



Working Group on the issue of human rights and transnational corporations and other business enterprises

Summary of the Multi-stakeholder Consultation on the Gender Lens to the UN Guiding Principles on Business and Human Rights

Thursday, 30 November, 9:00-16:30
Room IX, Palais des Nations

I. PROJECT BACKGROUND

Women¹ not only experience business-related human rights abuses in a different and disproportionate way, they also face multiple forms of discrimination and experience additional barriers in seeking access to effective remedies. In order to assist States and business enterprises in discharging their respective human rights duties and responsibilities under the UN Guiding Principles on Business and Human Rights (UNGPs), the UN Working Group on Business and Human Rights (Working Group) launched a new [thematic project](#) to pay greater attention to the gender lens to the UNGPs. This is in line with the Working Group mandate to “integrate a gender perspective throughout [its] work” ([A/HRC/Res/17/4](#)).

The Working Group will consult all relevant stakeholders to achieve the project objectives, including to develop guidance about it means to protect, respect and remedy the rights of women in a business context in line with the UNGPs. As part of this process, several consultations will be organised in different parts of the world.

This first multi-stakeholder consultation brought together around 50 participants representing UN agencies, UN treaty bodies, national human rights institutions, civil society organisations, businesses, academics, lawyers and women activists. A number of themes and issues were discussed (please refer to the agenda in Annex). A summary of the discussed held and issues raised at the consultation is provided below. The summary represents views expressed by various stakeholders and not that of the Working Group.

II. CONSULTATION SUMMARY

A) The Gendered Impact of Business Activities on Women’s Rights

Gender inequalities and discrimination in society have contributed to interrelated consequences in the corporate context. Women have suffered disproportionate and differentiated impacts of business activities. By not addressing gender inequality and patriarchal patterns in society (such as adverse social norms, discriminatory laws and lack of legal protection; failure to recognize

¹ In this project, the term “women” is taken to include girls.

and redistribute unpaid household work; and a lack of access to financial and property assets), corporate activities can have deep rooted impact on women's rights.² In addition, business activities, practices and policies may have created or exacerbated gender inequalities.

Participants highlighted some of these impacts, which may vary (or be more acute) according to different regions, business sectors, or women from different social, cultural or ethnic groups. These adverse impacts could be divided into different categories.

At the market and work place

Due to education and cultural constraints, and unequal sharing of responsibilities for household work between men and women, unemployment mostly impacts women. Moreover, a lot of women work in the informal sector, which tends to produce poorer work conditions, lesser salaries and inferior social protection measures. Moreover, limited access to credit, financial services and productive resources such as land for women and limitation for mobility, poverty and reduced opportunities for education have contributed to exacerbating women's economic exclusion. These constraints are rooted in discriminatory societal norms as well as legal/policy framework (e.g., laws restricting ability to work in mining as being too dangerous; lack of land titles). Examples highlighted include: 1) the government spend very little on sourcing from women owned business; 2) automation has also had a disproportionate impact on women than on men in Asia; 3) trade regulation and financial agreement can also have a different impact on women; and 4) measures have affected disproportionately women because the burden has been passed on to women to take up more work in the household and unpaid work.

Participant also flagged the following gendered impacts:

- ✓ A large portion of women work informally which entail lower salaries, limited career development opportunities; poorer working conditions (safety, health and other social protection measures).
- ✓ More women are hired on temporary contracts than men.
- ✓ Senior positions within business corporations and trade unions are mostly held by men.
- ✓ The gap between wages earned by men and women is still considerably high.
- ✓ The maternity has intensified the situation of gender discrimination, causing among other consequences dismissals or non-renewal of contracts.
- ✓ Women are repeatedly victims of sexual and labour harassments at the work place.

At the community level

Women also suffer in a different way as members of community. For example, in terms of environmental damage, eviction, and resettlements, women are impacted in a different way, e.g., considering their household responsibilities and given women's unequal ownership of land, compensation for dispossessed land or for resettlement are often placed in the hands of male family members. Mismanagement of development projects and the involvement of security forces can also lead to sexual violence and other severe human rights abuses that are manifested in unique ways for women.

