THE DANISH INSTITUTE FOR HUMAN RIGHTS

ADDRESSING THE GENDER DIMENSIONS OF BUSINESS AND HUMAN RIGHTS:

A SUMMARY REPORT FROM THREE THEMATIC GENDER LEARNING EXCHANGES ON THE DIGITAL TRANSITION, NATIONAL ACTION PLANS AND FEMINIST APPROACHES

THE DANISH INSTITUTE FOR HUMAN RIGHTS

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1 INTRODUCTION

In November 2020, the Danish Institute for Human Rights (DIHR) hosted a series of online learning exchanges focusing on select gender dimensions of business and human rights (BHR), namely: (1) gender in the digital transition in Eastern-Southern Africa; (2) gender in processes for the development of National Action Plans on Business and Human Rights (NAPs); and (3) connecting feminist approaches and BHR.

The objectives of the learning exchanges were to:

- Foster the greater integration of existing knowledge on gender into the field of BHR;

- Promote exchange and collaboration between practitioners and researchers actively working on the intersection of gender and BHR, with a view to enhancing the future direction of both practice- and research-based activities and outputs; and

- Collectively identify key engagement opportunities for addressing the gender dimensions of BHR, including in the context of the 'build back better'[1] and United Nations Guiding Principles on Business and Human Rights (UNGPs)+10[2] agendas.

Each exchange consisted of 3-4 small groups working in 90-minute sessions; where time zone coordination allowed, the small groups had a joint feedback session. Participants included representatives from civil society, national human rights institutions, government, business, multilateral institutions and academia, working from practice and research perspectives on the intersection of gender and BHR (see Annex A).

This summary report presents some of the highlights of the discussion and key themes emerging. It is intended as a resource document for those who participated in the exchanges, as well as the BHR community more broadly, to further strengthen the gender dimensions of BHR. A list of further resources generated by the participants is provided (see Annex B).

2 CONTEXT

Non-discrimination and gender equality are foundational principles of the international human rights system and the 2030 Agenda for Sustainable Development[3]. Despite this, overall attention to gender remains inadequate in most BHR frameworks, discourses and practices. This poses serious obstacles to the effective implementation of laws, policies, due diligence practices and access to remedy avenues in a manner that protects, respects and remediates the human rights of women, girls and lesbian, gay, bisexual, transgender and intersex (LGBTI+) persons. As such, there is an urgent need to better understand how gendered dynamics and power relations operate in BHR contexts, from diverse and interdisciplinary perspectives.

In the more practice-oriented space, notable recent initiatives include the UN Working Group on BHR Gender Guidance for states and businesses issued in June 2019[4], and the Office of the United Nations High Commissioner for Human Rights Standards of Conduct for Business on Tackling Discrimination Against LGBTI People issued in 2018[5]. In the academic space, current initiatives include special issue journals, such as the Business and Human Rights Journal special issue on the gender dimensions of BHR[6], as well as an increased focus on gender in the BHR research of academic institutions.

June 2021 will mark the ten-year anniversary of the Human Rights Council's (HRC) unanimous endorsement of the UNGPs. As part of its mandate to promote the UNGPs, the UN Working Group on BHR will take stock of achievements to date, assess existing gaps and challenges, and, most importantly, develop an ambitious vision and roadmap for implementing the UNGPs more widely and more broadly between now and 2030[7]. It is paramount that gender equality concerns are fully embedded in this review process and that they will be integrated into the roadmap going forward. Furthermore, in the context of the Covid-19 pandemic, it is essential this roadmap connects with the 'build back better' approach that presents an opportunity to ensure that gender equality concerns are fully embedded in short-term responses and longer-term recovery to build the more equal and resilient societies needed coming out of this crisis[8].

However, in these various initiatives for greater attention to gender in BHR, dialogue and exchange between practice and academia arguably remains under-utilised. The enhanced exchange of knowledge and approaches between practitioners and researchers working on the intersections of gender and BHR, could make an invaluable contribution towards generating practical tools and approaches that can be used by state, business and other actors to enhance their gender focus in UNGPs implementation; while at the same time, sharing of challenges and concrete examples from practice could contribute to ensuring that the future academic research agenda on gender and BHR responds to real-life and most urgent issues.

