Submission to the UN Working Group on Business and Human Rights

Response to the Open Call for Input regarding the Working Group's Report on the Gender Lens to the UN Guiding Principles on Business and Human Rights

Insights from the gender and Corporate Social Responsibility literature

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ABOUT THIS SUBMISSION

There is a growing body of research internationally on gender and corporate social responsibility (CSR). This work provides insights relating to business impacts on gender equality: in the workplace; in the marketplace (with regard to consumers, suppliers and supply chains); in communities where businesses operate; and in the wider ecological environment—indeed, throughout corporate value chains. Yet, while quite often mentioning human rights, this literature rarely adopts a primarily human rights lens, and the UN Guiding Principles on Business and Human Rights (UNGPs) are almost invisible therein. Given this disconnect, the purpose of our submission is to highlight key insights from the gender and CSR literature to inform the UN Working Group on Business and Human Rights (UNWG) gender lens project.

It is not possible to summarize all the potential contributions of gender and CSR scholarship to the gender, business and human rights (GBHR) agenda in this short report. However, we have conducted a literature review of papers on CSR which make a substantive reference to gender (not merely as a demographic control variable). In this document we focus on the key themes and related insights emerging from that review. We have noted references on each theme, but have not listed all relevant papers in each case. The reference list is attached as an appendix to this document. We start by highlighting our main recommendations.

This submission was prepared by Dr Kate Grosser (RMIT University, School of Management), Dr Meagan Tyler (RMIT University, School of Management), and Lara Owen (Monash University).

¹ The papers were retrieved from prior searches we had performed in the CSR literature, updated and augmented by further searches in university databases and on Google Scholar, along with searches on the most relevant journals and the most relevant authors over the past two years. These papers were then searched for direct mentions of human rights, mentions of UN gender and human rights related initiatives, and for applicability/relevance to human rights more broadly.

RECOMMENDATIONS

- 1. Businesses need to ensure that their gender and CSR initiatives are informed by a comprehensive application of Human Rights Due Diligence as outlined in the UNGPs, including a gendered human rights impact assessment. In implementing the UNGPs, businesses must be made aware that win-win approaches to gender equality in business/CSR and women's empowerment programs are insufficient in themselves as a means to address women's human rights.
- 2. Human rights impact assessments by businesses should routinely include gender impact assessments relating to the workplace, supply chain operations, communities where business operate, and with respect to environmental issues, in all operations.
- 3. Findings from gender impact assessments need to be acted upon, responses tracked and communicated, and remedy implemented appropriately.
- 4. Development of gender and human rights reporting criteria are urgently needed to facilitate business implementation of human rights due diligence.
- 5. Women's full and equal participation in all governance structures relating to business and human rights needs to be given top priority by states, businesses, and all other actors in implementing the UNGPs, in line with their equal political rights as enshrined in CEDAW.
- 6. Effective implementation of the UNGPs is dependent upon enabling those directly affected (such as local, including indigenous, women) in particular in the global South, to participate fully and safely in identifying and designing remedy for business human rights violations.
- 7. Women's unpaid household and caring work must be addressed by all parties when implementing the UNGPs. This needs to be incorporated within the state duty. It can be applied also through human rights due diligence at the company level, via payment of corporate taxation, and other business initiatives to support, and pay for, such work, including supporting men to fulfil their caring responsibilities. This issue extends to the human rights of homeworkers in business supply chains.

THEMES EMERGING IN THE LITERATURE

Disconnect between gender and CSR, and GBHR agendas

Of the 95 references we interrogated in our literature review, 51 mention human rights, but few take this as their primary research lens. A further 10 papers reference women's rights, reproductive rights, and/or worker's rights. Only two papers discuss the UNGPs (de Jonge, 2016; Barrientos et al, 2017), and two discuss gender as part of human rights impact assessment (Grosser, 2009; Miles, 2011). Thus, our findings confirm a significant disconnect between gender and CSR and GBHR agendas. It will be very important to address this disconnect in future in research, and in practice.