B) Existing Principles, Policies and Practices of States and Businesses

The participants also shared progress and advancement in respecting women rights, combating gender discrimination and promoting gender equality within the corporate context. These best

² [Report of the UN Secretary General's High Level Panel on Women's Economic Empowerment, "Leave no one behind: a call to action for gender equality and women s economic empowerment"](#)

practices, experiences and recommendations provided by the participants could be categorized under the following heads:

Legal and policies framework

Governments have engaged to address gender inequalities and gender discrimination:

- ✓ Canada has adopted a Feminist International Assistance Policy, that seeks to reduce extreme poverty and build a more peaceful, inclusive and prosperous world. The policy recognizes that promoting gender equality and empowering women and girls is the most effective approach to achieving this goal.
- ✓ Canadian trade agreements have embedded gender aspects.
- ✓ Kenya has enforced the obligation for the government to allocate 30% of government procurement to women, persons with disabilities and youth-owned companies.³
- ✓ Following CEDAW committee recommendation, France, Netherlands and Germany engaged to assess the negative impacts of arms sales agreement on women before going ahead with the sale.
- ✓ Several EU states have also enacted laws to implement quotas for women in corporate board.

However, more is needed to be done.

- ✓ Despite progress on the gender equality front, business and human rights policies and legal frameworks still encounter problems in the implementation stage. Therefore, meaningful and full participation of women should be guaranteed in the design, implementation, decision-making process and follow up of these policies and legal framework.
- ✓ Existing National Actions Plans (NAPs) on Business and Human rights are mostly gender blind. Consequently, future NAPs and baseline studies should rely on a gender analysis and fully incorporate gender sensitiveness.
- ✓ Corporate culture should be changed through reviewing legal and policies that perpetuate gender discrimination and inequalities. For example, and as highlighted by the cross-national study on human rights and corporate laws conducted by the former Special Representative of the Secretary-General John Ruggie,⁴ corporate and security laws and regulations should be reviewed in order to make them intersect with human rights, for example through clarifying what companies or their directors and officers are required to do regarding human rights and gender. Better coordination is also needed between corporate regulators on the one hand and Government agencies responsible for implementing human rights obligations on the other.
- ✓ Some participants expressed the need for adopting binding obligations, such as mandatory due diligence (like the recent French duty of vigilance law) and also on reporting their impact on critical issues, such as sustainability, climate change and human rights.
- ✓ Trade agreements should include gender and human rights dimensions (e.g., [Declaration on Trade and Women's Economic Empowerment in Buenos Air December 2017](#)).
- ✓ Additional maternity protection measures should be adopted and should be approached through a larger involvement of men in the family work and care, and it should go

³ See <http://agpo.go.ke/>

⁴ Report of the Special Representative of the Secretary- General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, "Human rights and corporate law: trends and observations from a cross-national study conducted by the Special Representative", 23 May 2011, A/HRC/17/31/Add.2.

towards parental leaves (and not maternity leave). Society and corporate culture cannot be changed if men are not involved in a positive way.

- ✓ States should work to raise awareness about gender impacts of corporate abuses and operations with both men and women.

Sexual harassments at the work place and at the community level

Actions and measures have been taken at the business, state and community level to address sexual harassment. For example, harassment committees have been created at the workplace in Uganda, through a [regulation in 2012](#), in order to encourage women to denounce sexual harassments. These committees have given women a voice inside the company and have allowed cases of harassment to be disclosed and denounced.

In order to support the eradication of sexual harassment, there is a need to reverse the burden of proof and to look at harassment and violence in a new way so as to protect victims.

Good business practices

Participants shared some good business practices, which point to further need to engage with business to combat gender inequalities and discrimination.

