

Statement by the UN Working Group on the Issue of Discrimination against Women in Law and in Practice on the Post-2015 Development Agenda

The Working Group on the Issue of Discrimination against Women in Law and in Practice will be presenting to the United Nations Human Rights Council a thematic report in June this year addressing discrimination against women in economic and social life, with a focus on economic crisis. This report will address a range of issues which are relevant to the post-2015 development agenda and puts forth a number of concrete recommendations for combating discrimination and promoting women's equality in economic and social life.

The Working Group believes that it is an important moment to ensure that women's rights to non-discrimination and equality in economic and social life are well reflected in the post-2015 development agenda. Discussions about the new global development framework are by now well under way. The Working Group also believes strongly that grounding development priorities in women's human rights is a legal and moral imperative, and increases their overall efficacy by enhancing accountability and inclusion. International law firmly establishes the obligation of States to ensure the exercise of women's economic and social rights under conditions of equality and free from any form of discrimination. The Convention on the Elimination of All forms of Discrimination against Women (CEDAW) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are the two key human rights instruments guaranteeing women's human rights in the fields of economic and social rights.

On 21 May 2013, 17 Special Procedures mandate-holders of the United Nations Human Rights Council issued a joint statement calling for "[g]rounding development priorities in human rights,"¹ highlighting three key recommendations for a post-2015 agenda: 1) incorporation of equality as a stand-alone and cross-cutting goal, 2) inclusion of a goal on the provision of social protection floors, and 3) putting accountability at the core of the post-2015 development framework.² The Working Group would like to highlight that including women in the extensive list of marginalized groups to whom these goals are directed, while itself important, is nevertheless insufficient to ensure that women benefit on equal terms from the new development framework.

Therefore, in addition to these recommendations, the Working Group regards the further proposal of UN Women, that gender equality must remain a stand-alone goal and that all goals must be gender mainstreamed, as a best practice proposal which should be adopted by States.³ As proposed by UN Women: eradicating women's poverty; promoting decent work for women; building women's access to, and control over, productive assets; reducing women's care burden; promoting education and skills for women and girls; and promoting women's leadership in the private sector, among other targets, are all vital to include in the new development framework. In support of this approach and in order to further develop it, the Working Group would like to take this opportunity to discuss **five key issues** which it feels should inform discussions around the post-2015 development agenda and be included in a stand-alone goal on gender equality.

1. Women and the care economy

Reproduction and care functions are the very kernel of human life and society. These functions are performed either solely by women or largely by women.⁴ The fact that these functions are performed by women creates a major barrier to women's equality of

opportunity in the labour market or in business, finance and entrepreneurship. Failure to properly integrate the biological function of reproduction and the gendered function of unpaid caring into macro-economic policy perpetuates this major structural barrier to equality of economic opportunity for women.

Women's right to paid maternity leave in formal employment have been widely recognized but have been rarely been extended either to other spheres of economic activity. Furthermore, there has been no equivalent recognition of the **right to an equal and fair distribution of care functions**. Hence, social institutions and macro-economic policies have not yet adopted a holistic, effective and coherent policy which takes into account the recognition of care work and the need for transformative equality. Such a perspective is essential for the overall economic empowerment of women.

It is crucial to recognize the right to maternity benefits, the right to parental leave which encourages sharing of child rearing and a social protection floor for care functions, as fully-fledged economic and social rights. These rights are a prerequisite for the equal right of women to the enjoyment of all economic, social and cultural rights, including, *inter alia*: the right to work; the enjoyment of just and favourable conditions of work; an adequate standard of living; the right to food; enjoyment of the highest attainable standard of physical and mental health; and the right to take part in cultural life.

2. The empowerment of women in economic decision-making

There is a massive gender gap with respect to top leadership in business and financial decision-making bodies, including in international institutions such as the WTO and the IMF. Out of the world's 2,000 top performing companies, just 29, or 1.5%, had female CEOs in 2009.⁵ There has been little increase since. Women account for 4.6% of CEOs in Fortune 500 companies⁶ and 4% in IT & Telecom companies.⁷ In 2012, women had only 16.9% Fortune 500 Board Seats, of which only 3.2 % women of colour.⁸ Only 17 out of 177 governors of central banks were women in 2012 (less than 10%).⁹ In many countries women's participation in cooperatives plays an important role in their ability to become successful business leaders and yet they are significantly under-represented in leadership and decision-making roles in cooperatives.¹⁰ Women are similarly under-represented in union leadership.¹¹ Women's entrepreneurship tends to be in small businesses, often operated from home, service oriented and far lower down the chain of value added production, limiting their income, growth and access to credit and financial resources.¹²

Women's equal participation in leadership in economic decision making at all levels is essential both for women's empowerment and for their ability to affect economic policy making which determines the quality of life for women and men, their children and communities; and to address the dramatic increases in inequality of resources and income and the feminisation of poverty. Positive measures are necessary to accelerate de facto equality for women in leadership positions in corporate, financial and trade institutions and enterprises, at the international and national levels, including by the introduction of quotas for corporate boards.