Corporate approaches to gender equality, including in the context of CSR, often privilege economic benefit to the firm. Pursuing "women's rights for their own sake" is treated as secondary (e.g. Chant, 2016; Karam et al., 2018). This is one of the main problems identified in the gender and CSR literature.

Another key challenge is that gender and CSR initiatives sometimes advance women's human rights, but evidence also reveals that they sometimes undermine those rights (see below). Mostly companies implementing gender and CSR initiatives do so in a piecemeal way, picking initiatives that suit their purpose, without carrying out a gendered human rights impact assessment to inform this work. Thus, gender and CSR programs cannot substitute for gendered human rights due diligence (HRDD) as required by UNGP pillar 2. The latter can complement and enhance gender and CSR initiatives already in progress.

Gender inequality is used as a resource for global capital

The gender and CSR literature shows how gender inequality is central to the business case in many industries (e.g. Grosser and Moon, 2017; Ozkazanc-Pan 2018). Paying women less than men is an obvious case in point, with entire functions and job categories populated by lower-paid women, both within corporate headquarters and in their supply chains. Such job segregation lies at the root of violations of women's right to equal pay and conditions globally, and needs to be addressed more effectively as part of the State Duty and in business HRDD, including through guidance on best practice reporting on equal pay.

Relatedly, women's unpaid labour in the home subsidizes industry across the board (see below). In sum, a focus on win-win scenarios in gender and CSR practice cannot address women's human rights effectively.

Governance and participation

Women's political participation in decision making at all levels is a key human rights issue. Women remain under-represented in governance mechanisms at state, company and union level, and in new forms of multi-stakeholder governance of social and environmental issues globally (Kilgour 2007, 2013; Grosser 2016; Ozkazanc-Pan 2018; Alamgir and Banerjee 2018).

We find evidence in CSR initiatives of women's exclusion. For example, the Global Reporting Initiative database includes few civil society women's organisations as compared to human rights and environmental organisations.

Having more women in senior roles in companies correlates with gender-sensitive CSR initiatives. However, for women's human rights to be respected in business operations globally the participation of women, including locally affected women, in the design and implementation of corporate gender equality initiatives needs to be addressed much more broadly. Indeed, participation of women, especially women from the Global South, in the governance of business at all levels--company, multi-stakeholder, government, civil society, and union--is essential. This extends to civil society organizations that represent women's rights, including in the Global South (e.g. Grosser and Moon 2005b; Grosser and McCarthy, 2018). Addressing this is arguably the most important issue to ensure an ongoing gender sensitive approach to implementing the UNGPs.

Data gathering and reporting

Research identifies significant limitations in corporate reporting on gender equality, particularly with respect to core human rights issues such as equal opportunity in recruitment, retention and promotion, equal pay, and issues of sexual harassment (e.g. Grosser and Moon, 2008). CSR reports continue to contain little information on part-time or irregular employment, issues that are integral to addressing the gender pay gap (Lee and Parpart, 2018). Corporate reporting of gender impacts in supply chains and in communities remains minimal. CSR reporting on gender equality needs to be improved to enable effective gender sensitive HRDD.

Specifically, there is a need to improve CSR reporting with a focus on human rights and gender simultaneously, for example, through gender-segregated data pertaining to all human rights reporting criteria; guidance on human rights reporting criteria from a gender perspective; and gender impact assessments.

To include the perspectives of illiterate women in global value chains, data collection for gender impact assessments should incorporate interviews using interpreters, and visual participatory research methods (McCarthy and Muthuri, 2018).

Intersectionality

Many problems remain regarding corporate respect for women's human rights in the Global North. However, companies that address these issues don't necessarily extend this work to their operations in the Global South, where women often experience significantly greater human rights violations. In particular illiterate, uneducated, non-unionised, and indigenous women are caught between traditional gendered expectations and the operations of MNCs in the Global South.