- ✓ For example, Foreign Trade Association (FTA) has developed a code of conduct for its members where the gender dimension is included, such as non-discrimination and no precarious employment for women. This code of conduct has to be implemented by its members through their supply chains. Through quarterly monitoring, members can assess their progress against peers and can access a mechanism to follow up on companies which are performing below the minimum requirements. The FTA also uses female auditors to speak to other female staff so that they are more open to speak.
- ✓ Another example is the childcare programme developed by KPMG, which gained 521% return on investment in 4 years.
- ✓ Corporations have reported that progress towards international standards have progressed. For example, the Global Reporting Initiative (GRI) has specific gender related indicators on gender equality and it works to help organizations using the [GRI Sustainability Reporting Framework](#) to embed material gender issues in sustainability reports, including through disaggregated data. ISO 26000, international standards for business on social responsibility addresses sustainable development and the post-2015 development agenda, including gender related goals.
- ✓ The [Women Empowerment Principles](#) (WEPs) developed by UN Global Compact and UN Women serves as a guidance on how to empower women in the workplace, market place and the community. More than 1,600 business corporations have signed these principles. Despite this progress, there is a tendency for companies to focus on one particular area of the WEPs and ignore other areas that could be more challenging to implement. To help companies turn “Principles into Practice” and uncover areas for improvement, the UN Global Compact worked with partners including UN Women, the Inter-American Development and BSR to develop a “[Gap Analysis Tool](#)” for the WEPs, which comprises of 18 questions covering all seven principles. The Tool helps companies to assess current policies and programmes, highlight areas for improvement, and identify opportunities to set future corporate goals and targets. Results are provided in a concise and clear format, so companies can easily identify areas for improvement. It is expected that this tool will provide aggregate insights into where companies are making progress – and where they are not making progress, so that programmatic support can be tailored accordingly.

However, gender impact assessment and human rights due diligence with a gender perspective should be promoted and conducted by businesses, including international financial institutions, investors and banks to ensure that their interventions in states and/or loans do not reinforce structural oppression but rather empower women (beyond simply making them economic actors). These gender assessment and due diligence processes should rely on mapping the legal, socio-cultural and political context of women's human rights in the respective market of the current operation. These processes should fully involve women to participate in an equal and meaningful way. The results should be made publicly available and be a prerequisite for support from export credit agencies and lenders such as the World Bank.

In addition, more should be done in corporate reporting schemes. Corporation should have to report on how they tackle gender discrimination in the work place and supply chain, which measures are taken to ensure that their activities do not exacerbate gender discrimination.

C) Access to Effectives Remedies – Integrating Women's Experiences

Women encountered multiples obstacles to access judicial and non-judicial mechanisms for remedies. Some of the reasons highlighted by the participants for this situation are: limited economic resources and mobility; burden with care responsibilities; limited viable legal remedies; lack of information on these mechanisms; lack of trust; mechanisms and remedies are not framed to address gender specific challenges and needs. In addition, remedies can sometimes perpetuated discrimination.

Participants recognized that some operational level grievance mechanisms have addressed human rights issues. However, business should ensure that these mechanisms should tackle all human rights issues, not merely sexual violence.

Remedy needs to consider different approaches from different sectors and different areas. A greater focus should be put on transformative reparation which do not perpetuate discrimination. A focus should also be put on preventive measures because in most of the cases, when human rights including women rights are infringed, the damage is irreparable. Moreover, reparations should ensure that women benefit equitably from compensation payments and other forms of restitution.

According to some participants, when it comes to conflict zones, and when it is identified that a corporation cannot operate without violating human rights of women (complicity in sexual violence or further entrenching discriminatory structures), this should be a “no go zone” for companies.

[The Nairobi declaration on reparation and remedy](#) and the [Guidelines or other tools for integrating gender considerations into climate change related activities under the Convention](#) are interesting existing tools to take into account.

D) Developing Guidance regarding the Gender Lens to the UNGPs: The Way Forward

The content of the guidance is as important as the process for its development and its dissemination and follow up.

The process

- Some other actors should be fully engaged such as girls, youth, women's rights organisation representing women directly impacted by corporate activities. Attempts should be made to go beyond the leaders of the women organisations and ensure a geographic and culture diversity. Considering these factors would entail strategic decision regarding the location of consultations but also sourcing for traveling, to obtain visa and to reach the voices of women. In addition to financial resources, this process should ensure that information reaches everyone in order to build confidence and meaningful participation. UN Women should also be part of the process.
- Universities and NHRI's are useful platforms to bring all these people together, including youth.
- Some participants stressed the importance of avoiding environments where men are excluded, and highlighted that on the contrary, their active participation should be encouraged in this project.
- Different views were expressed regarding the need to involve companies, States and other stakeholders, such as trade unions. Some stressed the need to raise gender sensitivity amongst all stakeholders and to bring in different views from individuals who would not normally join the conversation. Other participants raised concerns that having new voices in the room might undermine the power dynamics and raise concerns about the safety of participants and therefore noted that separate consultations for different groups might be more appropriate.
- Social media should be used as much as possible to spread information about the project.

