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Advancing Women's Human Rights through Gender Responsive, Quality Public Services

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^{*} The views expressed in this paper are those of the authors and do not necessarily represent those of the United Nations.

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1. Introduction

The opportunity to contribute to the Expert Group Meeting (EGM) in preparation for the 63nd Commission on the Status of Women priority theme: "Social protection systems, access to public services and sustainable infrastructure for gender equality and the empowerment of women and girls", is indeed invaluable. Recognising the essential role Public Services have in advancing women's human rights and the need to address state obligations to better deliver public services, is a fundamental issue, as it is, the discussions on the gender gaps in social protection¹ and sustainable infrastructure.

This paper proposes that the CSW adopt the framework of Gender Responsive Quality Public Services (GRQPS) and in doing so address the primary barriers to the delivery of GRQPS and the enablers of GRQPS and women's human rights, including labour rights of those workers who are strategic in front line-public services.

The critical role public services play in advancing women's human rights and addressing gender inequality has been repeatedly recognised in international law as well as by researchers, unions and civil society. From the Beijing Platform for Action to the Human Rights Council, treaty bodies, UN Resolutions and previous conclusions of the CSW, member states and experts have repreatedly recognised that a failure to deliver public services has discriminatory impacts.

States remain the primary duty bearers responsible for deliverying human rights. Yet increasingly states seek to relinquish their obligations, diminish public services and seek ways to have them provided by private sector actors. These decisions are political, not financial, and the outcome often means higher costs to states, lower quality services, and increased inequality and marginalization. States have the capacity to progressively provide GRQPS; too often they simply lack the political will to do so.

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¹ ITUC Economic and Social Policy Brief: Gender Gaps in Social Protection: http://www.ituc-csi.org/briefgender-gaps

2. The Framework of Gender Responsive, Quality Public Services

Public services capable of advancing women's human rights need to be:

<u>Universal</u>: GRQPS require both universal access and universal coverage. The two are not the same. Universal coverage – (when all people obtain the public services they need without financial hardship)is not possible without universal access (ability of all people to have equal opportunity to access services, regardless of their social identity). Access incorporates three dimensions: accessibility, affordability and acceptability. Yet universal access, although necessary, is not sufficient. Coverage builds on access by ensuring actual receipt of services (Evans, 2013). Restricting public services through means testing can have a discriminatory impact on women and especiallywomen within marginalised communities. Services designed specifically for economically poorer communities are often of lower quality than universal services designed to meet the needs of all. Consequently the CEDAW Committee in its General Comment 20 on non-discrimination concluded that "ensuring that all individuals have equal access to adequate housing, water and sanitation will help to overcome discrimination against women and girl children and persons living in informal settlements and rural areas." (CESCR, General Comment No. 20, E/C.12/GC/20, article 8.b.)

<u>Public</u>: services must be publicly funded, publicly delivered and managed, publicly governed and accountable to the public. <u>Publicly funded</u> requires the state to prioritise fiscal policies that provide sufficient resources for the provision of universal public services. Fiscal choices also have gendered impacts and consequently should ensure that resources promote redistribution and do not increase the burden on women (i.e. regressive taxes such as goods and services often discriminate against women whilst corporate and wealth taxes are redistributive). <u>Publicly delivered</u> ensures that workers delivering public services are public employees, accountable to the public executive, rather than to private shareholders. A public framework also provides increased certainty of workers enjoying Decent Work (elaborated below) and ensures standards can be regulated in the public interest. <u>Publicly governed</u> ensures services are accountable to the people and enables good governance practices, including establishing plans through public, gender responsive consultation and establishing clean service standards. These principles secure impartiality and openness; equality and representation; and longer and broader social impacts.

<u>Solidarity:</u> the principle of solidarity underpins human rights and the obligation to deliver public services. The principle requires governments to foster a culture that understands the importance of quality public services for all, rather than positioning public services as a drain, a privilige or necessary only for the marginalised few. The principle of solidarity should include a commitment to redistribution of wealth as well as redistribution of paid and unpaid work, reducing inequalities and social justice.