The aim of the learning exchanges was to contribute to closing this gap, by bringing together practitioners and researchers to generate increased learning about how feminist theory can inform BHR practice and generate practical recommendations for pressing gender and BHR themes in different global regions.

3 GENDER IN THE DIGITAL TRANSITION IN EASTERN - SOUTHERN AFRICA

3.1 ARTIFICIAL INTELLIGENCE

In terms of where and how a gender lens could be applied to the development and deployment of artificial intelligence (AI), participants noted the need to ensure diversity among developers and provide a concrete explanation of pervasive issues. Participants agreed that throughout the AI life cycle, there needs to be rigorous testing prior to the launch. They noted the pervasiveness of discrimination, even when gender variables may be hidden within the algorithm. In terms of concrete strategies, it was suggested to require independent monitoring and auditing and to include women's voices in policy-making surrounding AI so that it is gender responsive.

Several key challenges were discussed. Participants noted the difficulty of mobilising a movement and stressed the need for advocacy and campaigning which is reflective of the individuals impacted. They raised difficulties such as targeted ads infringing on the right to privacy for example through "outing" members of the LGBTI+ community or exposing women who have searched for sexual health information through targeted ads, noting the additional exposure that would occur if this information was shared. The difficulty of holding companies accountable for this exposure when it is not clear how the targeted ads were shown was also raised. Participants noted that it is therefore important to develop strategies to capacitate civil society to be able to hold companies accountable.

DISCUSSION QUESTIONS ARTIFICIAL INTELLIGENCE:

1. Round of introductions: How have you personally been engaged with the topic of gender and AI?

2. What have been some effective strategies to apply a gender lens to the development and deployment of AI?

3. What have been the key challenges to ensuring that a gender lens is applied?

4. What are the key points going forward, in terms of methodologies and approaches that can be used to ensure that a gender lens is applied to the development to deployment of AI, including in policy development?

Participants raised that while it is typical to discuss internet access, it is not common to discuss the disparities related to enjoyment of the internet, noting that an environment which is unfriendly to women will perpetuate gaps in engagement. They also noted that most people are reticent to discuss gender and that there is a need

for becoming gender inclusive and contextually appropriate and consistent with the lived experience of users. Participants cited as the final hurdle the knowledge gap related to AI, which presents difficulties in ensuring that civil society is able to join in policy discussions and development.

Building on these issues, participants acknowledged the need to learn from gender activist groups from different communities on how they were able to achieve progress on these topics. In addition, companies must be pushed to take gender into account in the development process and take actions affirmatively, rather than as a reactive measure to scandals. They noted with optimism that a legally binding treaty on BHR would force AI developers to consider the human rights impacts of their products and services. In terms of stakeholders, participants noted that affected people must be brought into policy discussion around AI development (or have AI discussions brought to them) and that context is essential in understanding particular impacts on particular people, rather than having broad brush decisions. Concretely, participants agreed that multi-stakeholder engagement is also key, but must not be extractive or performative in relation to impacted individuals and that more data must be made available to be able to truly assess the impacts of AI.

3.2 INTERNET ACCESS/GENDER DIGITAL DIVIDE

Discussing effective strategies to integrate gender into internet access and digital equality discussions and developments, participants homed in on the value of supporting fellow women through a variety of mentorship structures, noting that this leads to representation, which is essential in ensuring that policies in place around internet access are gender responsive and bring gender issues to the forefront. There is also a need for awareness raising, particularly as relates to career opportunities in tech to bridge the digital divide and on gender-related issues (such as violence) to facilitate relevant policy efforts. In addition, digital literacy and security training is essential in ensuring that more women are active on the internet.

At the same time, it is important to recognise the work that women are already doing in this space, which will allow them to feel empowered and able to act as role models to inspire others

DISCUSSION QUESTIONS INTERNET ACCESS/GENDER DIGITAL DIVIDE:

1. Round of introductions: How have you personally been engaged in work around the gender digital divide?

2. What have been some effective strategies to integrate gender in internet access and digital equality discussions and developments?

3. What have been the key challenges in working on the gender digital divide?

4. What are the key points for future work to address the gender digital divide? What roles do different stakeholders play (i.e. civil society, state actors, the private sector)? What type of partnerships and alliances would be most effective?

to follow their career paths. This can be done through exchanges, women circles, etc. One participant noted that in the community network space, it has been helpful to involve women from Latin America that have worked to set up community networks in discussions with participants in Africa about community networks. Participants also noted the importance of recognising women without degrees within the broader conversation instead of focusing exclusively on highly educated women.