Global supply chains

Longstanding evidence shows that increases in flexible, feminized labour markets undermine women's human rights (e.g. Bain, 2010). Human rights violations pertaining to millions of women in global supply chains are well documented in the literature (e.g. Barrientos et al., 2003, 2017; Hale and Opondo 2007; Gardener, 2012). These extend to forced overtime (which violates children's rights as well), sexual harassment, and gender-based violence both at work and when traveling to and from work at unsociable hours (e.g. Pearson 2007). Particular problems arise for women homeworkers not covered by formal codes of conduct (e.g. Delaney et al. 2016). We are aware of submissions to the UNWG on these supply chain issues and will not repeat relevant findings here.

We would emphasize, however, that beyond company codes of conduct, new governance processes to address human rights in global supply chains have focused on corporate risk, and fixing immediate health and safety challenges for example. While crucially important, such initiatives mostly fail to address the business models that encourage violations of women's human rights, including political participation (e.g. Alamgir and Banerjee 2018). They can be understood as "contemporary organizational efforts in the Global South that reproduce gendered neocolonial relations with institutionalized support from supranational institutions, governments, NGOs, and local elites." (Ozkazanc-Pan 2018, p.11). In gender and CSR scholarship, local women's participation in governance structures at all levels, including initiatives set up to address and remedy human rights in corporate supply chains, is given top priority.

Indigenous women

Human rights literature suggests that women's engagement to make decisions about what affects them is a basic and inalienable right (Kemp et al., 2010). In this context we note that indigenous women remain under-studied and under-protected when it comes to business and human rights (Bejou, 2016; Gibson and Kemp, 2008; Karam and Jamali, 2015), including with respect to the impacts of climate change (Seck, 2018). The experience of indigenous women has been studied in the mining industry for example, in which they traditionally worked in artisanal mining and family mines. These SMEs have largely been taken over by MNCs now. Some of these are attempting to increase employment for indigenous women, with very mixed success. However, major problems become apparent with respect to sitelevel corporate engagement with indigenous women in communities, both at planning stages and in dispute-resolution mechanisms, where we find little evidence of indigenous women negotiators. This is significant because adequate representation of the views of indigenous women achieve long-term outcomes to empower women, even if disputes remain unresolved (e.g. Gibson and Kemp, 2008).

Women's entrepreneurship and 'empowerment' programs

Meanwhile, gender and CSR initiatives, particularly in the Global South, frequently refer to women as an underused resource that could be tapped to help solve the world's economic problems. Gender and CSR scholars ask "if mounting reliance on women and girls to solve world poverty is an effective means to achieve greater female empowerment and gender equality, or whether, instead, it threatens to lock-down essentialising stereotypes which are unlikely to dismantle gender disparities within and beyond the home.'" (Chant 2016. p.1. See also Roberts, 2014; Tornhill, 2016a & b). Bexell (2012, p.203) notes "The absence of a human

rights discourse is striking in the partnership realm examined here, especially given the participation of United Nations bodies." In particular, research reveals that a focus on women's empowerment as an economic process, and women's entrepreneurship, "through conditional cash transfer programmes, microfinance schemes, and "investing in girls", as in the Nike Foundation's 'Girl Effect'" (Chant, 2016, p.1) can sideline and undermine women's human rights.

For example, instead of having their rights to farming land and employment in the cocoa industry upheld, women cocoa farmers in Ghana are sometimes offered the opportunity to participate in women's entrepreneurship programs, which involve precarious, informal work that is often poorly renumerated (McCarthy, 2017). While assistance with entrepreneurship does sometimes help individual women, it fails to challenge gendered structures of the global economy which undermine women's rights, and cannot substitute for addressing their human rights in formal business workplaces on a global scale (e.g. Bexell 2012).