The content

Most of the participants agreed on the necessity to make this guidance something simple and practical, so that it brings together what already exists but in a codified and simplified way. The guidance needs to be accessible to an uninformed audience, so it can be accessed by wider community and can serve as a tool to raise awareness and training.

Business representatives participating in the consultation noted that the guidance should provide good practice examples, and give advice/specific indicators on how to conduct human rights due diligence or make policy commitments with a gender dimension, breaking down specific actions (e.g., the percentage of females in senior management, gender-disaggregated data about the number and nature of the women's rights abuses cases reported to company's grievance mechanisms). The guidance should foster a race to the top amongst companies regarding gender issues.

Civil society representatives highlighted that the guidance should include cases studies to help contextualize gender discrimination, something that can be used for advocacy as well as to hold governments and companies accountable.

Language was another issue where there was a difference in the opinion of participants. Some participants noted that business language is needed to make it more accessible and understandable. On the other hand, others considered that given the nature of the UNGPs, this guidance should use a rights-based language.

The guidance should bring together, in a simplified manner, the relevant existing tools, principles, declarations and treaties. There may be no need to create new standards; some participants stressed the importance of drawing in existing labour and human rights instruments such as CEDAW, BDPFA, ILO Conventions including Nos. 169 and 189, general comments of treaty bodies, children rights and business, LGTBI standards of conduct, and SDGs. Some

participant suggested that standards related to trade as well as the environment should also be streamlined in the proposed guidance

According to the majority of participants, the guidance should expressly provide for gender analysis, gender assessments and gender budgeting. It would be critical to integrate gender in policy commitment provisions and in human rights due diligence. The guidance should also assist investors in developing their own gender analysis, including a ‘do no harm approach’ to gender equality as well as understanding which investments are better placed to promote gender equality. Moreover, there should be reference to the responsibility of the state to devote resource to fulfil existing obligations towards women’s rights and gender equality (e.g., through progressive taxation and gender responsive budgeting and regulation, including extraterritorial obligations). It was also suggested to provide advice to companies as to what they should look at before accepting a business deal because sometimes there might have been prior negative impacts linked to actions of states aimed at attracting investment.

In addition, the guidance should also contain some specific reference to:

- ✓ the role of men, since their awareness is key;
- ✓ focus on women human rights defenders;
- ✓ set out clearly how a gender responsive NAP would look like and encourage improvement of current and future NAPs; and
- ✓ care work and parental leave (involving men in care giving and household work is vital).

Regarding the question whether the guidance should be generic or sector specific, different opinions were expressed. As the impacts on women varies according to sectors and the affected groups concerned (national, ethnic, religion, colour, disabilities), some participants noted that the guidance should break down the specificities and requirements for each sector and women groups, while other considered that it would be too difficult to cover all groups and sectors. One option could be to mention that a specific attention should be given to the different corporate impact that may be suffered in a different way, depending on diverse women groups and corporate sectors.

Dissemination and follow up

- Dissemination of the guidance will be critical. Universities should be used as an important tool to do achieve wider dissemination.
- The implementation and follow-up should be anchored to existing processes, e.g., the Commission on the Status of Women, periodic reviews under CEDAW and ICESCR, and universal periodic reviews UPRs (asking states to specifically report on engendering the NAPs and applying the guidance). The Annual UN Forum should also seek to both mainstream discussion on women’s rights across various themes as well as dedicate specific time to it.

