

Submitted jointly by the following members of the Women and Gender Constituency: the Women's Environment and Development Organization (WEDO), GenderCC-Women for Climate Justice, Women Engage for a Common Future (WECF), Asia Pacific Forum on Women, Law and Development (APWLD) & the Asian-Pacific Resource & Research Centre for Women (ARROW).

Arrangements for intergovernmental meetings – Views on opportunities to further enhance the effective engagement of non-Party stakeholders

We welcome the opportunity to share views on opportunities to further enhance the effective engagement of non-Party stakeholders with a view to strengthening the implementation of the provisions of decision 1/CP.21 (FCCC/SBI/2016/8, paragraph 164¹).

The Subsidiary Body for Implementation (SBI) has highlighted the following in relation to non-Party stakeholders:

- I. Stakeholder engagement in the UNFCCC process has evolved and the value of contributions from observer organizations to deliberations on substantive issues has been affirmed;
- II. There has been an increased recognition of, and references to, various non-Party stakeholders in the Paris Agreement and decision 1/CP.21;
- III. There is a need to enhance the effective engagement of observer organizations as the UNFCCC process moves forward into the implementation and operationalization of the Paris Agreement.

As an observer organizations and members of the Women and Gender Constituency, we welcome the opportunity to enhance the effective engagement of non-Party stakeholders, though in this submission, we also emphasize the importance of critiquing the term 'non-Party stakeholders' as we believe the UNFCCC process should be first and foremost between states (duty-bearers), with full participation and inputs from groups (not for profit organizations) representing 'rights-holders' such as women, youth, indigenous peoples, workers, etc. In order to address this, the following three components need to be taken into account and further discussed during the in-session workshop:

- I. Traditional modes of participation in the intergovernmental process such as interventions, submissions, workshops, etc. need to be examined in order to assess the effectiveness of the modes and ensuring that they contribute to the ultimate goal of the Convention;
- II. The potential for conflict of interest through the presence of 'for profit' or corporate representatives accredited by constituencies should be periodically reviewed and the terminology of 'non-Party stakeholders' should be critiqued;
- III. Parties should ensure the process for providing inputs to the Paris Agreement architecture including the NDCs, transparency framework, compliance, etc. include rights-holders such as women, youth, indigenous peoples and workers².

¹ Contact WEDO Co-Director, Bridget Burns, bridget@wedo.org for more information.

² The three themes listed were discussed by ENGOs during two planning meetings at COP22.

Participation in the Process

Existing modes of participation, the role of different actors, and input processes should be analyzed in conjunction with shared lessons learned from other intergovernmental processes and spaces where civil society has experienced meaningful participatory roles in multilateral decision-making.

For example, the Food and Agriculture Organization of the UN (FAO) established the Civil Society Mechanism (CSM) in 2010. Through an inclusive and innovative structure, the FAO's CSM allows civil society, with proper representation of smallholder farmers, fisherfolks, pastoralists, etc., to draft positions and actively participate in negotiations at the table with country Parties. Participation of civil society organizations (CSOs) is articulated through global and sub-regional units. There are 11 constituencies that focus on the global and continental organizations. The sub-regional units focus on CSOs that work on food security in the specific sub-regions, from all constituencies. This has resulted in active involvement at all levels – global, regional, and national. In terms of additional organizational structure, there is a Coordination Committee, Policy Working Groups, an Advisory Group, and a CSM Secretariat which further enhances engagement and effectiveness. The yearly CSM forum also provides a space for CSO to finalize positions, ensure accountability, assess past processes and identify challenges. The CSM has proven to be a revelation and is opening up opportunities for bridge building through consensus and through raising ambition by avoiding the lowest common denominator³.

The Convention on Biological Diversity (CBD), serves as another example where it is custom to involve the public more actively. This Convention includes NGOs in 3 levels⁴:

- Though technically NGOs do not have “the right to take part in the formal decision-making process”, they can be represented as an observer to meetings of the COP and its subsidiary bodies in order to contribute to shape policies in the CBD regime. Additionally, CSOs are often given the floor to speak on specific agenda items as is relevant, rather than having to condense input on technical topics to 2-minute interventions at the end of meeting times.
- NGOs are permanent partners in the implementation of the CBD. From developing small local projects, to major environmental organizations overseeing networks of protected areas, NGOs have worked tirelessly to translate the ideas and innovations of the Convention into practical projects at the local, national and international levels.