3. Gender sensitive analysis of corporate responsibility

There continues to be a very significant lack of incorporation of gender into business and human rights discussions broadly. However, there are some initial efforts to mainstream

gender into principles of corporate responsibility. The CEDAW Committee has, for instance, underscored the fundamental obligations of States in this area, for example by holding States responsible for women's lack of access to private health providers.¹³ Some international trade agreements have been used to create incentives for corporate social responsibility with direct impact on women, for example, the US-Cambodia trade agreement, supported by the ILO.¹⁴ Additionally, civil society and women workers have been important agents for change and civil society representatives have joined a handful of business leaders to form the Business and Human Rights Reference Group that has begun to elaborate how gender fits into the UN Guiding Principles on Business and Human Rights.¹⁵

Gender sensitive analysis of the principles of corporate responsibility is necessary for identifying, preventing and remedying the harm caused by corporate activities to women, as workers, consumers and community members, especially with regard to EPZs; sweatshops and home working; garment industries; land dispossession by extractive, biofuel, agribusiness and real estate projects.

4. Women's informal labour

Women are concentrated in higher numbers than men in informal work and overrepresented in precarious, atypical and vulnerable work or employment.¹⁶ The informal sector denotes those workers who are not recognized, recorded, protected or regulated by the public authorities.¹⁷ Ensuring decent work for women entails finding ways to mitigate the damaging impact of informal work. This can be achieved through reduction and reconstruction.

Reduction of informal work for women means increasing women's opportunities to work in the formal labour market. There is evidence of good practice by some States, in different regions and at different income levels¹⁸, to increase women's employment opportunities in the formal labour market¹⁹, for example by investing in re-skilling, professionalization and providing targeted unemployment benefits for women.²⁰ Reconstruction of informal employment is possible through legal action in many cases, by redefining the scope of protective labour law, introduce pro-rata pay and social security benefits for part time or casual work and extend paid maternity leave and care rights to workers in both the formal and informal sectors.

There is a special need to provide protection against discrimination and abuse of migrant workers and domestic workers, who are most often women working in the informal sector.

5. Economic crisis and the impact of austerity measures on women

The lessons learned from economic crisis and from the impact of macro-economic policies on women's economic opportunities can and should inform the post-2015 agenda. The Working Group notes that austerity measures taken by some states in response to economic crisis have had a disparate impact on women, increasing their precarious employment and their burden of unpaid care work.

However, economic crisis does not create but merely accentuates existing structural economic disadvantage for women. There is broad recognition amongst feminist economists and others that the underlying macro-economic structures which gave rise to the crisis are the *very same* structures which restrict women's economic opportunities

compared to men's, in the first place.²¹ In particular, growing disparities in wealth and income and the privatisation of social services have a disparate impact on women. Therefore, addressing the crisis provides an opportunity to address patterns of gender inequality and discrimination entrenched in the economic status quo. In fact, the Global Jobs Pact, adopted by ILO member States in 2009 underscores this message, stating that the “*current crisis should be viewed as an opportunity to shape new gender equality policy responses.*”²²

Alternatives to austerity have been successfully applied in some countries. Counter-cyclical approaches have been put in place in the United States,²³ as well as in some Latin American countries, for example Chile;²⁴ the Swedish recovery programme focused on avoiding labour market exclusion, particularly for women, especially by maintaining paid parental leave and subsidizing day care for children;²⁵ Iceland stands out as a pioneer in adopting a policy to protect women within the context of the recent crisis and in mainstreaming gender in its recovery measures.²⁶ In responding to economic crisis, it is crucial to recognise the disparate impact of austerity measures on women and adopt gender sensitive strategies that avoid labour market exclusion, loss of social protection floors and reduction of social services.

Conclusion

The Working Group proposes a stand-alone goal of gender equality which must incorporate the transformative structural change required for women's *de facto* equality and empowerment. This requires a social protection floor for care functions, as a fully-fledged economic and social right; the inclusion of women in leadership in economic decision making at all levels; gender sensitive analysis of the principles of corporate responsibility; and reduction and reconstruction of women's informal work, particularly migrant and domestic work. The Working Group flags in particular the need to recognise the disparate impact of austerity measures on women and to adopt gender sensitive strategies that avoid labour market exclusion, loss of social protection floors and reduction of social services.

¹ ‘Statement by 17 Special Procedures mandate-holders of the Human Rights Council on the Post-2015 development agenda,’ 21 May 2013.

² Ibid.

