

OBSERVATORY ON GENDER EQUALITY OF THE GLOBAL NETWORK ON ELECTORAL JUSTICE

Operational bases
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Presentation

The recognition of equality between women and men to exercise political rights and participate in the public decision-making sphere has been made clear in different human rights instruments that have obliged the States Parties to take them as unavoidable references for the harmonization of their laws and the design of public policies that address the structural, cultural and contextual conditions that limit, hinder or threaten the full exercise of women's political-electoral rights.

These advances are mainly expressed in two women's human rights instruments¹, the first of international coverage through the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), under which general recommendations have been made to the States Parties aimed at clarifying its postulates in the design of State policies for the protection and promotion of women's human rights; and the second is the regional application of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (known as the Convention of Belém do Pará), which has led to the creation of tools for multilateral follow-up and evaluation of its mandate, such as the Follow-up Mechanism for the Convention of Belém do Pará, known as MESECVI.

In this process, feminist and women's movements joined in the struggle for the recognition of their human rights and to push for compliance by States with their conventional and national obligations and with the commitments and guidelines expressed at world conferences², in order to guarantee and accelerate substantive

¹ Previously, the causes of women's rights had come a long way when the UN created the Commission on the Status of Women in 1947, thus initiating a significant period to incorporate women's rights in various human rights conventions, as well as being the driving force behind the World Conferences to influence the agenda of nations in order to address the conditions of discrimination, poverty, limited access to decision-making and violence against women. Some of its contributions were the Universal Declaration of Human Rights, where the Commission pushed for the elimination of references to "men" as a synonym for humanity; the 1953 Convention on the Political Rights of Women; the 1957 Convention on the Nationality of Married Women; the 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages; the 1951 ILO Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; and the 1967 Declaration on the Elimination of Discrimination against Women. Available at: <https://www.unwomen.org/es/csw/brief-history>.

² In 1975, declared as the International Women's Year, the First World Conference on Women was held in Mexico City; in 1980 the Second World Conference on Women was held in Copenhagen; in 1985 the Third World

equality, as well as the participation of women in national government decision-making, for a basic reason in democratic terms: women represent half of the population and have a significant share in national economies, as contemplated in the Beijing Declaration and Platform for Action (1995). "Women's equal participation in decision-making is not only a demand for simple justice or democracy but can also be seen as a necessary condition for women's interests to be taken into account. Without the active participation of women and the incorporation of women's perspective at all levels of decision-making, the goals of equality, development and peace cannot be achieved"³.

In this sense, the struggle of women today increasingly emphasizes the structural conditions of inequality that impact the full exercise of their human rights under conditions of equality. These conditions are expressed in the obstacles that women have had to experience in order to occupy elected and decision-making positions in public and political power structures. It is in this sense that the claim to make formal equality effective has taken various institutional routes to demand and defend their political-electoral rights before different instances, including the courts.

This is reflected in CEDAW General Recommendation 33 on women's access to justice, which states that "The right to access to justice is multidimensional. It encompasses justiciability, availability, accessibility, good quality, the provision of remedies for victims and the accountability of justice systems" ...; furthermore, this general recommendation states that States' obligations "encompass the protection of women's rights against all forms of discrimination with a view to empowering them as individuals and as rights holders. Effective access to justice optimizes the emancipatory and transformative potential of the law"⁴.

From the perspective of this recommendation, women's right of access to justice implies that, in the administration of justice, States should consider gender issues for

Conference on Women was held in Nairobi; in 1995 the Fourth World Conference on Women, which adopted the Beijing Declaration and Platform for Action.

³ REPORT OF THE FOURTH WORLD CONFERENCE ON WOMEN (Beijing, September 4-15, 1995). CHAPTER I. RESOLUTIONS ADOPTED BY THE CONFERENCE. Beijing Declaration and Platform for Action. Strategic Objective G. Women in power and decision-making. Available at: <https://www.unwomen.org/es/digital-library/publications/2015/01/beijing-declaration>.

⁴ Committee on the Elimination of Discrimination against Women. General Recommendation No. 33 on women's access to justice. CEDAW/C/GC/33; 3 August 2015. Available at: <https://www.acnur.org/fileadmin/Documentos/BDL/2016/10710.pdf>

all women and the accountability of justice systems, among other considerations. Therefore, on these two aspects, the Committee recommends that States parties⁵:

- Take measures, including awareness-raising and capacity-building for all justice system actors and law students, **to eliminate gender stereotypes and mainstream a gender perspective in all aspects of the justice system**;
- Conduct and facilitate qualitative studies and critical gender analysis of all justice systems, in collaboration with civil society organizations and academic institutions on all justice systems, **to highlight practices, procedures and jurisprudence that promote or limit women's full access to justice**.

