preparación del informe que ha de presentarse al Consejo de Derechos Humanos en su 45º período de sesiones;

6. *Solicita* a la Oficina del Alto Comisionado que informe al Comité Asesor de todos los documentos preparados por los órganos de las Naciones Unidas y otras organizaciones internacionales sobre distintas cuestiones relacionadas con la aplicación de la Agenda 2030 para el Desarrollo Sostenible, a medida que los documentos estén disponibles.

*Novena sesión
10 de agosto de 2018*

21/6. Llamamiento mundial para la adopción de medidas concretas para la eliminación total del racismo, la discriminación racial, la xenofobia y las formas conexas de intolerancia y para la aplicación y el seguimiento generales de la Declaración y el Programa de Acción de Durban

El Comité Asesor del Consejo de Derechos Humanos,

Recordando la resolución 72/157 de la Asamblea General, de 19 de diciembre de 2017, en la que la Asamblea solicitó al Consejo de Derechos Humanos que siguiera prestando especial atención a la situación de la igualdad racial en el mundo y, en ese

sentido, solicitó al Consejo que, por conducto del Comité Asesor, preparase un estudio sobre las formas y los medios adecuados para evaluar la situación, al tiempo que se detectaban posibles lagunas y superposiciones,

1. *Designa* a los miembros del Comité Asesor Ajai Malhotra, Ion Diaconu, Mona Omar, Hananía de Varela, Mikhail Lebedev, Dheerujall Seetulsingh, Ludovic Hennebel y Elizabeth Salmón para que integren el grupo de redacción encargado de preparar el estudio;

2. *Observa* que el grupo de redacción nombró Presidente al Sr. Dheerujall Seetulsingh y Relator al Sr. Ludovic Hennebel;

3. *Observa también* que el grupo de redacción y el Comité Asesor en pleno celebraron sesiones para debatir el tema;

4. *Celebra* la activa participación en el debate de expertos externos y el riquísimo intercambio de opiniones, y observa que el debate ha aportado una valiosa contribución que facilitará la tarea del grupo de redacción;

5. *Solicita* a los órganos y mecanismos pertinentes, como el Grupo de Trabajo de Expertos sobre los Afrodescendientes, el Relator Especial sobre la extrema pobreza y los derechos humanos, la Relatora Especial sobre las formas contemporáneas de racismo, discriminación racial, xenofobia y formas conexas de intolerancia, la Relatora Especial sobre las formas contemporáneas de la esclavitud, incluidas sus causas y consecuencias, el Comité Especial sobre la Elaboración de Normas Complementarias, los órganos de tratados competentes, como el Comité de Derechos Humanos y el Comité para la Eliminación de la Discriminación Racial, y los mecanismos de seguimiento de Durban, incluidos el Grupo de Trabajo Intergubernamental sobre la Aplicación Efectiva de la Declaración y el Programa de Acción de Durban y el grupo de eminentes expertos independientes sobre la aplicación de la Declaración y el Programa de Acción de Durban, que hagan aportaciones y sigan colaborando;

6. *Solicita* al grupo de redacción que presente un esquema preliminar del estudio al Comité Asesor en su 22º período de sesiones;

7. *Alienta* a las diversas partes interesadas a que contribuyan a los trabajos que ya están en curso.

*Novena sesión
10 de agosto de 2018*

21/7. Papel de la asistencia técnica y el fomento de la capacidad en la promoción de la cooperación mutuamente beneficiosa para la promoción y protección de los derechos humanos

El Comité Asesor del Consejo de Derechos Humanos,

Recordando la resolución 37/23 del Consejo de Derechos Humanos, de 23 de marzo de 2018, en la que el Consejo solicitó al Comité Asesor que realizara un estudio sobre el papel de la asistencia técnica y el fomento de la capacidad en la promoción de la cooperación mutuamente beneficiosa para la promoción y protección de los derechos humanos,

1. *Designa* a los miembros del Comité Asesor Mohamed Bennani, Lazhari Bouzid, Ion Diaconu, Ludovic Hennebel, Xinsheng Liu, Ajai Malhotra, Kaoru Obata, Elizabeth Salmón, Dheerujall Seetulsingh y Changrok Soh para que integren el grupo de redacción encargado de preparar el estudio;

2. *Observa* que el grupo de redacción eligió Presidente a Xinsheng Liu y Relator a Lazhari Bouzid;

3. *Observa también* que el grupo de redacción y el Comité Asesor en pleno celebraron sesiones para debatir el tema;

4. *Celebra* la activa participación en el debate de todos los interesados y el intercambio de opiniones, y observa que el debate ha aportado una valiosa contribución que facilitará la tarea del grupo de redacción;