One participant cited their experience in deciding to allow 30% participation from men/boys in their network that was initially structured to be 100% for women, given the importance of including men in the cultural change within their communities. They noted that this experience was a success not only in teaching about information communication technologies (ICT), but about gender roles in general. Participants furthered that it is important to include community members in all initiatives to bridge the gender digital divide in the community.

Turning to challenges, it was noted that there are larger problems with internet affordability, which causes the ripple effect of barriers to access and training. Poor physical infrastructure was also listed as a challenge. Participants noted that policies about internet access and affordability are in general not gender responsive, and participants had heard the argument 'if it is neutral, it is inclusive'. Other challenges noted included online sexual and gender-based violence (SGBV), leading to households not allowing women to use smartphones or social media; male-dominated ICT centres; and women and girls having no time to use the internet and gain capacity due to a number of other responsibilities. In support of the latter, participants provided examples of ICT centres that are open at times when women are not able to go there because of other responsibilities. Free public internet in cities only made available in downtown areas between 6pm and midnight, rendering it practically useless for women who will not be there to take advantage of it; and affordable data packages only available after midnight when only very few women will be able to take advantage of it. Finally, it was noted that data is lacking about women's access to internet, which makes it difficult to assess the successes or failures of policies, evidencing a clear need for better and more disaggregated data.

Noting the above, participants agreed on the necessity of specific gender-responsive policies speaking to internet infrastructure and accessibility and more community networks for underserved areas supported by public policies. It was noted that this should be supported by better statistics to monitor policy implementation. Turning to the private sector, it was noted that corporate actors should pay more attention to privacy and security concerns with a particular focus on women's rights online. In addition, the private sector should understand that it is in their interest to empower women, who represent a large, untapped market, and if they were to develop women-centred products, they would likely fare well.

Finally, participants expressed a need for working with younger generations to change young peoples' minds, encouraging STEM education for women, building movements and empowering women – in the public and private sectors.

3.3 CONTENT REGULATION

For the purposes of the discussion, 'content regulation' was understood more broadly as content generation and consumption. Before getting into discussions on challenges and next steps, participants sought to define gender discrimination in respect to content generation/moderation. One participant pointed to a recent analysis of news debates on Facebook, which revealed that women are targeted more than men with hateful speech and that content linked to gender equality is disproportionately targeted, adding that relatedly, women refrained from public debates because of hateful content. The need to be mindful of the interrelated nature of online and offline discrimination was also noted, as supported by the fact that women's access to internet being restricted is a symptom of offline discrimination. As an example of online hate translating into offline hate, a participant noted changes in attitudes regarding girls groomed for pornography ('slave queens') whereby people victim-blame girls for what happens to them such as through being judged for their 'online outfits'. One participant noted that women are often attacked for their views, but this also happens to men.

Several challenges were discussed towards addressing hate speech. Related to online platforms, it was noted that platforms operate with double standards, for example, one participant expressed that in the African context demands for removing content is not treated with the same seriousness as in some Global North countries. They further shared that African journalists/researchers do not enjoy the same access to communications with these companies as the American counterparts. In addition, reporting and statistics shared by platforms on hateful speech against women is weak and community guidelines differ across platforms and implementation is not uniform. Participants also pointed to a lack of: transparency and accountability on how rules are applied; effective and clear procedure for reporting human rights abuses; and context knowledge, noting a bias in content moderation with very few moderators possessing knowledge of local languages.

> **DISCUSSION QUESTIONS CONTENT REGULATION:**
>
> 1. How have you personally been engaged with the topic of content moderation and gender?
>
> 2. How does gender shape and is shaped by content moderation practices and approaches? What can a gender lens reveal about the power asymmetries and exclusions underlying content moderation practice?
>
> 3. What have been key challenges in working on gender and content moderation?
>
> 4. What approaches, methodologies and research could we build on to ensure the gender dimensions of content moderation are adequately reflected in BHR policies and processes? What type of partnerships and alliances would be most effective?