In accordance with the sense of General Recommendation 33, women's access to demand their rights to political participation before the courts implies the obligation of the States Parties to ensure that the gender perspective is considered when issuing rulings on women's political-electoral rights in relation to affirmative actions, such as gender quotas, parity and their compliance both for access to candidacy and for the exercise of office and its attributions, including their right to a life free of violence in the sphere of public and political participation.

Making these advances in the area of equality and non-discrimination visible is an important task for the judicial bodies that make up the **Global Network on Electoral Justice (GNEJ)** in order to disseminate, share and increase the rights-maximizing interpretations that contribute to the strengthening of legal institutions that promote and guarantee gender equality.

The above, within the framework of the obligations and commitments of the States enshrined in the treaties and conventions that protect the human rights of women and in accordance with the 2030 Agenda for Sustainable Development, approved in 2015 by the UN Member States, in particular with the Goal 5. "Achieve gender equality and empower all women and girls" and that target 5 establishes "Ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life"⁶.

In this sense, the operational bases and functioning of the **Observatory on Gender Equality of the Global Network on Electoral Justice** are formulated, as a mechanism that contributes to strengthen the institutional capacities of electoral justice and facilitate women's access to justice and, at the same time, comply with the conventional duty to guarantee equality between women and men.

⁵ Committee on the Elimination of Discrimination against Women. General Recommendation No. 33 on women's access to justice. CEDAW/C/GC/33; 3 August 2015. Available at: <https://www.acnur.org/fileadmin/Documentos/BDL/2016/10710.pdf>

⁶ Sustainable Development Goals. Available at: <https://sdgs.un.org/goals>

All of the above, in addition to strengthening the collaborative work of the institutions that make up the Global Network on Electoral Justice, seeks to make effective the agreement to create an Observatory on Gender Equality approved at its Third Plenary Assembly held on 6-8th November 2019 in Mexico.

Operating guidelines

1. Objectives

General objective

Promote the political participation of women in public decision-making through the dissemination of gender-sensitive rulings of the electoral courts that make up the GNEJ, as well as to promote the exercise of their political-electoral rights in conditions of parity and free of gender-based political violence against women.

Specific objectives

Strategic objective 1. Strengthen the administration of electoral justice with a gender perspective in the electoral tribunals that make up the GNEJ, through accountability and recommendations.

Strategic objective 2. Showcase judgments with a gender perspective and best practices in the promotion of women's political-electoral rights, as well as identify the conditions of the bodies that impart justice in the world, for an adequate justice with a gender perspective.

Strategic objective 3. Disseminate the profiles and stories of people who, through their work, help to promote equality in the participation of women in the political-electoral sphere.

2. Courts, tribunals and judicial bodies⁷ in electoral matters who are involved

The courts, tribunals and judicial bodies that make up the Global Network on Electoral Justice may participate in the Observatory.

Also, regional and international organizations, academic centers, and experts may attend by invitation to address issues and topics related to the objectives of the Observatory.

3. Bodies of the Observatory

Board

To direct and coordinate the operation and functioning of the Observatory there will be a Board composed of:

- Electoral Tribunal of the Federal Judiciary of Mexico, who will preside it.
- Scientific Leader, who will represent the Scientific Committee of the GNEJ.
- United Nations (UN Women).
- United Nations Development Program (UNDP).
- Organization of American States (OAS).
- International Institute for Democracy and Electoral Assistance (International IDEA).
- Venice Commission.
- Technical Secretariat of the GNEJ.

Each one of these organizations will assign a representative who will act on its behalf, thus having the mandate to participate in the decision-making of the Board.

The Board will be chaired by the member of the High Chamber of the Electoral Tribunal of the Federal Judiciary of Mexico who proposed the creation of this Observatory, that is, Justice Monica Aralí Soto Fregoso.

The presidency of the Board will last for three years and she will also preside over the Observatory during the same period.

⁷ Name obtained from the Global Exchange Platform of the Global Network on Electoral Justice, available at https://www.te.gob.mx/red_mundial/front/global_network/about

It should be noted that at least one and up to four member institutions of the Advisory Council or international organizations specialized in the subject of the observatory may be members of the Board, upon invitation.

The Board shall meet (in person or virtually) on an ordinary basis once every four months, and on an extraordinary basis when required for the adequate attention of the different topics of the organization and operation of the Observatory and the fulfillment of its objective.