5. *Decide* enviar una nota verbal a los Estados Miembros y otros interesados, incluidas las organizaciones internacionales, las instituciones nacionales de derechos humanos y las organizaciones no gubernamentales, para pedirles que presenten, a más tardar el 30 de noviembre de 2018, aportaciones sobre el papel de la asistencia técnica y el fomento de la capacidad en la promoción de la cooperación mutuamente beneficiosa para la promoción y protección de los derechos humanos, en particular datos concretos, estadísticas, mejores prácticas y principales dificultades, a fin de integrar esa información en el estudio;

6. *Solicita* al grupo de redacción que presente al Comité Asesor en su 22º período de sesiones un esquema preliminar del estudio, teniendo en cuenta las respuestas recibidas conforme a la nota verbal mencionada, y que presente el proyecto de estudio al Comité Asesor en su 23º período de sesiones;

7. *Alienta* a las diversas partes interesadas a que contribuyan a los trabajos que ya están en curso.

*Novena sesión
10 de agosto de 2018*

II. Aprobación del programa y organización de los trabajos

A. Apertura y duración del período de sesiones

1. El Comité Asesor del Consejo de Derechos Humanos, establecido en virtud de la resolución 5/1 del Consejo de Derechos Humanos, de 18 de junio de 2007, celebró su 21º período de sesiones en la Oficina de las Naciones Unidas en Ginebra del 6 al 10 de agosto de 2018. El período de sesiones fue inaugurado por la Presidenta del 21º período de sesiones, Katharina Pabel.

2. En su primera sesión, celebrada el 6 de agosto de 2018, el Vicepresidente del Consejo de Derechos Humanos, Juan Eduardo Eguiguren, formuló una declaración de apertura.

3. En la misma sesión, el Jefe de la Subdivisión del Examen Periódico Universal de la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos (ACNUDH) formuló una declaración en nombre del Alto Comisionado.

4. También en la misma sesión, los participantes guardaron un minuto de silencio por las víctimas de las violaciones de los derechos humanos cometidas en todo el mundo.

B. Composición del Comité Asesor

5. La composición del Comité Asesor es la siguiente²: Ibrahim Abdulaziz Alsheddi (Arabia Saudita, 2018); Mohamed Bennani (Marruecos, 2020); Lazhari Bouzid (Argelia, 2019); Mario Luis Coriolano (Argentina, 2018); Ion Diaconu (Rumania, 2020); Karla Hananía de Varela (El Salvador, 2019); Ludovic Hennebel (Bélgica, 2020); Mikhail Lebedev (Federación de Rusia, 2019); Xinsheng Liu (China, 2019); Ajai Malhotra (India, 2020); Kaoru Obata (Japón, 2019); Mona Omar (Egipto, 2019); Katharina Pabel (Austria, 2018); Elizabeth Salmón (Perú, 2020); Dheerujlall Baramlall Seetulsingh (Mauricio, 2020); Changrok Soh (República de Corea, 2020); Imeru Tamrat Yigezu (Etiopía, 2018); y Jean Ziegler (Suiza, 2019).

² Entre paréntesis figura el año en que expira el mandato de los miembros (el mandato concluye el 30 de septiembre).

C. Participantes

6. Asistieron al período de sesiones los miembros del Comité Asesor y observadores de Estados Miembros de las Naciones Unidas, así como de organizaciones no gubernamentales.

D. Sesiones

7. En su 21^{er} período de sesiones, el Comité Asesor celebró nueve sesiones plenarias y cuatro sesiones privadas. Los grupos de redacción celebraron sesiones privadas sobre las actividades de los fondos buitre y sus repercusiones en los derechos humanos, los efectos negativos del terrorismo en el disfrute de los derechos humanos, las repercusiones negativas en el goce de los derechos humanos de la no repatriación de los fondos de origen ilícito, el papel de la asistencia técnica y el fomento de la capacidad en la promoción de la cooperación mutuamente beneficiosa para la promoción y protección de los derechos humanos, las políticas nacionales y los derechos humanos, y la contribución del desarrollo al disfrute de los derechos humanos. El Comité también celebró varias sesiones privadas con la Mesa del Consejo de Derechos Humanos, así como con los coordinadores de grupos regionales y políticos. Además, el Comité celebró una sesión pública con representantes de organizaciones no gubernamentales.

8. En la cuarta sesión, celebrada el 7 de agosto de 2018, el Comité Asesor, con motivo del décimo aniversario de su creación, organizó un acto conmemorativo y una mesa redonda titulada “Cómo la investigación conduce a la acción”. Durante el acto, se presentó un folleto y un vídeo de corta duración, preparado por alumnos de Ludovic Hennebel, relativos al Comité. Kaoru Obata, Mario Luis Coriolano, Katharina Pabel e Imeru Tamrat Yigezu participaron en el debate en calidad de panelistas y formularon declaraciones. Elizabeth Salmón moderó el debate, que contó con la participación de los demás miembros del Comité Asesor y de varios observadores.

