

I. CHALLENGES

1. Although, the use of the language of rights has grown rapidly amongst development policy and practice, the rhetoric of formal rights as advocated by international development bodies have not always improved the everyday reality, in particular those of historically marginalised women. This is because public policies geared towards social justice have no effect if not inserted into a wider culture of political measures for positive change.
2. Previous research has established the links between *gender inequalities and the lack of access to education*. Gender inequalities in access to education means that women have lower levels of literacy and therefore awareness of their rights, laws and available redress mechanism, and how to access to them. Indigenous women within marginalised groups encounter additional obstacles in accessing remedy mechanisms due to cultural and language barriers.
3. *Lack of a legal framework and an enabling environment promoting inclusion and accountability* at national and local level to protect and promote women rights, and social and cultural norms related to hierarchy, representation and roles in the community constitute an important limitation for women voicing their concerns and being heard. It is also a significant obstacle for business to intervene and take more positive measures in regards to the promotion of the same mechanisms mentioned herein. For instance, gender disaggregation of workplace roles has often times meant women are denied equal opportunities as men to participate in economic activities, with roles perceived to be performed better by women are designed around the care giving role which remains largely invisible and unpaid. For instance, in the horticulture sector in Kenya women are perceived to be more dexterous than men and are therefore relegated to tending flowers and other horticulture crops while men take up more mechanical jobs which pay more.
4. Businesses are still struggling to put in place an effective grievance mechanism in a systematic manner across their site-operations, and are yet to apply the gender-sensitive lens which shall require trained resources and time to engage adequately with women.
5. *Awareness of available remedial mechanisms to individuals and groups to submit complaints on abuses in context of business activities is dismal, inaccessible and most often unaffordable*. The judicial mechanisms such as use of courts (in areas of employment and labour relations) are expensive. The limited accessibility of specialized courts and delays in court proceedings remains a key challenge hence demoralizes victims. Free legal aid remains inaccessible for women in the sector. Impact on actual work situations also stop workers from reporting due to possibilities of threats to their jobs, impediment to their upward mobility, and intimidation by powerful interested parties to individuals or groups of workers seeking remedy on business and human rights
6. *Emphasis on private sector led growth by national governments*: In effort to create investment friendly environments through tax waivers, the government relaxes the monitoring and regulation of business operations. Lack of political goodwill exemplified through weak enforcement of existing laws, under-resourced and understaffed governments line ministries and enforcement agents hence inadequate inspection of workplaces. This exacerbates the conditions of work especially for women engaged in precarious work such as continuous exposure to harmful chemicals, denial of maternity protection and unreasonably long hours of work.
7. *Mere introduction of new laws would not be effective without effective enforcement and adopting a more holistic approach*. Across the world, women from different contexts and different groups bear witness to severe obstacles to the adequate and full enjoyment of their human rights. In the horticulture sector ; for example, women who comprise at least 70% of the workforce face disproportionate gendered impacts of business such as –: poor remuneration, they are often victims of sexual harassment at the workplace, work long hours, most often lack protective gear and with limited maternity protection during pregnancy and after child birth. Equally in Malaysia, although legislative amendments were made to the Malaysian Anti-Trafficking in Persons and Anti-

Smuggling of Migrants (Amendment) Act 2015 significant restrictions still persist preventing free movement to seek gainful employment and the redress mechanism set up for victims of trafficking.

II. POTENTIAL SOLUTIONS

In light of all of the above-mentioned, we propose the following:

