

DRAFT GENERAL RECOMMENDATION ON THE EQUAL AND INCLUSIVE REPRESENTATION OF WOMEN IN DECISION-MAKING SYSTEMS

Comments on the draft by the GQUAL Campaign

I. Introduction

We are pleased to address you on behalf of [GQUAL](#), a global Campaign launched in 2015 that aims to achieve gender parity in the composition of international tribunals and monitoring bodies. Our focus is to ensure the consideration of gender parity in national and international selection procedures, to disseminate timely information on vacancies, and to conduct research on the impact and role of women in international justice. The Campaign is founded on the shared understanding that for reasons of equality, the impact of women's participation in expanding the talent pool, the legitimacy of international bodies, and its potential impact on sustainable development and peace, women's engagement in international justice is critical.

The Campaign celebrates the CEDAW Committee's (the Committee) recently published draft on General Recommendation 40 (GR40) on the equal and inclusive representation of women, in all their diversity, in decision-making systems. It has been an honor for us to support and contribute to the drafting process of GR40 and we are grateful to the Committee members and team for the fruitful exchanges and for the opportunities to join discussions and share suggestions to enrich the draft.

After a careful reading of the first draft, the Campaign cherishes this new opportunity to contribute to the critical drafting process, by presenting written suggestions to the draft. Our contributions intend to strengthen the final version of GR40 to better address some of the structural obstacles and challenges faced by women in the enjoyment of the right protected by Article 8 of the CEDAW Convention. While not requiring extensive adjustments to the text, our suggestions could ensure a more effective impact of the GR in changing the paradigm regarding women's equal and inclusive representation at the international level.

II. The draft GR40 as a true paradigm shift

We want to congratulate the Members serving on GR 40's Drafting Committee, particularly Madame Nicole Amelie, and Secretariat staff involved in supporting its development process, for having produced a promising first draft, which indeed appears to be on track to herald a "paradigm shift" with respect to women's equal and meaningful participation in decision-making systems.

We are especially pleased to take note of the fact that the draft expressly acknowledges and frames women's equal and inclusive participation in decision-making systems, at both the national and international levels, and across the political, public, private, and economic spheres, constitutes a legal right, and that the failure to respect and guarantee this right amount to discrimination and breaches the principle of equality. The prohibition of discrimination on the basis of gender stands at the core of the CEDAW Convention and is likewise at the heart of many other widely ratified key international instruments. It is also consistently featured as a key principle in many national jurisdictions, whether in

Constitutions or other legislative acts, around the world, and it is indeed in the process of evolving into a jus cogens norm.

We celebrate the draft's explicit definition and positing of parity as a 50:50 standard, as a starting point, and as a universal rule. We also support the assertion that—while Temporary Special Measures (TSMs) may well be promoted as effective (and potentially even critical) step on the long path to achieving equality in representation—the achievement of gender parity as a universal and permanent imperative should, and ought to remain viewed as necessarily distinct, from the practical interim tools such as quotas or other TSMs; indeed, "gender parity in decision-making should remain as a permanent and universal feature of democracy and good governance" once women's historical disadvantages have been redressed.

Moreover, we support the draft's interpretation that participation "on equal terms" should be defined not just as equal access to, but most importantly, as "equal power" in decision-making. We firmly agree that at both the national and international level, achieving this objective requires "dismantling the patriarchal structures at the root of women's exclusion from decision-making."

Finally, as reflective of an issue that the GQUAL Campaign has consistently emphasized much-needed development, we are pleased by the fact that the draft dedicates a section to States' legal obligations under Article 8 of the CEDAW Convention, which applies specifically to women's right to equal and inclusive participation and representation in international decision-making systems. As consistently argued in previous statements by the GQUAL Campaign, this inclusion reflects much-needed steps in the right direction towards the more comprehensive interpretation of the scope of Article 8, which has not yet been extensively developed by the Committee in its prior Recommendations or practice.

III. Suggested adjustments to the draft

At the same time, after a careful reading of the draft, we consider that some aspects of the text could yet stand to be improved to strengthen its final version in how it addresses some of the structural obstacles and challenges faced by women in the enjoyment of the right protected by Article 8 of the CEDAW Convention. While not requiring extensive adjustments to the text, our suggestions could ensure a more effective impact of GR40 in changing the paradigm regarding women's equal and inclusive representation at the international level.

Hoping that it can be helpful with reviewing the feedback received, we include specific language suggestions to consider:

a. Women in the Law as a game changing space:

The draft initially develops the different areas identifies as game changing challenges. It indicates that promoting gender parity in those spaces is key to promoting women's equal and inclusive participation in public, political, economic and private life.

