

Gender lens to UNGPs, Submission by FOKUS to UNWG BHR

Gender-specific risks and impacts: The most prevalent and salient business-related HR-risks for women seems to be violence or threats of violence, including rape, sexual abuse, forced prostitution and harassment. Gender-based violence at work is a major barrier to decent work. Other victims are women from impacted local communities, jobseekers, victims of trafficking etc. Indigenous women, sex-workers, domestic workers, illegal migrants and refugees are particularly vulnerable. Perpetrators may be supervisors, security and other armed forces, male workers and management. Research also indicate an increased prevalence of intimate partner violence in communities that are negatively impacted by large investments.

The individual impacts of gender-based violence are among others: physical and mental illness, unwanted pregnancies, miscarriages, unsafe abortions and other reproductive health risks. Early school drop-out, increased poverty, inability to adequately protect, care and provide for the children, shame and social stigma and an increased risk of further harassment, sexual violence and prostitution.

Other gendered impacts of business-related abuse are: -miscarriages and birth defects due harmful work during pregnancy, such as long working hours, exposure to extreme temperatures, toxic chemicals and pollution, - exclusion from decision-making processes and consultations where workers rights, access to land, compensation and benefits are negotiated, -lack of financial compensation for loss of livelihood and property due to formal and traditional discrimination, - wage discrimination, - fewer promotion opportunities, - increased difficulties in providing for the family when water and soil are polluted or lost.

These and other gender-specific risks and impacts must be considered when planning, designing and implementing a business plan.

Pillar 1 The state`s responsibility to protect

States should:

- Ensure that investors do a gender impact assessment and respond to gender specific needs. Among them: map the legal, socio-cultural and political context of women`s human rights in the respective market of the current operation,
- ensure women`s equal and meaningful participation in consultations, regardless of their class, ethnicity, and marital status, by e.g. offering separate spaces / separate meetings for women,
- ensure that women benefit equitably from compensation payments and other forms of restitution.
- Adopt legislation making gender-specific Human Rights Due Diligence mandatory
- Adopt legislation to enforce women`s sexual and reproductive rights, incl. maternal and paternal rights. (look to Scandinavian models)
- Adopt legislation to ensure a gender-balanced participation in management, boardrooms and decision-making bodies.
- Agree internationally on a legal definition of “sexual harassment” and ensure the definition is integrated into all public contracts and procurement

-Lead by example and address the issue of sexual harassment and abuse in all public workplaces and in state-owned companies, establish safe whistle-blower, reporting and remedy systems.

-Use the UN treaty bodies to integrate gender and ensure women's participation around the table.

Pillar 2 Business responsibility to respect: Lack of women's representation and organisation, undermines the potential for business recruiting the best candidates and taking full advantage of women's resources. Violating or ignoring women's human rights may more damage a company's reputation and subsequently pose an increased risk of generating substantial financial loss. Stops in production due to strikes and protests, sales dropping following bad press coverage and negative campaigns, payment of fines and compensations are all potential consequences of actual, or alleged human rights breaches. In many new markets, the fear of government reprisals makes it easier for affected communities and campaigners to solely target multinational corporations in cases where the government is responsible for violations or lack of effective protection of its citizens.

Gendering Human Rights Due Diligence: Multinational enterprises that take their responsibility to respect human rights seriously, will conduct human rights due diligence to identify, prevent, mitigate and remediate adverse human rights impacts. Many will need guidance and competence to be able to identify, prevent and mitigate gendered risks, and to remediate adverse impacts. **Companies need to think through how real or potential adverse impacts may differ or be specific for women in certain contexts, before they can respond adequately.** The coming guidance from the UN WG should assist business on how to conduct a gender-specific due diligence based on the nature of the investment or activity, the sector, national/local context, working conditions and women's human rights.

Gender-sensitive due diligence processes should:

- ✓ be based on CEDAW, UNGP and OECD guidelines for multinational enterprises
- ✓ be an integrated component in a company's HR due diligence process
- ✓ be intuitive and user- friendly
- ✓ guide the user towards what is relevant in the specific context/situation/stage of the investment
- ✓ identify and highlight known sector/geographic risks
- ✓ provide methods for identifying key stakeholders
- ✓ suggest concrete and feasible actions for identifying, preventing, mitigating and remediating adverse impacts on women's human rights

The results of the due diligence should be made publicly available and be a prerequisite for support from export credit agencies and lenders such as the World Bank, and for any other support from the wide range of promoting tools Governments possess for the private sector.

Expected results of gender-specific human rights due diligence:

Impact: Increased protection against adverse impacts on women's human rights

Outcome: Strengthened ability to identify and appropriately address risks to women's human rights by business and civil society

Output: A methodology ensuring integration of gender in the businesses' human rights due diligence processes.