The Board shall consolidate the indicators and guiding questions of the Observatory and shall define the form of measurement, periodicity, form of data capture, calculation formulas and goals.

The decisions of the Board shall be made by majority vote. Each member institution will have one vote, and in the case of Advisory Council organizations, they will have one shared vote. All decisions will be made by the presidency, accompanied by the Scientific Leader, and in agreement with the other members. The Technical Secretariat of the GNEJ may only speak.

The sessions shall be recorded in minutes prepared by the person heading the Technical Secretariat, which shall also describe the agreements and general issues addressed.

The results of the Observatory must be disseminated by the Board within the GNEJ, as well as on the Observatory's microsite and social media. The Board is welcome to consider appointing a spokesperson to enhance the dissemination and impact of these tools, as well as to bring the issue closer to the public.

In the sessions of the Observatory, the President of the Scientific Committee may speak (but not vote), in order to guarantee a good coordination among the Observatories. In this sense, members of the courts, tribunals and judicial bodies, regional and international organizations, academic centers and, in general, members of the Global Network on Electoral Justice may also participate in order to address issues and topics related to the proper development of the Observatory.

The Board may decide to form working groups for specific topics according to the objectives, decisions and work plans of the Observatory itself. Its conformation may be by open or directed call among the courts, tribunals and judicial bodies members of the Global Network on Electoral Justice and/or any other organizations or person considered appropriate for the fulfillment of the particular objectives of each group.

The working groups will have a coordinator who will be appointed by the Chair of the Board and the Observatory, for the follow-up and support of the working groups.

It should be noted that the Board will have the temporary support of a person appointed by the United Nations Development Program (UNDP) office in Mexico, during the beginning of the year 2021, who will facilitate the work of the Observatory from a technical perspective.

4. Mandate and duties of the Board

Presidency

The presidency shall be held by the person chairing the Board for a term of three years and who shall preside over the work of the Observatory and the Board meetings. The term of office of the Chair of the Observatory may be renewed by the Governing Council of the GNEJ, which shall evaluate the candidacies presented by the GNEJ members, if appropriate. In making its decision, the Council may request the opinion of the Advisory Council and the Scientific Committee.

Mandate and duties

- Chair the annual plenary sessions of the Observatory;
- Chair the ordinary quarterly and, if necessary, extraordinary sessions of the Board;
- Moderate the Board sessions;
- Present the program of the Observatory and supervise its fulfillment;
- Speak and vote in the sessions, with a casting vote in case of a tie;
- Make the necessary alliances for the adequate development of the Observatory's activities for the achievement of the objectives;
- Summon the members for the Board sessions and plenary sessions;
- Submit periodic and analytical reports on the progress and activities; and
- Prepare, with the support of the Technical Secretariat, the annual report on the Observatory's activities.

Scientific Leader

A representative of the Scientific Committee of the GNEJ will be the Scientific Leader of the Observatory and will guide the definition of a sustainable methodology and the thematic research of this initiative. The Scientific Committee will be represented through this Leader.

Mandate and duties

- Consolidate the Observatory's research and work methodology;
- Define the priority themes or indicators for the efficient measurement of gender equality;
- Review the priority themes for the Observatory's work, with the Presidency;
- Edit and review the Observatory's reports; and
- Ensure that the Observatory contributes to and benefits from the discussions and agenda of the Scientific Committee and the RMJE in general.

Technical Secretariat

It assists the Chair of the Observatory in the coordination of the Board sessions and the plenary sessions, as well as in the tasks required for the development of the Observatory. The Technical Secretariat will have the right to speak, but not to vote, and will be comprised of the person who occupies this position within the Global Network on Electoral Justice.

Mandate and duties

- Prepare the agenda for the meetings;
- Issue the written notice of the meeting in question;
- Review the agenda items with the Chair;
- Assist the Chair in the development of the debates;
- Prepare the minutes of each meeting;
- Follow up on the agreements of the Board and report accordingly at the corresponding sessions;
- Follow up on compliance with the Observatory's program;
- Follow up on the conformation and work of the working groups approved by the Board, as well as to serve as a liaison between them and whoever coordinates the working groups;
- Be responsible for the liaison with the Global Network on Electoral Justice for the creation and permanent updating of the Observatory's microsite;
- Support the presidency in the communication with the members of the Observatory and with other organizations for the adequate fulfillment of its objectives;
- Support the presidency in the preparation of the annual reports to be submitted by the chair to the Board;
- Support the Board in the strategy for dissemination and external communication of results; and

- Follow up on the Observatory's performance indicators and report on a permanent basis to the Board and through the Observatory's microsite.