However, we note that one group not explicitly considered as crucial to move the agenda at both the domestic and international levels and across the different spheres is the one representing women in the law. Women lawyers are involved in the domestic and international justice systems, academia, civil

society organizations, the diplomatic sector, multilateral institutions, economic, and private spheres. In addition, as part of their role, they are charged with ensuring that gender equality is upheld in courts and legal processes. Despite a documented increase in women’s enrollment and graduation as lawyers, their representation across key sectors, including high academic positions, Bar Associations, Law Firms, international arbitration, national and international judiciaries, and other key spaces remains a constant challenge, impacting in many ways the networks and support systems needed for women to participate equally in the decision-making spaces targeted through the GR recommendations. As such, **we believe a brief reference to Women in the Law within Section II and perhaps following paragraph 8 as a game changing space for parity would be important.**

b. Reference to key international norms and resolutions on gender balance in international decision making.

We believe a few key international sources should be cited/referenced in the GR40, since they would strengthen the framework for the GR on women’s equal and inclusive participation in international decision making and would highlight some of the most recent developments and consensus on this issue. As such, we believe **a key reference to Article 8 of the UN Charter should be included in para. 11 and a reference to UN Human Rights Council Resolution A/HRC/RES/41/6, which calls on States to implement measures to achieve gender balance in international human right bodies, “as an essential step towards bringing about a structural change needed to advance substantive gender equality and gender parity in line with the system-wide strategy on gender parity” should be included in paras. 25 and/or 52.**

c. Ensuring consistent references to national and international spaces in key developments and recommendations that are applicable to both.

We have identified that in some paragraphs of the General Recommendation’s draft, there are references to the national and domestic levels, whereas a reference to the international level should also be included. For example, **in para. 33**, where the Committee recommends that State parties devise national action plans with concrete targets for equal and inclusive representation of women and men in political, public, and economic decision-making by 2030, it only refers to its implementation at the national and local levels. **We believe that this national plan should also include concrete targets to be implemented regarding international representation and the actions taken to implement the recommendations suggested by the Committee in paras 49-53. This would be essential because this recommendation is among the few in the draft referring to follow-up mechanisms and implementation of the standards established in the General Recommendation.**

We highlight a few different sections where the explicit reference to the applicability of the standard and recommendations to international sphere, international organizations and bodies would be important, so as to not be interpreted as excluded.

For example, we would suggest paragraph 33 to read:

33. The Committee recommends that States parties:

- Amend their constitutions to guarantee parity between women and men in political, public, and economic decision-making, including but not limited to elections, parliaments, the government, judiciaries at both national and local levels, governmental and **diplomatic delegations, international organizations and bodies, and in the private sector;**
- Devise dedicated national action plans with concrete targets for equal and inclusive representation of women and men in political, public, and economic decision-making by 2030, to be implemented at the **international, national and local levels, monitoring progress and setbacks through official statistics on women in decision-making in all sectors that are collected and published on a regular basis and included in regular reporting to the Committee;**
- Adopt and/or amend laws to mandate gender parity on electoral lists of political parties, as well as in the government, the public service and in economic decision-making, amending any laws that provide for less than 50:50 representation;
- Ensure the equal and inclusive representation of women in all aspects of decision-making related to peace and security, including but not limited to peace negotiations, post-conflict reconstruction efforts, transitional justice, **international justice bodies and mechanisms, truth and reconciliation processes, national defence and security, humanitarian assistance, and peacekeeping;**
- Increase transparency in nomination and selection processes for positions of political, public, and economic leadership, **at the national and international level, for example through public calls for applications, clear and comprehensive job descriptions, and merit-based selection procedures, that include gender parity as a criterion;**
- Promote understanding of the non-discriminatory nature of temporary special measures among public officials, parliamentarians, policymakers, employers, and the general public;
- Enforce the implementation of gender parity requirements, for example through rejecting electoral lists or refusing to confirm appointments that do not comply with such requirements; and
- Provide financial incentives for political parties and other actors to meet parity requirements for candidates to positions of political, public, and economic decision-making.”

The following sections of para. 62 could read:

62. The Committee recommends that States parties:

- Appoint women to senior roles in political, public, and economic decision-making, **at the national and international level, avoiding tokenism to ensure that women have full and equal decision-making power in these roles**
(...)
- Ensure gender parity in the leadership, development, implementation, and assessment of policies and programmes related to development, women, peace, and security, **and international justice**

d. Updated data.

Specifically on women’s participation in international organizations, we want to acknowledge the reference included in the draft to data collected by GQUAL on women’s participation in international bodies. However, we would like to provide the Committee with updated data, so that the numbers can reflect the reality closer to the time of adoption of the GR. At the same time, we believe it could be important to include references to different bodies where women’s equal participation is key.

As such, **we propose to adjust the data in paragraph 52 with the following information:** "In March 2024, women held 43% of positions in international bodies, but their representation in leadership positions varied by institution, being lower in those that require State nomination and are judicial in nature and higher in those related to the protection of women’s rights: women made up 15 % of

members in the International Law Commission, 37% of judges on international tribunals, 38% of judges on regional human rights tribunals, 52% of members of UN human rights treaty bodies, and 60% of UN special procedures mandate holders”

e. Strengthening women’s participation in the work of international organizations.

