

**Sixth Consultation on the Situation of Economic, Social, and Cultural Rights
United States and Canada
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Good afternoon and thank you to the organizers for this opportunity. It's incredibly important to bring together members of civil society to highlight critical economic and social rights issues we're facing, and I look forward to discussing how to strengthen the role of the Commission in the U.S. and Canada.

At the Center for Women's Global Leadership, our work focuses on analyzing macro-economic policy and labor legislation from a human rights and feminist perspective. While my presentation will focus on gender, it's important to keep in mind the intersectional nature of discrimination and poverty in this country—this is not only the gaps between men and women, but in various communities and identities of women who are impacted quite differently by austerity and systemic economic injustice.

Participating on this panel on inequalities and poverty, I'd like to highlight the impacts of austerity and the financial crisis on women's right to an adequate standard of living, and the situation of violence against women in the workplace. A brief snapshot of growing inequalities on a global scale: in 2010, 388 people in the world held the same amount of wealth as the poorest half of the world's population; in 2015, that number had reduced to 62.¹ **The United States is no exception to these levels of global inequality.** On average, middle class women will lose over \$800,000 over the course of their lifetime because they continue to earn 76 cents to every dollar that men make. Whites have 12 times the wealth of black people, which means that 100 white families hold more wealth than 41 million black individuals.

As inequality increases, redistribution of wealth decreases and as the gap between rich and poor widens, social expenditures and progressive taxation plans tend to drop. There are correlations in the U.S. between inequality, lower access to health care, increase in homicide rates, decreasing rates of political participation, and increases discrimination against women. It also has a significant effect on life expectancy; in 2015, for example, the poorest neighborhood in St. Louis, which is predominantly African-American, has a life expectancy of 56 years. Comparatively, the neighboring affluent community has a life expectancy of 91.

We have unprecedented levels of inequality --this level of inequality and poverty is a direct consequence of legislation that perpetuates discrimination, reinforces the resources and opportunities for those in power, and failures to allocate maximum available resources to the provision of social services and protection programs. It also reflects a failure to take special measures towards substantive equality and an enabling environment for the realization of all rights. Populations most marginalized by long-standing historic discrimination and oppression are seeing increasing violations of their rights, as well as retrogression in fulfillment of economic and social rights in light of the financial crisis and prevailing macro-economic trends.

¹ Haroon, Deborah. "An Economy for the 1%: How privilege and power in the economy drive extreme inequality and how this can be stopped." Oxfam International, January 2016.

Prior to the financial crisis, we saw deliberate legislative changes, lack of regulatory protections for risky financial products, and failure to extend government oversight of the private sector. Subsequent government policies to boost the economy, regulate financial institutions, and protect consumers, including the Troubled Asset Relief Program (2008), and the American Recovery and Reinvestment Act (2009) resulted in decreased expenditures on critical social protection programs. Its allocations also violated the principle of maximum available resources: to date, \$245 billion has gone directly to banks and other financial institutions (which does not include the bailout for other insurance companies). In contrast, programs like the Federal Housing Administration to support home owners has received only \$60 million, and this program is only to applicable to owners who have made timely mortgage payments (excluding predominantly people of color and women from assistance).² Despite attempts such as the **Dodd-Frank Wall Street Reform and Consumer Protection Act (2010)**³ to regulate lending practices and protect rights holders, this legislation has not been fully implemented nor has it been able to account for the economic and social rights violations perpetuated by financial institutions and investors.

Additionally, the Budget Control Act (2011) violated the principles of non-discrimination and equality, and labor market trends reveal continuing inequalities. In March 2013, mandatory sequestration of federal spending, followed by the government shut-down (October 2013) impacted nutrition programs, housing support, education, Medicare, unemployment benefits. As of 2016, temporary tax cuts for corporations with real estate holdings have become permanent, while Earned Income Tax Credits for individuals will expire in 2017. Between 2002-2014, 33 states have cut mandatory health and worker's compensation, forcing individual employees to pursue benefits for disability through federal lawsuits lengthy and financially prohibitive. **Women literally, and figuratively, pay for the effects of austerity on social programs and job availability,** forcing them into lower paid, part time work, often with jobs in the informal economy, or relegated to unpaid positions while still balancing care giving responsibilities. Consequences for women, particularly women of color, migrant women, LGBTQ, Native American women, and older women have been severe.