1. Establishment of partnership agreements between the State (enforcement role), the Business (support role), civil society (expert role) and the communities neighboring (right holders), particularly emphasizing issues arising in the operation's area, in order to provide awareness raising training sessions in an culturally appropriate manner about the legal framework in place and the access to specific remedies – applicable in countries where laws have been enacted to protect and promote women's rights.
2. Involvement of men in identifying negative masculinity and understanding why discrimination against women is a problem and how it is not only affecting women and girls' but it also affects other individuals as well as all the community by limiting the opportunities to development. Male leaders and community-based members should be included in the awareness raising training sessions on gender and women's rights
3. Sensitize businesses on the importance of strengthening a gender-sensitive approach internally (as a way to promote change through exemplary practice) such as on site operations by recruiting more women in field in management positions but also as community liaison officers and by providing adequate training to enable them to apply the gender-sensitive lens in their work with the communities.
4. Business to take on the role of human rights champions by acknowledging the international legal framework that underpin and define women's human rights as well as all related social, cultural and economic rights. Businesses must act with due diligence and address any negative impacts arising from their businesses as part of their corporate duty to respect human rights. This include implementing financial rules that enable a more human rights-friendly environment such as corporate tax avoidance rules (ensuring profits stay in the countries where those are produced and therefore benefit the local communities) and financing for development rules (which demand business allocate a part of their budget to supporting the implementation of the SDGs).
5. States should adequately resource relevant line ministries to effectively conduct labour inspections and follow up to ensure continuous compliance by investors. Further, the ministries should enforce the existing labour laws more stringently as a way of enhancing compliance. Measures should be put in place to punish those who violate these rules or act in omission.
6. State to strengthen and review the law (Pillar 1 of UNGP) and corporate responsibility to undertake due diligence process as to ensure business and human rights responsibility are extended to their suppliers and contractors (Pillar 2 UNGP) and effective remedies mechanism (Pillar 3) in offering protection to victims of trafficking.
7. States and businesses must also realize that women and men should be allowed equal access to opportunities and affirmative action/positive discrimination considered for historically marginalized groups such as women, youth, women living with disability and women living with HIV.

III. GOOD PRACTICES

Total in Bolivia: Bolivia has experienced important legislative reforms since the adoption of the new constitution in 2009 and the enactment in 2015 of the Comprehensive Law to Guarantee Women a Life Free of Violence, which establishes gender equality and criminalizes gender-based violence. Total has been developing the Incahuasi gas field located in a Guarani indigenous territory. As part of the social investment plan in 2016 a partnership between the local government service in charge of implementing mechanisms to prevent GBV, the Guarani indigenous leadership, a local NGO with a robust expertise in promoting human rights and eradicating GBV, and Total providing financial and logistic support was established. The aim of the program was to raise awareness about GBV in six communities using a

participatory research methodology to create awareness about the need to address violence as a collective problem that affects women individually, and collectively the community. It generated a critic and proactive awareness oriented towards the prevention, attention and protection of women affected by GBV through the appointment and capacity building of female community workers (mechanism stipulated in the law) and the strengthening of local government service in charge of preventing GBV.

The enactment of the Sexual Offences Act in 2006 by the Government of Kenya remains one of the strongest attempts by the government to demystify sexual offences. It further offers a resounding commitment to protect women against sexual harassment especially by persons holding positions of authority.

Strengthening of laws and effective enforcement. In Malaysia the Domestic Violence (Amendment) 2012 (DVA 2012) was amended to further promote and protect women in cases of domestic violence and widened the scope of domestic violence to include emotional, mental and psychology abuse. There are also on going initiative in the formulation of other laws such as Gender Equality Act and empowering the Practice Code of on the Prevention and Eradication of Sexual Harassment at workplace. But the mere introduction of new laws would not be effective without effective enforcement and adopting a more holistic approach.

Lastly, in Brazil, four multinationals enterprises - Vale, Eletrobras, Banco do Brasil and Braskem - have created internal social responsibility and sustainability rules and guidelines. All of the four MNEs indicate they recognize and respect International Human Rights Law and that have adopted non-binding international agreements such as the OECD Guidelines for Multinational Enterprises. This is certainly a step in the right direction. However, the rhetoric of written down rules hardly ever leaves the paper. For instance, a subsidiary of Vale, Samarco, has been responsible for a huge social and environmental catastrophe in Mariana in 2015. However, up until today, no adequate remedy has been put in place for those families who have lost their livelihoods, homes and environmental bioma. In these cases, women are always hit the hardest. In sum, business must invest more resources in moving beyond mere discourse towards the effective and full compliance with all International Human Rights Law treaties and voluntary mechanisms.

Participants:

1. Virginia Munyua Hivos East Africa, vmunyua@hivos.org – Attending
2. Marianna Leite, Human Rights Centre, Faculty of Law, University of Coimbra marianna.leite@uc.pt – Possibly Attending
3. Cynthia Trigo Paz, Total, cynthia.trigo@total.com - Attending
4. Sarah Knuckey, Human Rights Institute sarah.knuckey@law.columbia.edu – Attending
5. Aishah Bidin, Commissioner, Malaysia Human Rights Commission , National University of Malaysia, aishahbidin60@gmail.com - Attending
6. Irene Ekonge Uganda Women Lawyers Association yiekonga@gmail.com – Attending
7. Mary Kambo of Kenya Human Rights Commission mkambo@khrc.or.ke – Attending
8. Tambudzai Madzimure Hivos Southern Africa tmadzimure@hivos.org – Attending