<u>Transparent and accountable</u>: Effective democratic governance of public services requires transparency in decion making, financing, building, delivery, monitoring and review. These processes must be open to public scrutiny. (Mulgan, 2012). An important safeguard to ensure transparency and accountability is the adoption of whistleblower protections that allow staff and others with information to disclose information relating to corruption and public risk. The central

measure of publicness should be the level of public trust in the credibility, leadership and responsiveness of public services in serving the people. (Haque, 2001)

<u>Consultative and participatory decision-making:</u> Citizens have the right to contribute to decision making processes that effect them. Specific effort should be made to ensure women and their representative organisations are involved. Decisions around public services must involve negotiations with unions representing the workers impacted, and public service user representatives. Workers have the most relevant knowledge in the delivery of public services and a system of social dialogue will enable workers to contribute to improved public policy as well as decent work.

Delivered by public sector workers enjoying decent work: Workers who receive the full range of labour protections, including those included in the Universal Declaration of Human Rights, the Convention on Economic, Social and Cultural Rights, , the ILO Conventions and the Fundamental Principles and Rights at Work will be better equipped to deliver quality public services. It is particularly important that governments adopt and implement ILO Conventions 151 and 154, guaranteeing the right to unionize and collectively bargain to workers delivering public services.

2.1. Gender Responsive, Quality Public Services -GRQPS

"Gender responsive public services take into account practical and strategic gender needs and interests. These considerations mean providing the service itself as a response to immediate perceived necessities and rights (addressing the practical need), usually related to inadequacies in living condition ...They also involve addressing long term needs and interests based on, for example, women's unequal position in society (addressing the strategic need). Strategic gender interests tend to relate to - and challenge - gender divisions of power, control and labour as well as traditionally defined norms and roles." (UKAid, 2017).

Whilst public services are essential to ensure women enjoy the material basis to exercise their full rights, a failure to integrate gender responsive or gender transformative strategies could result in discriminatory services. Further, public services are key to transforming patriarchal histories and the structural causes of discrimination. If designed, funded and delivered using gender-transformative principles they will not simply make discrimination more bearable, they can transform the distribution of power and resources that enables patriarchy to prosper.

To ensure services are gender responsive they must incorporate the following objectives:

- a. Redress the historical gendered division of labour that places the burden of unpaid care predominantly on women and girls. Women's unpaid work has routinely made up for the gaps in public services, for example the lack of child care, health care or services for people living with disabilities. Through the provision of quality public care services as well as infrastructure, such as free and accessible water and energy, the state can ameliorate and redistribute paid and unpaid labour, particularly in the most economically and socially marginalised communities;
- Provide public services that address the specific needs of women and girls. Gender neutral public services have often resulted in indirect discrimination. Gender specific health services are essential as are public services to address domestic violence and histories of discrimination;

- c. Public services respect, protect, fulfil and promote women's rights to bodily integrity, non-discrimination and to live free from violence;
- d. Ensure public services address the intersectional nature of discrimination. Social determinants such as class, race, ethnicity, age, sexual orientation and gender identity, migration status, geographic location and other social factors creates overlapping and interdependent systems of discrimination in which gender discrimination is magnified.

The role public sector employment plays as a leader for gender progressive policies is key. It is often the public sector the leads the way in equality initiative before it then becomes more widespread in the labour market.

2.2. The full realization of the SDGs is GRQPS mainstreamed

The Sustainable Development Goals (SDGs), as a universal agenda to advance human rights and sustainable development, requires GRQPS as a means of implementation. "...all of the Goals (17 SDGs, 169 targets and 231 indicators) require the provision of public goods or the implementation of a public-sector policy and, therefore, depend on public service to coordinate, mediate or directly provide." (GCPSE, 2017)

While it is clear that the agenda requires public services, existing efforts to achieve the targets appear to overlook the commitments to increase public services and shift the obligations to non-state actors. For example target 5.4 requires states to "recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies, and the promotion of shared responsibility within the household and the family as nationally appropriate". Yet the indicator for the target 5.4.1 measures the "Proportion of time spent on unpaid domestic and care work, by sex, age and location" and not the increases in public services necessary.