One of the most visible impacts has been fulfilling and **progressively realizing the right to work and the right to an adequate standard of living.** For example, since 2013, budget allocation at the federal level has not demonstrated the use of maximum available resources, and full-time employment rates remain lower than pre-recession figures, violating the principle of non-retrogression. As of 2014⁴:

- 1.85 million more people (than 2008) had low-paying jobs
- 958,000 fewer had mid-wage jobs

² <https://projects.propublica.org/bailout/>

³ The Dodd-Frank Wall Street Reform and Consumer Protection Act (**2010**) intended to provide rigorous standards and supervision to protect the economy and American consumers, investors and businesses, attempts to end taxpayer funded bailouts of financial institutions, intends to provide for an advanced warning system on the stability of the economy, creates rules on executive compensation and corporate governance, and eliminates some loopholes that led to the 2008 economic recession. It created the Consumer Financial Protection Bureau (CFPB), an independent agency to manage marketplace regulation and enforcement. The Act also included the "Volcker Ruler" which prevents proprietary trading in which bank resources are used to engage in short term speculative trading from which the bank profits directly.

⁴ Center for Women's Global Leadership and Political Economy Research Institute. "Towards A Human Rights-Centered Macroeconomic and Financial Policy in the US: Revisited." Universal Periodic Review 22nd Session, Shadow Report 2014.

- 976,000 fewer in high-wage jobs

Despite long-term unemployment rates (+27 weeks), long term benefits were cut (expiration of the Emergency Unemployment Compensation, 2013). Those that do find work face a decrease in the quality of jobs (especially new jobs), as they are often lower paid and part-time, with erratic schedules. This has a disproportionately negative impact on women who must arrange and pay for child care, unpredictable transportation costs and schedules, and lose their benefits from full-time employment. **Austerity also creates a shift in the jobs available to women, and the US labor market has seen an increase in the number of informal and unpaid jobs held by women since 2008.**

These consequences do not only arise from indirect trends in hiring and job markets, but also deliberate policy-making. The U.S. Federal Reserve's move to raise interest rates have had disproportionately negative effects on the unemployment rate of blacks relative to that of white males and on the unemployment rate of women relative to white males.⁵

In addition to job quality and availability is the **state of debt and savings for women and people of color in the aftermath of financial crisis**. One-quarter of African American and Latino borrowers who took out loans from 2004 to 2008 lost their homes to foreclosure or were seriously delinquent by February 2011, compared with just under 12% of white borrowers. 25 % of black families have less than \$5 saved at the end of every month, which has made them more vulnerable to debt, medical emergencies, and more prone to be the target of lawsuits. Lending practices prior to the crisis resulted in 24% of male borrowers received subprime mortgages compared with about 32% of female borrowers. There was also discrimination between different racial and ethnic groups: about 20 % of white borrowers and 13.5 % of Asian borrowers received subprime loans in 2005, compared with almost 40 percent of Latino borrowers and over 50% of African American borrowers. African American women were 5.7 % more likely to receive a subprime mortgage than African American men, and 256% more likely to receive one than white men.⁶ The subprime mortgage crisis continues to impact the realization of the right to adequate standard of living and the right to housing. Failure to make payments and foreclosures has affected credit scores for subprime mortgage borrowers. In addition, credit score checks have become a popular tool used by employers to screen job applicants, detrimental and discriminatory effects on the right to work, especially for minority groups who have significantly lower credit scores.

The right to an adequate standard of living is a particularly important indicator of the well-being of women and other marginalized communities, as it depends on a number of other rights being fulfilled. It goes beyond the right to work and the availability, accessible, acceptability and quality of jobs, and must be considered beyond a minimum wage or gender-pay equity. The full and progressive realization requires the right to health, education, opportunity, mobility, and bodily integrity, among others. A gender analysis is essential for the non-discriminatory realization of these rights. For example, hiring and promotion practices, election and appointment criteria, vocational training opportunities, availability of childcare, benefits, scheduling and leave are not gender neutral.

Existing legislation intended to prevent discrimination is a first step, however this legislation is not universally applied, enforced, and have a number of loopholes. For example, the **Pregnancy**

⁵ Seguino, Stephanie, and James Heintz. "Monetary tightening and the dynamics of US race and gender stratification." *American Journal of Economics and Sociology* 71.3 (2012): 603-638.

⁶ Heintz, James, and Radhika Balakrishnan. "Debt, power, and crisis: social stratification and the inequitable governance of financial markets." *American Quarterly* 64.3 (2012): 387-409.