Similarly, the Asia Pacific Regional CSO Engagement Mechanism (RCEM), founded in response to the Rio+20 conference, provides CSOs with a space to participate in intergovernmental processes for sustainable development at regional and global levels. The RCEM is an autonomous, self-managed civil society engagement process consisting of more than 500 civil society groups from the Asia Pacific region. It works collaboratively with UNESCAP, UN agencies and Member States to ensure grassroots representatives, diverse constituencies as well as regional networks are able to engage effectively in “upwards” engagements with governments and organizations coupled with “downwards” partnerships with civil society. RCEM is composed of 17 constituency groups, including migrants, urban poor, children, women, Indigenous peoples, workers, LGBT, HIV affected and people affected by conflict and disaster.

³ For more information on the FAO's CSM: <http://www.csm4cfs.org/>

⁴ For more information, <https://www.cbd.int/ngo/gettinginvolved.shtml>

Given the formal rules of procedure for the UNFCCC remain in draft form, Chairs and co-Chairs of all Bodies under the UNFCCC and other small groups should be given capacity building on the broad range of processes which allow enhanced CSO participation; they should be briefed on the benefit of allowing interventions on specific agenda items as well as be encouraged to take a “open before demanded closed” outlook to all meetings and spin-offs among Parties.

Rights-Holders & Duty-Bearers⁵

Enhanced participation towards meeting the goals of the Paris Agreement should ensure representatives to the UNFCCC represent public interest and not private shareholders. Accreditation is predicated on a not for profit status and constituencies should not be permitted to provide accreditation to representatives whose motivations for attending negotiations are to advance private profits. UN process and agencies must maintain both a coherent understanding and enforcement of the concepts of duty bearers and rights holders. To avoid confusion the term “stakeholder” should be avoided as it implicitly suggests that all non-state actors are homogenous and have equal interest and obligations in ameliorating the impacts of climate change. The reality is that it includes a wide range of groups, ranging from civil society organizations representing individuals who are rights holders but also corporations and other actors representing private economic interests, which may be conflicting with the ultimate goal of the Convention.

In that regard, the Women and Gender Constituency would like to raise its concern about the trend in multilateral processes, to concentrate efforts towards private sector ‘solutions’, through attendance and presence within UN negotiations that are responsible for addressing and regulating, inter alia, global problems created by private interests. States are the primary duty bearers and have a duty to regulate corporations and other actors that cause human rights violations, deplete our natural resources or contribute to climate change. In the climate arena, various corporations have irreconcilable contradicting interests: the UNFCCC aims to stabilize GHG concentrations, whereas fossil fuel companies have strong interest in retaining fossil fuel infrastructure in which they have invested and yield large profits. This is a clear conflict of interest that has led to practices currently under legal investigation in certain countries.

The UNFCCC should consider the work of the UN World Health Organisation (WHO) when faced with the challenge of producing the World Health Organisation Framework Convention on Tobacco Control (FCTC). Following an internal review on the conflicts of interest posed by the Tobacco Industry the agency concluded that the presence of the Tobacco Industry in regulatory and intergovernmental processes was indeed a conflict of interest and consequently the convention includes a particular provision that obligates States to protect decision-making processes relating to tobacco “*from commercial and other vested interests of the tobacco industry*”.

This conflict-of-interest principle should be discussed in the upcoming workshop towards adoption in the context of the climate decision-making processes, where fossil fuel energy sector should be prohibited to take part in climate related decision-making processes.

⁵ For further elaboration and examples related to challenges with conflicts of interest, please visit the Women and Gender Constituency website, www.womengenderclimate.org

Enhancement of rights-holders engagement with climate-related decision-making processes

Not-for-profit / civil society organizations include women's groups, indigenous peoples groups, youth organizations, farmers' alliances as well as workers representatives. Given Parties obligations to uphold human rights, including through regulating corporations and other actors that cause human rights violations, these 'rights-based' Constituencies representing people should be clearly recognized to ensure equitable participation and preservation of rights.