Observatory Plenary

The plenary group of the Observatory is made up of the courts, tribunals and judicial bodies that are members of the Global Network on Electoral Justice, as well as other members that voluntarily decide to participate, and shall have the following mandate:

Mandate and duties

- Be informed of the progress of the Observatory's operating indicators;
- Make observations and proposals for the better functioning of the Observatory;
- Request the inclusion of topics of interest to be discussed in the plenary sessions as well as in the working groups, through the presidency of the Board.

5. General operating guidelines

On a regular basis, the Observatory will hold an annual meeting in order to agree on the general lines of annual work, review the actions carried out in the previous year and coordinate the necessary support for the operation and functioning of the Observatory.

The participation of the courts, tribunals and judicial bodies of the Global Network on Electoral Justice shall be on a voluntary basis, which shall be expressed in the period opened for such purpose. Participation shall be considered for three years, after which it must be renewed or explicitly cancelled.

The participation of the courts, tribunals and judicial bodies of the Global Network on Electoral Justice that are part of the plenary of the Observatory implies the commitment to carry out the following:

Activities

- Deliver and disseminate periodic activity reports with a substantial background analysis section, recording progress and highlighting comparisons with previous reports. Likewise, publish roadmaps with the standards we seek to promote worldwide.
- The periodic and constant submission of information requested by the Chair of the Board of the Observatory and/or the Technical Secretariat, related to the systems

of government, elections and political parties in each of the countries, as well as the operating conditions of the courts, tribunals and judicial bodies and any other information related to the objectives of the Observatory, always in compliance with national and international regulations on the protection of personal data and any other sensitive information.

- Periodically submitting rulings that are considered relevant for analysis, systematization and dissemination in the area of women's political-electoral rights, as well as any other information in reference to the same that is necessary for the adequate analysis of the same.
- The statistical information requested on the electoral processes, as well as their results, as well as the judicial processes attended by the courts, tribunals and judicial bodies that are members of the plenary of the Observatory.
- The information related to the norms, laws and blocks of constitutionality that regulate the actions of each of the judicial processes of the courts, tribunals and judicial bodies according to the request made by the presidency of the Observatory for the fulfillment of the objectives.
- Collaborate with scholars and professionals from around the world in favor of the Observatory's research and analytical work, as well as for the dissemination of its findings.
- Participation in the Observatory's working groups, operational bodies and in the deliberations, analysis, systematization, dissemination and recommendations generated in relation to the Observatory's objectives.

Moreover, the jurisdictional bodies that are members of the Observatory shall have the following:

Benefits

- Access to participate in plenary sessions, as well as in working groups and any other deliberations and recommendations organized by the Observatory.
- Possibility of requesting specific recommendations based on the best practices detected for specific cases that arise in relation to specific situations that are brought before the Observatory.
- Access to the complete information available in the virtual space to be agreed upon as an information tool on the Internet, both in terms of information on each country, statistics and comparisons, analyzed rulings, best practices and recommendations, among others.

- Access to tools for the implementation of best practices developed within the Observatory to administer justice with a gender perspective and in favor of women's human rights in political-electoral matters.
- Access to information on the different events that the members of the Observatory wish to share in order to contribute to the achievement of the Observatory's objectives.

The representation of the courts, tribunals and judicial bodies that are members of the plenary of the Observatory must be communicated by the leader of each institution, who will be the contact person with the Observatory.

For the specific participation in the different activities of the Observatory itself, the communication of the persons representing the courts, tribunals and judicial bodies that are members of the plenary of the Observatory will be made through the Technical Secretariat, through the channels designated for this purpose.

The participation of the person representing the courts, tribunals and judicial bodies that are members of the Observatory plenary, as well as that of any other person in the different activities of the Observatory, shall be financed by each of the jurisdictional bodies that are members of the Observatory.

Working groups

They may be formed to address specific issues as approved by the Board and according to the decided type of composition.

Functions

- Develop the necessary activities to achieve the objective for which they were created;
- Request the Technical Secretariat to provide the information required for the fulfillment of its objective;
- Provide the Technical Secretariat with the information related to its activities, referring to the operational indicators and what is necessary for the preparation of the annual reports, as well as any other information required for the fulfillment of the Observatory's objectives;
- Provide the Technical Secretariat with the necessary information to feed the Observatory's microsite; and
- Draft recommendations for the better functioning of the Observatory and those corresponding to its objective of guaranteeing the political-electoral rights of women in the world.