Discrimination Act (1978) applies only to companies with 15 or more employees. The **Family and Medical Leave Act (1993)**, stipulating 12 weeks unpaid leave, only applies to companies with 50 or more employees and only to full time workers. As of 2014, 7 states have passed **paid leave** policies, however there is still a gap between women in low-income and high-income sectors with access to paid sick leave (1 out of 5 low-income women versus 9 out of 10 high-income).⁷

From a women's rights perspective, we see a number of troubling trends in discrimination and inequality at all income levels and labor sectors, with significant retrogression in rights fulfillment.

- 1. The gender poverty gap** has actually expanded during the recovery, with 16.3% of women and 13.6% of men living in poverty in 2012, compared to 16.2% of women and 14.0% of men living in poverty in 2010. Societal norms perpetuate women remaining in low paying and vulnerable labor sectors; for example, unemployed women who enroll in job training programs (Through the Workforce Investment Act, 2011) are more likely to be accepted to service jobs, while men receive trainings in higher paying sectors such as construction (earning at least \$1,700 USD more per quarter than women).
- 2. Wage gaps:** The wage gap between men and women has also expanded since the recession, with Native American women and Latinas earning significantly less than their counterparts. Older women (age 65 and over) also earn lower wages. Unemployment rates for black and Latina women, as well as single mothers and younger women remain higher than white men.
 - **Wage theft** impacts undocumented women most heavily (for example, in New York City in 2014, 40.1% of undocumented women faced violation of minimum wage laws, compared to 23.6% of other women and 17.4% of men).⁸
 - **Federal oversight of wage theft** and investigations into employer accountability has decreased (the number of investigations between 1998 and 2007 decreased from 51,643 to 29,584) despite an increase in workers. Such wage theft, particularly in manufacturing, construction, and service jobs cost low-income workers an average of \$2,643 USD annually.⁹
- 3. Intrinsic value of women's work and labor** is significantly lower than equivalent work of men. We see this at the highest income levels: if a company's value drops by 1 percent, female executives' pay will drop by 63%, while male executives only see a 33 percent decline. On the other hand, if value goes up by 1% men will get a 44 percent boost but women will only get a 13 percent increase.¹⁰ We also see this in sectors dominated by women, predominantly women of color or migrant women, such as the informal economy, temporary or contract work, domestic and unpaid work. These sectors are often "invisible", devalued in their contributions to the economy and society, lack regulation and social protection for workers, and increase in times of recession when job availability and quality declines for women. Available data does not illustrate the large number of women, particularly women of color and migrant women, working in the informal economy.

⁷ Institute for Women's Policy Research. "The Status of Women in the States 2015." February 2015.

⁸ Bernhardt, Annette, Diana Polson, James Defilippis. "Working Without Laws: A Survey of Employment and Labor Law Violations in New York City." National Employment Law Project. March 2015.

⁹ Theodore, Nik. "The Movement to End Wage Theft: A Report to the Discount Foundation." University of Illinois, Chicago. October 2011.

¹⁰ The New York Fed research found that female executives' total compensation was just 82 percent of men's. The highest-paid female executives at S&P 500 companies made 18 percent less than male ones in 2013, and female CEOs made less than 80 percent of male counterparts.

With the exception of a limited number of privately employed care workers, most of these women lack protection from national labor legislation, social protection, and benefits:¹¹

- 23% of domestic workers are paid below minimum wage
- 48% do not earn enough to adequately support their households
- 65% lack health insurance
- Fewer than 2% have earned retirement pensions

4. Decreasing social expenditures place unequal burden on women: Austerity measures, heightened since the recession, continue to impact vulnerable women workers and those balancing unpaid care work with regular employment. Such measures, including recent state level budget cuts resulting in 4-day school weeks (in states such as Arizona, these cuts were not accompanied by affordable childcare options) and decreased child and elder care subsidies. When women are forced to take time off for this unpaid caregiving, there is no financial compensation or pension support for the time missed in formal jobs, nor is there employment training for those who have left the work force for an extended period of time due to care giving.