Women's traditional roles as they intersect with business and human rights

Unpaid care work

It is well-known that women continue to do the vast majority of unpaid care work which sustains society and business, reproducing and caring for current and future workforce through childcare, eldercare, healthcare, household work, subsistence farming etc. As long as they continue to shoulder these significant responsibilities without remuneration, women's social, political and economic rights are compromised. For example, they are less able to access education and to compete equally in the job market, are forced to take poor quality, precarious, low-paid part time work, and are unable to access political rights for representation on a par with men (e.g. McCarthy 2018). This inequality needs to be addressed at all policy levels, but also by business. Flexible work options taken up almost exclusively by women, and rarely by men, cannot alone address this issue effectively.

An approach pioneered by feminist economists, among others, identifies corporate tax payment as a central CSR issue which can contribute to women's rights through greater funding for social care infrastructure. Payment of corporate tax must be included in an effective approach to GBHRs by States and businesses (e.g. Elson, 2016)

With respect to gender and CSR in the global South, "at present unpaid care work is (a) unrecognised in business CSR, (b) may be both reduced or exacerbated by CSR efforts, and (c) remains conceptualised as relevant only to the private sphere, therefore, missing a unique opportunity for business to contribute to gender equality and sustainable development." (McCarthy, 2018, p.337). Such findings can be reframed to contribute to the GBHR agenda, and extended to women homeworkers in global supply chains. Some positive business strategies in this context emerge in the literature. For example, "recognising that women's unpaid work represents an important input into production which should be valued and remunerated within a CSR agenda", Butler and Hoskyns (2016, p.155) reveal a Fairtrade pricing model in agriculture which includes payment for such work. While impacts are mixed, outcomes include greater financial power and respect for women; increased joint-decision making in households; and men taking on more housework work.

At the level of governance, the literature suggests representation of carers in decision making could contribute significantly to advancing women's human rights in business contexts, as well as more widely.

Women's reproductive rights

Agricultural work, especially when done by casual workers (mainly women), who are excluded from Global GAP standards, often violates women's reproductive rights. For example, pesticide wind drift has significant impact on (reproductive) health of women pickers, leading to low birth weight, miscarriage, fertility problems, and cytogenic damage to lymphocytes which can lead to cancer. Protective clothing can help, but aerial dispersal also impacts homes, where subsequent health issues double down on women as family carers, making it harder for women to earn a living. (e.g. Bain 2010).

Women continue to face dismissal due to pregnancy in the Global North, and this is routine in many business contexts in the Global South (e.g. Lauwo 2016).

The sex industry, and violence against women

Gender and CSR research reveals increasing integration of the sex industry into business models in other sectors. For example, in the financial services sector use of pornography in the workplace, as well as common use of strip-clubs as locations for business negotiations and entertainment, impact upon women's equal rights at work (Grosser 2016). Meanwhile, the mining sector has often been associated with prostitution (e.g. Lauwo, 2016) and integration of pornography in the retail sector is becoming more commonplace, in hotels for example (Dines 2010), where it is associated with sexual harassment of women staff (Holgersson and Thorgesson, 2016). With respect to remedy, scholars elucidate the development of company codes of conduct on prostitution/sex-work as related to all business workplaces (Holgersson and Thorgesson, 2016).

At a societal level the sex industry legitimizes, condones, and profits from the objectification of, and violence against, women, and trafficking in women. Profit-making specifically from violence against women (Walby, 2018) is a key issue in emerging CSR research on business and human rights, and modern slavery.

Finally, extreme misogyny in business contexts violates women's human rights, in the gaming industry for example (Busch et al., 2016), as well as in global supply chains (see above).

CONCLUSION

We consider that the UNGPs have the potential to significantly augment gender and CSR initiatives within businesses globally by placing the whole issue of gender equality and business within a human rights frame. The UNGPs provide a detailed practical framework for doing this that is already widely endorsed by government and business internationally. Given

the growing role and power of business in society, implementing the UNGPs with a gender lens is integral to enhancing women's human rights globally.

APPENDIX

This reference list was prepared by Dr Kate Grosser (RMIT University) and Dr Lauren McCarthy (Royal Holloway, London) in 2017, and added to by the authors of this report in 2018.

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