One participant noted that they were involved with national policy-makers who were considering the adoption of a law on content regulation, but noted many red

flags, including: level of responsibility imposed on private companies, leading to putting companies in the position of policing and judging their own platforms; regulatory solutions amounting to 'privatised law enforcement'; and a lack of resources and competence for law enforcement to investigate complaints related to digital rights. The participant underscored the need for robust procedures for oversight and transparency.

Turning to opportunities and next steps, participants noted the need for better coordination between companies, civil society organisations (CSOs) and states to ensure that platforms use rights-respecting standards in a consistent manner, including reporting and transparency on the implementation of the community guidelines. They also pointed out a desire to further flesh out guidance from UN Special Rapporteurs by 'road-testing' them with local groups to identify practical examples and more granular recommendations, for example, the UN Special Rapporteur on Freedom of Expression David Kaye's report on a human rights approach to content moderation. Finally, they pointed to the need for sensitivity to local context by platforms through: moderators who speak local languages; stakeholder engagement with local groups, including women's rights organisations; and treating African users with respect – and not only as an opportunity to extract more data.

DIGITAL TRANSITION THEME
TAKE-HOME POINTS

1. To ensure that technological innovations are gender responsive, it is important that independent monitoring and auditing are in place, including that women are involved in policy-making.

2. Consulting gender activist groups from different communities on how they were able to achieve progress on specific topics can be instrumental in ensuring that considerations surrounding gender are adequately mainstreamed. Multi-stakeholder engagement must not be extractive or performative in relation to impacted individuals and more data needs to be made available to be able to truly assess the gender impacts of tech.

3. Business actors need to be pushed to take gender into account in the tech and AI development process and take actions affirmatively, rather than as a reactive measure to scandals. In addition, more attention needs to be paid to privacy and security concerns with a particular focus on women's rights online.

4. It is important that business actors understand that it is in their interest to empower women, who represent a large part of their potential user base, and if they were to develop women-centred products, they would likely fare well.

5. A variety of mentorship structures for women could contribute to ensuring there is adequate representation, which is essential for ensuring that policies in place around tech are gender responsive and bring gender issues to the forefront. Part of this entails that women's existing contributions to the field are recognised.

6. Awareness raising surrounding opportunities in tech to bridge the digital divide and on gender-related issues (such as violence) is crucial to facilitate relevant policy efforts.

7. Digital literacy and security training is essential in ensuring that more women are active on the internet.

8. In both the public and private sector, it is important to work with younger generations to encourage STEM education for women, build movements and empower women.

9. Companies, CSOs and states can improve coordination to ensure that platforms use rights-respecting standards in a consistent manner, including reporting and transparency on the implementation of the community guidelines.

10.Online platforms need to increase sensitivity to local context including by putting in place moderators who speak local languages; maintaining stakeholder engagement with local groups, including women's rights organisations; and treating African users with respect.

4 NATIONAL ACTION PLANS ON BHR

4.1 AFRICA

On the topic of integrating gender in NAPs processes in Africa, the group discussed the question as to whether to integrate gender throughout the NAP or whether to have a stand-alone section on gender. Participants were in agreement that because gender is not a singular issue but permeates attitudes and practices of all facets of society, the more desirable approach is to integrate gender throughout the NAP, properly analysing the gender dimensions of all the individual topics addressed. The need to be more deliberate about addressing gender was also pointed to. This could be achieved, for instance, through more explicitly requiring gender analysis in the terms of reference for the NAP and the deliverables of those leading the process for the development of the NAP. Relatedly, that the baseline study identifies gender issues sets an important precedent for the subsequent inclusion of gender issues in the NAP. The importance of consultation targeting different groups of women – including workers, business owners and community members; those from indigenous and other minorities and marginalised communities; those who own land and those who do not own land, migrants and so forth – was stressed, including the need to

apply an intersectional lens to the different characteristics and issues emerging from consultations. Key to success also, is that consultations go far enough to not only ensure the participation of diverse groups but extend to eliciting the concerns and possible solutions offered by different groups. Preferably, consultations should be an ongoing rather than a time-specific process, allowing for the possibility of integrating changes throughout the NAP development process. Consultations should also be structured in a format that considers the different capacities of the different groups; and include opportunities for capacity development, tailored to meet the respective capacity needs of the groups. Even with best efforts, there is no guarantee that extensive consultation will yield the desired information. Participants therefore suggested to consult gender experts and other civil society groups with experience in integration of gender into policy and

those that work directly with women at different levels right from the grassroots. These groups can make invaluable contributions to sharpen and deepen the understanding of gendered impacts.