The ambition of the SDGs is further undermined through the promotion of Public-Private Partnerships (PPPs) as a means to achieve the goals. PPPs are not designed to fullfill the principles and objectives required to deliver GRQPS and reflect an inherent contradiction in the international agenda: UN, member states and even International Financial Institutions recognise the threat of growing inequality and yet continue to promote economic policies and instruments that facilitate further concentration of wealth (PSI, 2017).

2.3. The major barriers to achieving GRQPS

The most significant barrier to the delivery of GRQPS, and indeed one of the major structural barriers to the realisation of women's economic rights, is the global dominance of neoliberalism, or corporate capitalism.

The primary features of neo-liberal capitalism require states to cut public spending, privatize public goods, liberalize trade and investment and reduce regulations on the private sector. Public-Private Parternshisp- PPPs are connected to privatisation and incompatible with universal coverage. There is ample evidence that these policies have had particularly negative impacts on women.² Funding cuts generally focus on reductions in subsidies, public wages and social

² See for example the special Edition of the journal Feminist Economics on 'Critical Perspectives on Financial and Economic Crises: Heterodox Macroeconomics Meets Feminist Economics,' Volume 19,

protection payments. Each of these has a disproportionately negative impact on women and children (Cummins, 2013) as women are more likely to claim social welfare payments, use public services and be employed by the public sector (Murphy & Oesch, 2015). When austerity and ideological commitment to neoliberalism results in governments abdicating their responsibilities to provide health, education, water, energy, social services and care, women are generally expected to provide the cushion that sustains lives and economies. (Yamin, 2005) and (Lappin, 2018).

<u>Privatisation of Water:</u> CEDAW recognises water and sanitation as an essential element for women to enjoy the right to adequate living conditions (article 14). The CEDAW committee noted that achieving substantive equality may require the universal provision of economic rights, including water. In its General Comment 20 on non-discrimination the Committee suggested that "ensuring that all individuals have equal access to adequate housing, water and sanitation will help to overcome discrimination against women and girl children and persons living in informal settlements and rural areas." (CESCR). When water is treated as a commodity, access depends on capital and will inevitably have gendered consequences with women having less capital and be less involved in decision making around capital. Water has been redirected to corporations following privatization and at the local level, wealthier families or communities are able to build larger water storage units while women with limited capital are left to collect water or purchase smaller amounts at higher costs (Brown 2010:62).

Despite the recognition that water is a human right, governments and IFIs have treated it as a commodity, diminishing the right to water for women in numerous cases as well as having broader discriminatory impacts in health, unpaid work burden and diminished household budgets. The World Bank and IMF have commonly promoted water privatization with primarily European multi-national corporations securing lucrative resources at low cost. In developing countries women are primarily responsible for obtaining, storing and making available water to their families and communities, not only for drinking but for food preparation, cleaning, washing, health, hygiene, menstruation management and waste disposal. The privatisation of water resources has effected women by making water more expensive and a larger part of household spending in many countries, re-directing water to profitable locations (primarily to corporations and wealthier communities) which requires economically poor women to spend more time and effort collecting water. Low income women facing time constraints are obliged to accept lower quality water contaminated ground water normally not used for consumption, which threatens their health and consequently their active public participation.

<u>Privatisation of Healthcare</u>: Healthcare plays a central role in advancing women's human rights and when budgets for healthcare are cut, or healthcare is privatized, women disproportionately suffer reduced access in addition to shouldering primary re-productive care work and filling the health gap that results from reduced public health (Dennis and Zuckerman 2010). The right to the "highest attainable standard of health as a fundamental right" includes access to timely,

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Number 3, 2013; (Fukunda Parr, Heintz, Seguino 2013); Report of the Working Group on the issue of discrimination against women in law and practice, presented to the 26th session of the Human Rights Council, see A/HRC/26/39, 1 April 2014; Report of the Advisory Group chaired by Michelle Bachelet (aka Bachelet report), 'Social protection floor for a fair and inclusive globalization,' Convened by the ILO with the collaboration of the WHO, International Labour Organization: Geneva, 2011.

acceptable, and affordable health care of appropriate quality, including the right to sexual and reproductive healthcare. Public healthcare systems are essential in both providing women with the level of healthcare to live a healthy life, to make decisions about the timing and spacing of children if they choose to have them, to work and to prosper. Bangladesh introduced user fees for family planning services following the 1997 Asian debt crisis and a subsequent restructuring of health care services, which brought hidden costs into the public system and created large gaps in access to care. With the higher costs higher numbers of men were unwilling to spend money on preventative care and treatment for women, including family planning, even when they were familiar with and supportive of contraception or other family planning methods (Schuler, Bates & Islam: 2002).