E. Aprobación del programa

9. En su primera sesión, celebrada el 6 de agosto de 2018, el Comité Asesor aprobó su programa (A/HRC/AC/21/1) (la lista de los documentos publicados para el 21^{er} período de sesiones figura en el anexo I).

F. Organización de los trabajos

10. En su primera sesión, celebrada el 6 de agosto de 2018, el Comité Asesor aprobó el proyecto de programa de trabajo preparado por la secretaría.

III. Solicitudes al Comité Asesor derivadas de resoluciones del Consejo de Derechos Humanos y que están siendo examinadas

1. Acuerdo regional para la promoción y protección de los derechos humanos

11. En su primera sesión, celebrada el 6 de agosto de 2018, el Comité Asesor, con arreglo a la decisión 32/115 del Consejo de Derechos Humanos, mantuvo un debate sobre un acuerdo regional para la promoción y protección de los derechos humanos. El Relator del grupo de redacción, Changrok Soh, presentó el informe definitivo (A/HRC/39/58), que se presentaría al Consejo de Derechos Humanos para su examen en su 39^o período de sesiones. Durante el debate que siguió, formularon declaraciones varios miembros del Comité (véase el anexo II). Posteriormente, el Relator del grupo de redacción formuló observaciones finales.

2. Llamamiento mundial para la adopción de medidas concretas para la eliminación total del racismo, la discriminación racial, la xenofobia y las formas conexas de intolerancia y para la aplicación y el seguimiento generales de la Declaración y el Programa de Acción de Durban

12. En su segunda sesión, el 6 de agosto de 2018, el Comité Asesor, con arreglo a lo dispuesto en la resolución 72/157 de la Asamblea General, celebró un debate sobre la situación de la igualdad racial en el mundo y sobre las formas y los medios de evaluarla y detectar posibles lagunas y superposiciones. En este contexto, el representante de Sudáfrica hizo una exposición sobre la cuestión. Durante el debate que siguió, formularon declaraciones varios miembros del Comité y un representante de Estados observadores (véase el anexo II).

3. Papel de la asistencia técnica y el fomento de la capacidad en la promoción de la cooperación mutuamente beneficiosa para la promoción y protección de los derechos humanos

13. En su segunda sesión, que tuvo lugar el 6 de agosto de 2018, el Comité Asesor, con arreglo a lo dispuesto en la resolución 37/23 del Consejo de Derechos Humanos, celebró un debate sobre el papel de la asistencia técnica y el fomento de la capacidad en la promoción de la cooperación mutuamente beneficiosa para la promoción y protección de los derechos humanos. En este contexto, el representante de China hizo una exposición sobre la cuestión. Durante el debate, formularon declaraciones varios miembros del Comité y un observador de una organización intergubernamental (véase el anexo II).

4. Políticas nacionales y derechos humanos

14. En su tercera sesión, celebrada el 7 de agosto de 2018, el Comité Asesor, con arreglo a la resolución 35/32 del Consejo de Derechos Humanos, celebró un debate sobre las políticas nacionales y los derechos humanos y los Objetivos de Desarrollo Sostenible. El Relator del grupo de redacción, Ion Diaconu, informó a los demás miembros del Comité acerca de su participación en las reuniones organizadas por el foro político de alto nivel sobre el desarrollo sostenible, celebrado en Nueva York del 16 al 19 de julio de 2018, y presentó un esquema preliminar actualizado. Mario Luis Coriolano hizo una exposición sobre su participación en la sesión del Foro de los Países de América Latina y el Caribe sobre el Desarrollo Sostenible. Durante el debate que siguió, formularon declaraciones varios miembros del Comité y un representante de un Estado observador (véase el anexo II).

5. Actividades de los fondos buitres y sus repercusiones en los derechos humanos

15. En su sexta sesión, celebrada el 8 de agosto de 2018, el Comité Asesor, con arreglo a la resolución 34/3 del Consejo de Derechos Humanos, debatió sobre las actividades de los fondos buitres y sus repercusiones en los derechos humanos. Durante el debate que siguió, formularon declaraciones varios miembros del Comité (véase el anexo II).

6. Repercusiones negativas en el goce de los derechos humanos de la no repatriación de los fondos de origen ilícito

16. En su sexta sesión, celebrada el 8 de agosto de 2018, el Comité Asesor, con arreglo a las resoluciones 31/22 y 34/11 del Consejo de Derechos Humanos, mantuvo un debate sobre las repercusiones negativas en el goce de los derechos humanos de la no repatriación de los fondos de origen ilícito. El Relator del grupo de redacción, Dheerujall Baramall

Seetulsingh, presentó el esquema preliminar del estudio. Durante el debate que siguió, formularon declaraciones varios miembros del Comité y representantes de Estados observadores (véase el anexo II). Posteriormente, el Relator del grupo de redacción formuló observaciones finales.