³ UN-Women has prepared a document to help guide global discussions on the integration of women's rights in the post-2015 agenda, entitled *A Transformative Stand-Alone Goal on Achieving Gender Equality, Women's Rights and Women's Empowerment: Imperatives and Key Components*. Stating that the post-2015 development framework “must avoid the shortcomings of the MDG framework which, from a gender perspective, include the failure to address the structural causes of gender inequality (including addressing issues such as violence against women, unpaid care work, limited control over assets and property, and unequal participation in private and public decision-making,” UN-Women suggests three basic components to comprise a new stand-alone goal on gender equality, namely: freedom from violence; capabilities and resources; and voice, leadership and participation. See: UN-Women, ‘A Transformative Stand-Alone Goal on Achieving Gender Equality, Women's Rights and Women's Empowerment: Imperatives and Key Components,’ paper prepared in the context of the post-2015 sustainable development framework and the sustainable development goals, June 2013.

⁴ Care functions may be focused on women and girls at all stages of the life cycle. They may be a barrier to girls educational achievement, whether as a result of early pregnancy or family care responsibilities, and may be a burden to older women with care responsibilities for family members.

⁵ Herminia Ibarra and Morten T. Hansen, ‘Women CEOs: Why So Few?’, Harvard Business Review Blog, 21 December 2009.

⁶ Catalyst, ‘Women CEOs of the Fortune 1000,’ available online at: <http://www.catalyst.org/knowledge/women-ceos-fortune-1000>

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- ⁷ European Union, 'Women Active in the ICT Sector,' 2013.
- ⁸ Alliance for Board Diversity, 'Missing Pieces: Women and Minorities on Fortune 500 Boards,' Alliance for Board Diversity Census, 2012.
- ⁹ Claire Jones, 'Six things you need to know about women in central banks,' *Financial Times*, 9 October 2013.
- ¹⁰ Nicole Goler von Ravensburg, 'Economic and other benefits of the entrepreneurs' cooperative as a specific form of enterprise cluster,' ILO and COPAC, 2011.
- ¹¹ Background paper prepared by Ama Marston for the Working Group on Women, Business and Human Rights soon available on the Working Group website <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WGWomenIndex.aspx>
- ¹² Ibid.
- ¹³ Supra note 11.
- ¹⁴ Ama Marston, 'Labor Monitoring in Cambodia's Garment Industry: Lessons for Africa,' *Realizing Rights*, 2007.
- ¹⁵ Available online at: <http://tinyurl.com/BHR-Ref-Group>
- ¹⁶ Naoko Otobe, 'Global economic crisis, gender and employment: The impact and policy response,' Employment Sector: Employment Working Paper No. 74, International Labour Organization: Geneva, 2011. See also: International Labour Organization (ILO), 'Global economic crisis, gender and work: Key policy challenges and options,' Global Jobs Pact Policy Briefs, Brief No. 15, 2011.
- ¹⁷ ILO *Decent work and the Informal Economy* (2002) p.1.
- ¹⁸ Specific countries include: Argentina, Brazil, Chile, Singapore, Korea, Malta and Portugal. Background paper prepared by Mayra Gomez for the Working Group on Women in Economic and Social Life soon available on the Working Group website at <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/WGWomenIndex.aspx> See also: ILO Bureau for Gender Equality, 'Making the crisis recovery work for women!,' International Labour Office, International Women's Day (8 March), 2011. See also: Statement by Mayra Buvinic (World Bank), 'Emerging issue: The gender perspectives of the Financial Crisis,' Interactive Expert Panel, Commission on the Status of Women, Fifty-third session, New York, 2–13 March 2009.
- ¹⁹ International Labour Organization (ILO), 'Global Employment Trends for Women,' International Labour Organization: Geneva, December 2012.
- ²⁰ ILO Bureau for Gender Equality, 'Making the crisis recovery work for women!,' International Labour Office, International Women's Day (8 March), 2011.
- ²¹ Ibid.
- ²² Emphasis added. 'Recovering from the crisis: A Global Jobs Pact,' adopted by the International Labour Conference at its Ninety-eighth Session, Geneva, 19 June 2009.
- ²³ See: 'Achieving Equity for Women: Policy Alternatives for the New Administration Symposium Report,' A policy research symposium co-sponsored by the Institute for Women's Policy Research and Wellesley Centers for Women, Washington, D.C., 2 April 2009.
- ²⁴ Comisión Económica para América Latina y el Caribe, 'La actual crisis financiera internacional y sus efectos en América Latina y el Caribe,' Santiago, Chile, 2009. See also: Norma Sanchís & Alma Espino, 'The Impacts of the Crisis on Women in Latin America,' Brief 1 of the 2010 series edition: 2010 Updates: Impacts Of The Crisis On Women's Rights: Sub Regional Perspectives, AWID, 2010.
- ²⁵ Jayati Ghosh, 'Economic Crisis and Women's Work: Exploring Progressive Strategies in a Rapidly Changing Global Environment,' UN-Women, January 2013.
- ²⁶ Centre for Gender Equality Iceland, 'Gender Equality in Iceland,' January 2012. See also: The Government of Iceland, '25th National Report on the implementation of the 1961 European Social Charter,' on Articles 1, 15 and 18 for the period 01/01/2007 - 31/12/2010, Report registered by the Secretariat on 8 October 2012.