<u>Tax Evasion:</u> Annually countries lose at least USD600 billion dollars in revenue through tax avoidance (Crivelli et al. 2016) and an estimated USD20-30 trillion dollars sits in tax havens. In addition, tax competition is driving down corporate tax rates, allowing corporates to secure tax holidays and other evasive strategies. Governments who fail to collect revenue must either: seek other revenue sources, which often means regressive taxes that impact more adversely on women; introduce costs and user fees for public services or; reduce spending on public services. All three options are likely to have discriminatory effects. Significant global reform is required to ensure governments secure the minimum of 35% public revenue to GDP ratio necessary to deliver GRQPS. 'Taxing for women's rights' calls for producing enough revenue to increase government investments in public education, health, care services, transportation, food security, and housing in order to reduce women's markedly unequal shares of unpaid work and increase women's shares of market incomes, after-tax incomes, and political authority." (GATJ, 2017)

Trade Agreements: New generation trade agreements impose considerable constraints on governments, limiting their policy space to develop GRQPS and employ other policy tools to support women's human rights. The introduction of services chapters in pluri lateral trade agreements requires states to reduce regulations on services, limits the capacity of states to restrict the role of multinationals in public services and could even restrict the state's capacity to use affirmative action strategies in the delivery, employment or governance of services. (Lappin, 2018). The imposition of rules that require states to reduce regulations and prohibit the introduction of new regulations or the re-municipalisation of failed privatisaed services directly contravene the obligations of states. The capacity of states to sue governments who seek to regulate corporate activity or introduce public interest laws and policies, through Investor State Dispute Settlement (ISDS) clauses, creates a "chilling effect" on regulators, denies states of revenue with unlimited awards entering into the billions. At least 24 countries have been sued by corporations seeking to avoid the payment of corporate taxes.

2.4. GRQPS enablers

The means exist for a significant increase in global public-sector investment which is essential for economic development (PSI, 2017). A key enabler is the introduction of global and national redistributive policies that deliver governments, at all levels, adequate revenue and public ownership.

Remunicipalisation of public services: Several governments have recognised that privatisation has failed and chosen to remunicipalise or nationalise public services. These reversals have resulted in reduced costs, improved working conditions and service quality, as well as increased

accountability. The recent wave of remunicipalisation provides opportunities for new, diversified, democratic public ownership (Satoko Kishimato, 2017).

<u>Public-public partnerships-PuPs</u>: have emerged as a response to privatization and Public-private partnerships- PPPs. PUPs can enhance the key dimensions of "publicness": equity and efficiency; participation and accountability; solidarity and political, social, financial and environmental sustainability. (Xhafa, 2013), as they can be an effective way to enhance GRQPS offering far greater opportunities to facilitate shifts in gender relations and deliver benefits for women (EGM/RWG/Report, 2017)

Just and equitable transition: the commitment to transition to renewable energy sources and to a more sustainable economy offers an opportunity to support a transition to publicly funded, managed and delivered renewable emergy specifically designed to advance gender equality and deliver energy democracy³. Yet a just and equitable transition needs to extend beyond the energy transition to a transition of a gender equitable and climate resilient economy that invests in critical low carbon public services, like transport, healthcare, education and emergency services and offers Decent Work to women whilst redistributing paid and unpaid work. At the 61st session of the Commission on the Status of Women-CSW, the operational paragraph of the Agreed Conclusions directed governments to 40. hh. "Develop and adopt gender-responsive strategies on mitigation and adaptation to climate change, in line with international and regional instruments, to support the resilience and adaptive capacities of women and girls to respond to the adverse effects of climate change, with the aim to strengthen their economic empowerment, through inter alia, the promotion of their health and well-being, as well as access to sustainable livelihoods, including in the context of a just transition of the workforce" (CSW61, 2017). The Gender Action Plan of the Conference of Parties also commits states to a just transition.