IV. Aplicación de las secciones III y IV del anexo de la resolución 5/1 del Consejo de Derechos Humanos, de 18 de junio de 2007, y de la sección III del anexo de la resolución 16/21 del Consejo, de 25 de marzo de 2011

A. Examen de los métodos de trabajo

17. El 9 de agosto de 2018, el Comité Asesor, en sesión privada, celebró un debate sobre sus métodos de trabajo.

B. Programa y programa de trabajo anual, incluidas las nuevas prioridades

18. En su octava sesión, celebrada el 9 de agosto de 2018, el Comité Asesor debatió los documentos de reflexión y las propuestas de investigación. Los miembros del Comité presentaron los siguientes documentos de reflexión y propuestas de investigación para su examen por el Comité:

- Acceso a la justicia (Mario Luis Coriolano).
- Presupuesto y derechos humanos (Mario Luis Coriolano).
- La transformación digital: el impacto de las nuevas tecnologías en los derechos humanos (Changrok Soh).
- Los derechos económicos, sociales y culturales en la agenda de las jurisdicciones internacionales (Ion Diaconu).
- La integración de la igualdad de género y el logro de la paridad de género en el Comité Asesor (Elizabeth Salmón).

19. En su novena sesión, celebrada el 10 de agosto de 2018, el Comité Asesor decidió someter a la consideración del Consejo de Derechos Humanos una propuesta de investigación sobre el tema “Los derechos económicos, sociales y culturales en la agenda de la jurisdicción internacional” (véase el anexo III).

20. En la misma sesión, el Comité Asesor examinó un documento de reflexión, preparado por Elizabeth Salmón, sobre la integración de la igualdad de género y el logro de la paridad de género en el seno del Comité (véase el anexo IV), y señaló que el Consejo de Derechos Humanos, al nombrar a un nuevo miembro del Comité, podría tener en cuenta los principios mencionados en el documento de reflexión.

21. Durante el debate que tuvo lugar a continuación, formularon declaraciones varios miembros del Comité Asesor, representantes de Estados observadores, un observador de una organización intergubernamental y un observador de una organización no gubernamental (véase el anexo II).

C. Nombramiento de los miembros del Grupo de Trabajo sobre las Comunicaciones

22. De conformidad con lo establecido en los párrafos 91 a 93 del anexo de la resolución 5/1 del Consejo de Derechos Humanos, el Comité Asesor nombrará a cinco de sus miembros, uno de cada grupo regional, teniendo debidamente en cuenta el equilibrio de género, para que constituyan el Grupo de Trabajo sobre las Comunicaciones. En caso de

que se produzca una vacante, el Comité nombrará de entre sus miembros a un experto independiente y altamente calificado del mismo grupo regional. Habida cuenta de la necesidad de contar con expertos independientes y de garantizar la continuidad en el examen y la evaluación de las comunicaciones recibidas, los expertos independientes y altamente calificados del Grupo de Trabajo serán nombrados por un período de tres años. Su mandato se podrá renovar una sola vez.

23. Los miembros actuales del Grupo de Trabajo sobre las Comunicaciones fueron nombrados por el Comité Asesor en sus períodos de sesiones 11º, 13º y 17º (véanse A/HRC/AC/11/2, párr. 29; A/HRC/AC/13/2, párrs. 36 y 37; y A/HRC/AC/17/2, párr. 26).

24. Habida cuenta de que el mandato de tres miembros del Grupo de Trabajo, a saber, Imeru Tamrat Yigezu (Grupo de los Estados de África), Katharina Pabel (Grupo de los Estados de Europa Occidental y otros Estados) y Mario Luis Coriolano (Grupo de los Estados de América Latina y el Caribe), expiraría el 30 de septiembre de 2018, el Comité decidió, en su novena sesión, celebrada el 10 de agosto, nombrar miembros del Grupo de Trabajo a Karla Hananía de Varela, Ludovic Hennebel y Mona Omar.

V. Informe del Comité Asesor sobre su 21º período de sesiones

25. En la décima sesión, celebrada el 10 de agosto de 2018, el Relator del Comité Asesor presentó el proyecto de informe del Comité sobre su 21º período de sesiones. El Comité aprobó *ad referendum* el proyecto de informe y decidió encargar al Relator la tarea de ultimarlos.

26. En la misma sesión, Karla Hananía de Varela, Ibrahim Abdulaziz Alsheddi, Ludovic Hennebel y Mona Omar pronunciaron sus declaraciones finales. Tras el habitual intercambio de cortesías, la Presidenta formuló observaciones finales y declaró clausurado el 21º período de sesiones del Comité Asesor.

Anexos

[Inglés únicamente]

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
(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
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		
(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. Brasil, 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 of 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, Inhumane 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.

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>
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
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. ASP/710/36 (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.