In terms of challenges, three central points emerged from the discussion. First, the importance of adequate resources, both time and financial, which has critical implications for the reach and depth of consultations and research, including gender dimensions. Second, challenges associated with balancing the different interests emerging in the NAPs process were noted. For example, due to competing voices and interests, the different manifestations of gender vulnerabilities among groups are not always observed. Third, the availability of reliable data was flagged, i.e. the need for data on gender as relevant to the different thematic areas in the development of the NAP.

On the question of key points to strengthen gender in NAPs processes and content, focus on the implementation phase was flagged as crucial. The NAP is not self-executing, thus, an implementation plan is necessary. Moreover, it helps in unbundling high-level policy statements into specific actionable measures and indicators. This

supports accountability demands by CSOs and communities. There is thus a need to ensure that gender considerations are clearly included at the stage of NAP implementation. Likewise, the effective and timely dissemination of the NAP to all stakeholders is important. Continuous awareness raising on the gender dimensions of BHR and other human rights frameworks can support. A minimum level of awareness is a prerequisite for people to act. Participants also pointed to the need to build the capacity of duty-bearers on gender integration, in both public and private spheres. Furthermore, the need to foster collaboration between different stakeholders as a means of ensuring effective and efficient use of resources and expertise, including on gender, was floated. As a pre-requisite here, technical support for gender integration for those stakeholders and rights-holders who need it was noted as critical.

4.2 LATIN AMERICA AND THE CARIBBEAN

On the question of effective strategies to integrate gender in NAPs processes, all the participants highlighted the relevance of civil society participation, including women. Several of the participants also stressed the need to include LGBTI+ persons into the process. Practical experience with NAPs processes in the region revealed two ways in which gender could be integrated: (1) including a specific chapter or section focused on gender issues, and/or; (2) taking into consideration the gender dimension across all activities, goals and indicators of the NAP. The participants recommended the latter option as good practice for integrating gender into NAPs. The intersectionality of gender and other perspectives was also noted as highly relevant for consideration, especially with ethnic and disability perspectives. Several strategies were shared that have been applied in the region to integrate gender in NAPs processes. For instance, promoting and ensuring participation of women and LGBTI+ organisations in the NAPs formulation process. Involving women and LGBTI+ organisations in the development of baseline studies, in order to identify differentiated impacts on their rights in the context of business activities was also noted. As well as promoting a gender perspective with civil servants and other public actors involved in NAPs processes.

In the discussion on challenges, several points emerged. First, it was pointed out that ample participation in the formulation of the NAP takes time and financial resources and governments usually do not have enough of either for the process. Each actor, including the state, needs time to understand what gender means in the context of the NAP and what would be the best way to integrate it. Second, public policies in Latin America used to be linked to a government, and with political changes come policy changes, raising the question of how to make the NAP a state policy. A third point related to the balance within the participation process. Participation is not only the possibility to be in the room. It implies resources and enough knowledge in order to be effective, implying that all actors – state, business and civil society – need to have prior knowledge on BHR and gender. If they do not, the process should build capacities in those fields to facilitate the effective integration of gender perspectives in the process.

On next steps, participants stressed the need to make business actors more sensi-

tive to human rights impacts, in-
cluding the gender dimensions
of such impacts. Taking effective
steps to ensure the inclusion
of LGBTI+ persons in the NAP
process was also noted. As well
as taking an approach to gender
in the NAP that encompasses
benchmarks and indicators,
considering intersectionality.
Cultural patterns regarding
gender can be deconstructed
through education within a
NAPs process. Lastly, strength-
ening the interrelation between
human rights and the sustain-
able development goals (SDGs)
was noted as an opportunity to
embed gender perspectives in
NAPs, for example, by fostering
understanding among business
actors that the UNGPs provide a
critical framework for respecting
human rights in the context of
the SDGs.