3. Front line public services to support women's autonomy

Frontline servicesy provide the material base upon which women - within an intersectional framework- can effectively and sustainably transform power relations and livelihoods.

<u>Public Care</u>: the redistributie targets of SDGs for gender equality, have to be based on public care services. This means not only redistribution inside households between men and women, but also the role of the State in providing care services for all. "The absence of quality and gender responsive public care services including child care is an obstacle to decent livelihoods for women workers around the world. The costs and time of caring for children continue to be borne mainly by women due to gender norms. The lack of care services... puts tremendous pressure on women and girls to take on more care responsibilities." (WIEGO, 2017). Here is important to note that also the aged and the disability care fall heavily on women and are undervalued.

<u>Public Health Care:</u> there is a strategic need for gender equality in multiple forms in health care services. Women are the most frequent users of health care services because of the

³ Energy Democracy is the evolving concept that communities, including unions, should govern the sourcing and distribution of energy in their communities. It is based on the premise that "the decisions that shape our lives should be established jointly and without regard to the principle of profit" (Conrad Kunse, 2013).

disproportionate amount of care work they undertake for other members of their households, in addition to their own bodily requirements. It is critical that both of these dimensions — unpaid care work leading to increased use of health care services and women's own health care needs — be taken into account and addressed in health sector reforms. The focus on sexual and reproductive health services that counter patriarchal norms and respect the principle of women's bodily autonomy is the biggest objective and must be based on a human rights approach. Health systems reform that does not address the core elements of the sexual and reproductive health and rights (SRHR) agenda will fail to meet important criteria of equality, affordability, need for acceptability and quality in health service. (Gita Sen, 2014)

<u>Public Education</u>: is key to empowering girls and women, especially those who live in rural, remote or marginalized areas that are at greater risk of not completing school. Structural barriers, entrenched discriminatory social norms, and alarmingly high rates of school-related gender-based violence undermine attempts to achieve gender equality in education. (GUFs, 2017). Public education curricula can play a significant role in dismantling patriarchal beliefs and systems and transforming gender relations.

<u>Public Water and Sanitation</u>: access to, and availability of clean water is a prerequisite to the sustainable growth and development of communities around the world. \Where there is scarcity, women and girls are the stewards of water, adding significantly to the burden of unpaid work. Water and sanitation as public goods are also essential in managing irrigation, climate disasters and sustainable livelihoods and, as discussed above, privatisation of water delivers a discriminatory burden to economically poorer households.

<u>Public Energy:</u> the sexual division of labour also burdens women when energy is scare or privatised. Women spend considerable time collecting firewood for basic cooking, eating and lighting needss, particularly in rural areas. Public energy provision and ensuring a gender transformative approach to energy democracy, can alleviate women's unpaid work and deliver important health benefits (Kathleen O'Dell, 2015).

<u>Public Transport</u>: is a vital public service, connecting people to work, school, shops and hospitals. Public transport should be accessible, affordable, efficient, reliable, safe, clean and integrated with a city-wide network of bus, train, metro, ferry, taxi, tram with cycling and walking options. Women have different mobility patterns to men, but public transport policy is mainly planned and decided by men. Women workers and passengers should be able to influence transport policy decisions, such as scheduling and routes. Transport is a male-dominated industry with significant occupational segregation. Transport can only be gender responsive if there are more women employed in the industry. To address this there should be measures to promote women's employment, retention and career development, prevention of disproprtionate impact on women's employement through the combination of automation and occupational segregation, developing women's advocacy programmes, improving infrastructure and campaigns to address the root causes of violence in transport – also a significant issue for women passengers - including vulnerability while commuting. The ILO Transport Policy Brief, highlights the need to address workplace violence to address women's employment. (ILO, 2013)

<u>Disasters and Emergencies:</u> women have a higher mortality rate during many disasters and are exposed to gender-based violence —including rape, human trafficking and domestic abuse,

during and after disasters and conflicts. In addition women experience an increased burden in unpaid work such as providing care, water and food for households.

4. Front line public services workers strategic for GRQPS

The strategic role of public service workers in ensuring GRQPS is critical. Workers' capacities to deliver GRQPS is growing in many circumstances, despite attacks on their conditions and wages.