Annex: Consultation Agenda

09:00- 9:15	<p><i>Welcome and Opening Remarks about the Project</i> Surya Deva, Chairperson, UN Working Group on Business and Human Rights</p>
9:15- 10:30	<p><i>Session I: Unpacking the Gendered Impact of Business Activities on Women's Rights – From Supply Chains to Climate Change</i></p> <p><u>Discussion leads</u></p> <ul style="list-style-type: none"> ➤ Naw Hel Lay Paw, Programme Officer, Asia-Pacific Forum on Women, Law and Development (APWLD) ➤ Tambudzai Madzimure, Women@Work Programme, Hivos ➤ Sara Seck, Associate Professor, Schulich School of Law, Dalhousie University ➤ Wandisa Phama, Attorney of the Centre for Applied Legal Studies, Wits School of Law <p><u>Discussion questions</u></p> <ol style="list-style-type: none"> 1) In what ways do women experience the impact of business-related human rights abuses differently and disproportionately? 2) Do the adverse experiences of women vary from sector to sector and region to region? Are there some common issues across all sectors and regions? 3) How is gender discrimination exacerbated for women belonging to specific groups (e.g., women with disabilities)? 4) How to deal with marginalisation or vulnerabilities in conflict-affected areas or weak governance zones? 5) Which State laws and/or policies continue to impede women's integration into economic activities and public life generally? What structural changes are needed in the BHR field to overcome discrimination against women?
10:30- 11:45	<p><i>Session II: Women Empowerment – Existing Principles, Policies and Practices of States and Businesses</i></p> <p><u>Discussion leads</u></p> <ul style="list-style-type: none"> ➤ Patricia Schulz, Expert of the CEDAW Committee ➤ Martin Oelz, Senior Specialist on Equality and Non-discrimination in the ILO's Gender Equality and Diversity Branch, ILO ➤ Naomi Potipa, Stakeholder Engagement Coordinator, Foreign Trade Association ➤ Natalie Zerial, United Nations Global Compact <p><u>Discussion questions</u></p>

	<ol style="list-style-type: none"> 1) What lesson can we learn from existing principles, policies and practices of States or businesses aimed at overcoming discrimination against women? What is working and what is not working? 2) Can we gather any good practices from existing National Action Plans on BHR (or Human Rights generally)? 3) How could the gender lens be integrated into States' economic operations (e.g., public procurement, trade/investment agreements)? 4) What is the extent to which companies currently apply a gender lens in conducting human rights due diligence, including impact assessment? What steps could be taken to achieve a better integration of the gender lens in business policies and actions? 5) What should businesses do not to exacerbate existing discriminations against women? 6) What is the extent to which labelling/certification schemes or corporate rankings consider gender equality variables? 7) How to engage men (including business leaders) to overcome discrimination against women?
11:45-13:00	<p><i>Session III: Access to Effectives Remedies – Integrating Women's Experiences</i></p> <p><u>Discussion leads</u></p> <ul style="list-style-type: none"> ➤ Harpreet Kaur, Director, Genpact Centre for Women's Leadership, Ashoka University ➤ Gunhild Ørstavik, Forum for Women and Development, FOKUS ➤ Penelope Simons, Associate Professor, Faculty of Law, University of Ottawa <p><u>Discussion questions</u></p> <ol style="list-style-type: none"> 1) What additional barriers do women face in accessing effective remedies? How could these barriers be removed to empower women? 2) How could remedial processes and remedies be made gender-sensitive? 3) How to overcome power imbalances and discriminatory practices that might undermine the effectiveness of remedies obtained by women? 4) Are there certain specific issues concerning women's access to operational-level grievance mechanisms that should be considered and addressed? 5) What is the role of preventive remedies for women, especially in conflict or post-conflict situations? 6) Is gender-disaggregated data required to assess women's equal access to remedial mechanisms?
13:00-14:00	Sandwich lunch (sponsored by Genpact Centre's for Women Leadership, Ashoka University, India)
14:00-16:30	<p><i>Developing Guidance regarding the Gender Lens to the UNGPs: The Way Forward</i></p> <p><u>Moderator</u></p>

- Surya Deva, Chairperson, UN Working Group on Business and Human Rights

Panellists

- Aishah Bidin, Member, National Human Rights Commission of Malaysia
- Chiara Capraro, Policy & Advocacy Manager, Womankind
- Caitlin Kraft-Buchman, Women@TheTable
- Masataka Nagoshi, Manager, Climate Change & Sustainability Services, Ernst & Young Japan
- Livio Sarandrea, UNDP Bangkok

Discussion questions

- 1) What insights did we gain from the discussion held this morning? How could these insights be integrated into the Working Group's gender lens project?
- 2) Is there anything that should be done differently in regional consultations to be held in 2018?
- 3) How to ensure meaningful participation of women in regional consultations and online questionnaire?
- 4) What should be the structure of the proposed gender guidance, e.g., specific to each pillar or each principle of the UNGPs?
- 5) Which existing instruments should be used as a reference point to develop the proposed guidance?
- 6) How to achieve effective dissemination and implementation of the guidance?
- 7) What role can be played by NHRIs, business associations, trade unions and university centres, and women organisations in achieving the three objectives of the UNWG project on the gender lens to the UNGPs?