This includes:

- **Provide funding for effective participation.** Funding should be provided for a minimum number of representatives per rights-based constituency to attend and participate in the negotiations. In this process, it should also be taken into account that some CSOs and constituencies have less financial and human resources than others i.e. youth, indigenous peoples, women and gender especially as there are an increasing number of meetings in different parts of the world. Similar, each accredited entity should be allowed additional registration slots in order to ensure equal and balanced representation.
- **Ensure equal participation in all meetings, with no imbalanced representation.** For example, Committee meetings, such as on Technology and Adaptation, occur outside the regular UNFCCC meetings. The Women and Gender Constituency is only given one or two seats (due to lack of resources to regularly attend the meetings) for these outside meetings, while other Constituencies, are allocated upwards of 11 seats, which they presumably can fill. This results in a significant overrepresentation and influence that needs to be carefully reviewed. In this regard, it is also important to note the overall increased representation and influence of business actors across the board.

Apart from the need to analyze the current structure and language for non-Party engagement within the UNFCCC, we also recommends the following concrete, short and long-term suggestions:

- **Increase timing for intervention slots.** Observers should be allotted the same time to give their interventions as Parties. There should be a more flexible approach where each constituency has the possibly to intervene at every session, and on particular agenda items, or at least a certain minimum number of constituencies on a rotating basis. This would make participation and technical inputs much more effective and useful.
- **Terminate closed meetings.** CSOs should be allowed to attend all meetings including high level segments and should be given access to informal groups as well. Providing access to informal groups ensures perspectives in agenda setting and can be done so by allowing a certain minimum number of representatives of each constituency.
- **Alternative modes of communication.** Establish lines of communication between Parties and Observers through an online system that allows for meaningful engagement. Similarly, submissions from Parties and Observers should be published on the same online system in

order to ensure coherence and allow for reference between Party submissions and non-Party submissions. There could also be an online consultation system on every agenda item which provides a limited amount of space for input from Parties and Observers.

- **Side Events.** The workshop would benefit from a discussion of innovative approaches to planning side events, a holistic view, from both Parties and Observers, to ensure they are more impactful and effective. Side events are important to all in terms of showcasing new methodologies, approaches and research on climate action. However, a superfluous amount of concurrently occurring events, particularly at COPs, drains the capacity of small delegations, both Parties and Observers. The answer is not necessarily in less opportunity for events, but in more useful formats. For example, the Women and Gender Constituency hosted a ‘Gender-Just Climate Solutions’ side event and week-long exhibition during COP22. Both were well received and successful, however, having the opportunity to deliver one presentation in a Technical Expert Meeting to all Parties could prove a more effective way for input into the process. This is why the Constituency has pushed for the inclusion of such presentations in decisions like the Lima Work Programme on Gender. Similarly, as Parties design the Indigenous Knowledge Platform, ensuring this becomes a technical input into the actual process and not an event on the sidelines will be important.
- **Showcase climate solutions by rights holder groups.** Traditionally, private sector examples of climate solutions have been given precedent within the UNFCCC, without establishing criteria that would ensure the ‘solutions’ meet all the objectives of the Agreement and exclude false or harmful solutions. These events have provided greenwashing opportunities for fossil fuel corporations and diverted governments’ resolutions to radically transform our energy system. To counter this alarming trend, the Women and Gender Constituency has prioritized showcasing criteria and examples for ‘real’ gender-just climate solutions since COP21. This initiative has been successful in highlighting the ongoing work of women in addressing climate change – From technical, non-technical and transformational solutions, these initiatives provide valuable examples especially in terms of climate action and implementation. However, this cannot be a standalone initiative. Similar types of solutions and platforms should be encouraged from other rights holder based groups including indigenous peoples and labor movements and could be an important innovation for the COP. Lastly, showcasing just solutions by rights holder groups could further catalyze action on national commitments by engaging Parties⁶.

⁶ For more information on the Women and Gender Constituency Gender-Just Climate Solutions: [2016 publication](#); [2015 publication](#).

In short, we suggest the following objectives for the SBI workshop in May:

- Enable Parties & Observers to express their views through a constructive and practical dialogue with a particular focus on analyzing the effectiveness of the current modes of participation, structure, and language related to non-Party engagement;
- Discuss the issue of 'conflict of interest' and the adoption of this principle under the UNFCCC;
- Share successful examples and lessons learned of other intergovernmental processes where civil society has experienced meaningful participatory roles in multilateral decision making as well as spaces where language related to rights holders and stakeholder engagement has been successfully defined and incorporated;
- Present innovative ways to ensure side events are a useful input/ space for advancing the goals of the Paris Agreement;
- Agree on a way forward that enhances current processes to improve engagement both in the short and long term.