Public sector employment is often one of the only opportunities women have to access secure employment and, in most countries, there is a higher concentration of women in the public service than in the private sector. It offers one of the most valuable opportunities for Decent Work for women. The workforce composition of the public sector reflects the historical sexual division of labour. Women workers are concentrated in front-line services for reproductive duties, such as care, health and primary education. Whilst men are most prominent in the delivery of water and sanitation, energy, waste management and in emergency services.

To ensure public services are transformative for the women workers, and for the public using the services, a range of preconditions must be met:

<u>Freedom of association:</u> In many countries public sector workers are not allowed to unionize, bargain collectively or strike. There is a lack of implementation in the public sector of ILO Conventions that protect this right, as well as a very few ratifications of ILO Conventions 151 and 154 that ensure public service employees their full freedom of association rights. Without these rights, decent work for front line public services workers is at considerable risk. The role of trade unions is fundamental in ensuring gender equity in the world of work, redressing power imbalance therefore protection of unions and organizing is essential.

<u>Wage Justice:</u> Gendered differentiations in determining the value of work carries multiple disparities between "productive" and "reproductive" public front line services. Chief among these is the difference between wages, which provides material evidence of the inequality between men and women, historically constructed by the sexual division of labour, and which is made more acute for women affected by intersectional and multiple discrimination and inequality. A transformative proposal for equal pay, therefore, demands an intersectional approach. Equal pay for work of equal value must be a means of eradicating the existing sexual division of labour and raising women's "traditional" labour value, at the same time as transforming the wage hierarchies that maintain gender segregation in the workforce, with women concentrated in some occupations and relegated to the bottom of pay scales (PSI, 2018).

Raising the social value of care work, education and health public services will eliminte a system that creates profound inequality between men and women, based on the undervaluing of women's work and the permanent barriers that women face to greater and more equal integration in the paid labour force.

In South Asia and a range of other countries Community Health Workers, almost all of which are women, are a critical component of the public health care system, yet women are not afforded a wage nor the securities of other public sector workers, such as an aged pension. The healthcare they provide focuses on maternal and child health and nutrition and as such is critical to advancing women's health rights. PSI is working to organise the Community Health Volunteers who are advocating for Decent Work and implementation of ILO Convention 100: Equal remuneration for

work of equal value, amongst others. Pakistan has moved to formally recognise the work of Community Health Workers and provide at least a minimum wage (PSI, 2018).

<u>Healthworker demands:</u> The World Health Organization noted that there will be a shortfall of 18 millon health and social workers worldwide by 2030 (WHO, 2010). Austerity measures cause a decrease in the numbers of public health workers while healthcare demands often increase during that time. Nurse to patient ratios are a solid indicator of both the efficacy of the healthcare system and of the working conditions for nurses delivering public services. A commitment by member states to reduce the ratio would be a significant contribution to GRQPS.

Gender-based violence and harassment: Front-line public-sector workers can be exposed to violence and harassment in the world of work, coming from employers, co-workers and third parties. Public health care workers are routinely at risk of violence and harassment and reductions in staff numbers increase their vulnerability. Outsourced, casualised and precarious workers within public services are particularly at risk given they risk future employment if they make complaints about harassment and violence. Public service workers also experience intimate partner violence and, as the largest employer of women globally, governments can set an important standard by including Domestic Violence leave and protections in collective agreements. The successful negotiation and subsequent ratification and implementation of a new ILO Convention and Recommendation on Violence and Harassment in the World of Work, will be fundamental to addressing this challenge.

Emergency workers: In 2018, the ILO held a tripartite experts meeting to establish new guidelines in relation to Public Emergency Service (PES) workers. The guidelines expand the previous definition to include workers who provide critical public services during emergencies including water and energy, teachers, carers and those who provide psycho social support as well as first responders. The guidelines, which will be submitted to the ILO Governing Body for approval, promote coherent measures for emergency preparedness and disaster prevention, access to social protection and effective labour inspection; as well as measures to protect PES workers from excessive working time. The guidelines assert the importance of collective bargaining rights, minimum wage, occupational safety and health standards and social protection (ILO, 2018).

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