- For example, the Special Supplemental Nutrition Program for Women, Infants and Children reduced by \$333 million after the recession
- Disproportionate impacts on women, especially single mothers, women of color, migrants. In the proposed 2015-2016 federal budget:
- 3.7 trillion are cutting low-income social protection programs and subsidies (i.e. 69% of all cuts)
- 2.8 trillion in health care reductions for low and moderate income communities— includes potential of repealing AFA, and merge Medicare and children's health insurance program into a single grant that is drastically smaller than before
- 125 billion in SNAP reductions (more than a third of its budget reduced) aimed at 2021-2025
- 159 billion in cuts to tax credits for low income working families

One element that is often overlooked in discussions about the right to work and the right to an adequate standard of living is **violence against women in the work place**. There are a growing number of precarious work conditions for women, people of color, migrant women and LGBTQ workers, particularly in the aftermath of the crisis which increased the number of unregulated jobs for women and has decreased support services for victims. This gender-based violence goes beyond physical assault and harassment in the place of work, and includes hazardous working conditions and safe mobility to and from work. For example:

- Between 2007-2009, temporary-contract positions was the fastest growing sector in the US economy, however the U.S. ranks 41st out of 43 industrialized countries without legislation for working conditions, minimum wage, or benefits.¹²
- Women farm workers entering the State party under the H-2B work visa program are at high risk of becoming victims of trafficking and/or forced labor, and that some

¹¹ National Domestic Workers' Alliance. "Home Economics: The Invisible and Unregulated World of Domestic Work." 2012.

¹² <http://www.propublica.org/article/us-lags-behind-world-in-temp-worker-protections>. Unregulated "independent contractors" also cannot be held responsible for violence and sexual harassment against women in their place of work (i.e. Uber drivers).

CERD/C/USA/CO/7-9 9 children from racial and ethnic minorities, particularly Hispanic/Latino¹³

- Sexual harassment in the workplace; unsafe transportation conditions for traveling to and from work; border patrol and check points in southern states decrease some women's ability to travel to a job or receive social services as they fear deportation.
- Lack of impunity for sexual assault and rape in places of higher education and the military
- Criminalization of informal economy workers and violence and policy brutality in public places: street vendors, sex workers etc.
- Funding for domestic violence protection and programs—economic abuse as domestic violence; discrimination against survivors of domestic violence in applying for loans when they've been deprived of credit history or lost their jobs due to hospitalization etc.

Recommendations:

- **Existing international human rights standards** (CEDAW, ICCPR, ICESCR, CERD, and ILO) provide standards for state and federal level legislation and oversight, and it is recommended that the Commission align its recommendations with these principles, including the connection between gender based violence and access to resources and credit, access to justice, and the right to bodily integrity, health, and freedom from harm. Existing standards for the right to an adequate standard of living have also been submitted to the United States through the CERD Review, the UN Working Group on Discrimination Against Women in Law and Practice, and the UPR process.
- **Look to the roots of the financial crisis and the immediate aftermath:** Current trends indicate that we're reproducing the status quo of free reign for banks, and new loopholes to take advantage of low income consumers. Dodd-Frank is far from a perfect piece of legislation,¹⁴ but the human rights violations that will occur if it is repealed are far reaching. Rather than repealing the Act, it must be strengthened to force commercial financial institutions to wall off standard bank deposits from the riskier activities of investment banking and develop specific and effective rules for regulating agencies to implement.
- **Recognize the potential of city and state level legislation and rights** with recommendations for Worker Bill of Rights, city level ordinances mandating departments to complete gender analysis of their work policies and budgetary allocations. Requiring census and time use surveys to incorporate unpaid work and new economic trends such as the contract worker into their analysis.
- **Frame recommendations with in the principles of respect, protect & fulfill to highlight the inadequacy of gender-neutral and race blind legislation, as well as lack of implementation of existing norms and failure to protect rights holders from third parties.** As it stands oversight bodies like the Employee Benefits Security Administration are reactive and respond only to complaints as opposed to regular audits of sectors and corporations that experience high rates of wage theft. State and city level monitoring tools should also be recognized and funded, including gender-audits with a human rights framework that take into account specific

¹³ CERD Findings for the United States, 2014

¹⁴ Increasing criticism of regulatory measures like the Dodd-Frank Act assert that such legislation adds unprecedented bureaucratic and administrative reporting requirements to banks and corporations, stymies economic growth and innovation; increase in shadow banking strategies to avoid Dodd-Frank regulations, forcing banks to trade at low values, thus decreasing their available capital; requires 387 different rules from 20 different regulatory agencies; added staff to existing ratings agencies rather than creating new independent audit systems.

demographics of the labor market and audits legislation and budgetary allocations from a gender perspective.

- **Adapt tools of the IACHR to be accessible to grassroots and community based organizations,** with consistent language and strategies for mainstreaming human rights into all public policy making
- **Facilitate exchanges and best-practice sharing across the region** for programs that bring attention to unpaid and informal work (such as time-use surveys and integrating unpaid work into GDP calculations) to shift conceptions of the value of women's work. These exchanges should include members of civil society and labor unions who live and work in communities most impacted by economic and social rights violations.