In **paragraph 52**, the GR importantly states that Article 8 of the Convention requires that States parties ensure that women, on equal terms with men and without any discrimination, have the opportunity to participate in the work of international organizations. We believe the Committee should **clarify** in this introduction to the issue that this statement **involves both universal and regional organizations to avoid the impression that the standards of the General Recommendation would apply only to the United Nations institutions**. Additionally, "work in international organizations" should be defined as including not only positions in the staff of the organizations, but also appointments in international courts, quasi-judicial organs, and other mechanisms where disputes are resolved and where women's perspectives are essential to prevent gender-biased outcomes.

Additionally, **and most importantly for the GQUAL Campaign**, we believe that the General Recommendation should acknowledge that Article 8 enshrines a two-fold obligation when requiring States to adopt “all measures” to ensure women’s right to representation on “equal terms” with men at the international level. First, at the domestic level, States must set up transparent procedures guided by objective criteria for the nomination and appointment of candidates that take gender into account as one of the criteria. This aspect is included in the General Recommendation, but **what is missing is the second aspect of the obligation, which includes the steps that States must take at the international level**. At the international level, States must seek to ensure that gender is incorporated as a selection criterion when new treaties or guidelines are adopted and must take gender parity into account when voting for the membership of international tribunals and bodies and the leadership in multilateral institutions. If States do not incorporate the obligation to ensure gender parity in new treaties and similar instruments and fail to change State voting practices when appointing candidates for international courts and bodies, the principle of gender parity will not be achieved in practice.

In line with this, the recommendations in **paragraph 53** should be strengthened to ensure the full implementation of obligations arising under Article 8 as described above. In that respect, the Committee should incorporate adjustments to the proposed recommendations and add a few.

First, regarding the recommendation of implementing quotas for the appointment of members of international organizations, the Committee should adjust the language to make it clearer that it refers both to positions within the staff as well as independent experts nominated and appointed to regional and international bodies and mechanisms within international organizations. We suggest the following language:

- *“Adopt temporary special measures to achieve parity between women and men in **nominations and appointments to international and regional organizations, bodies, and mechanisms**, including at senior levels, for example by adopting policies of alternating between women and men in leadership appointments”*

Second, regarding the important recommendations of improving transparency in the nomination and selection processes, we believe it is important for the Committee to build on the developments of HRC Resolution UN Human Rights Council Resolution A/HRC/RES/41/6 and the Advisory Committee Report on gender balance in international bodies and recommend the development of procedures at the national level to increase transparency, participation and gender parity in nomination and selection processes. We suggest the following language:

- *“Institutionalize procedures at the national level to increase transparency, participation and gender parity in nomination and selection processes for positions in international organizations, bodies, and mechanisms, for example through public calls for applications, clear and comprehensive job descriptions, the inclusion of gender parity as a criterion, and merit-based selection procedures;”*

Third, we believe that the recommendation on data gathering efforts could be strengthened by encouraging States not only to collect and monitor disaggregated data on the percentage of women holding positions in international organizations, including their levels of seniority, but also on the women and men nominated by that State to international organizations, bodies, and mechanisms. We suggest the following language:

- *“Collect, monitor and publish, disaggregated data on the percentage of women nominated and holding positions in international organizations, bodies and mechanisms, including their levels of seniority”.*

Lastly, and more importantly, we believe that **the following two recommendations should be added to this section:**

- *“States should implement gender parity voting systems, including rotation, single women list, or target measures when selecting the membership of international bodies or mechanisms or the leadership of multilateral organizations. In these policies States should consider the actual and historical gender composition of the specific body or institution and commit themselves to nominating, voting or appointing a woman when there is underrepresentation”*
- *“When negotiating and drafting treaties, statutes, or designing mechanisms, States should pursue the inclusion of selection or appointment processes that ensure gender parity in the composition of new international and regional decision-making bodies”*

f. Protection to women’s right to equal participation in representation of their government could also be strengthened by specific small adjustments to the recommendations in paragraph 51.

- The recommendation to “adopt temporary special measures to achieve parity between women and men in diplomatic and ambassadorial appointments, as well as in delegations to peace negotiations” could include an additional reference to other international delegations and negotiations where women’s underrepresentation is critical, such as climate negotiations and all treaty negotiations.
- Gender parity should be specifically mentioned as an objective criterion for the appointment and promotion of women to international positions.
- We suggest a reference to equal and inclusive representation at the international level is included as a specific recommended component of FFPs.

- g. Finally, section VI regarding the obligations of the international community should also include recommendations to international organs, tribunals, quasi-judicial bodies, and other mechanisms to adopt measures to ensure gender parity in international representation, when appropriate.** For example, the United Nations Human Rights Council could develop guidelines to ensure gender parity in the mechanisms and expert mandates under its purview [as recommended by the Advisory Committee Report].

The GQUAL Campaign thanks the Committee for its valued leadership on this GR and for its engagement and the opportunity to contribute to the vital ongoing discussions around women's equal and inclusive participation and representation in international decision-making systems.