4.3 ASIA

In relation to the first question
on effective strategies for in-
tegrating gender in NAPs pro-

cesses, points raised by the participants centred around the need to take a holistic
approach. For instance, that gender needs to be embedded within each of the
three pillars of the NAP in an intersectional manner, rather than being presented as
an 'add on'. A related point focused more on the process for developing the NAP,
with participants noting the importance of having gender experts and women's
rights representatives be a part of the drafting committee and the consultations.
To avoid gender considerations becoming a tick-the-box exercise, women need to
be given a seat at the table with an active voice to participate. The importance of
diversity in terms of participation was also flagged. Furthermore, it was noted that
it is important to look both at the baseline assessment as well as the NAP from a
gender perspective in terms of issues coverage. For instance, in the Asian region the
information economy and extended supply chain, and gender issues therein, were
pointed out as central. In taking a gender focus, the importance of considering the
relevant cultural context was deemed critical for ensuring the development of NAPs
that address salient issues and can be effectively implemented.

In terms of challenges, gender biases in consultations was a central discussion
point. Participants pointed out, for instance, that in country contexts where it is

more common for men to engage in formal consultation processes, ensuring that women are adequately included and represented in NAPs processes can be challenging. A second challenge noted is that a NAPs process can be perceived as too critical of the law and the state, where it points to persistent and structural gender inequalities. In terms of addressing business actors, continual disparities in terms of women's representation on boards and in senior management positions, as well as the pervasive perception that businesses do not need BHR because they have corporate social responsibility (CSR) in place, were perceived as challenges to working towards greater integration of gender and women's rights in NAPs processes and content. The role of media in acknowledging and problematising gender inequalities was pointed out.

Turning to next steps, the discussion focused on the perceived disconnect between 'BHR' and 'gender', which sometimes seem to exist in parallel. To effectively integrate gender in NAPs, creating further cross-polarisation of the two fields, including through capacity building, was pointed out as an opportunity to which NAPs processes could contribute. Recognising the synergies between BHR and SDG frameworks could also assist in this regard. The importance of making good use of networking and partnerships in NAPs processes was also perceived as critical for fostering stronger gender integration. As was the role of academia and media, with participants pointing to opportunities for the greater involvement of these parties in NAPs processes to illuminate gender issues.

4.4 EUROPE

On the question of effective strategies for integrating gender into NAPs processes, participants discussed several points. In particular, it was noted that the integration of gender has two dimensions: a substantive one, in terms of the types of topics that are addressed by the NAP; and a procedural one, considering how women and vulnerable groups are included in the consultation and engagement processes. With

regard to the substantive element, participants pointed to the importance of including concrete examples and measures of how attention to gender equality should be actualised by state and business actors. As well as that gender should be integrated more holistically, rather than constituting a separate paper or area of study. With regard to the process element, participants noted that a gender focus can also facilitate reaching other vulnerable groups and help with a deeper understanding of what types of business-related human rights abuses various groups face. The utility of multi-stakeholder engagement groups was highlighted, including the importance of engaging gender organisations and ministries with responsibilities for gender in the NAPs process.

In terms of challenges, the evident lack of gender topics

in most NAPs from the region was remarked upon. Where gender equality is mentioned, this is usually without accompanying concrete measures of how further integration of gender in BHR can be achieved. There also seems to be a distinct lack of gender analysis in relevant topics, such as austerity measures. A further challenge noted was the coordination and coherence between different types of action plans to ensure that a consistent approach to gender in BHR is presented and implemented. The need to prioritise different gender-related measures in the face of finite resources constitutes a further challenge, especially in the current Covid-19 context. Limited capacity on gender among those in charge of developing and implementing NAPs was noted, as well as the need to ensure that gender is integrated in monitoring frameworks.

In considering key points going forward, participants discussed a number of elements. First, the increased involvement of gender representatives as part of NAPs processes, including the need for this to take an intersectional approach; for example, the involvement of ministries with gender responsibilities in the NAP process

was suggested or creating gender focal points. Relatedly, integrating further attention to gender budgeting as well as remedies for SGBV was discussed. Opportunities for the inclusion of more specific recommendations and action points on gender in NAPs can be realised, preferably with the measurable associated goals and targets that can then be a part of the implementation and accountability framework for NAP implementation. To further enhance accountability, independent monitoring, including the allocation of time and financial resources for this, and possibly through a multi-stakeholder model, could help to follow up on gender-relevant measures. Cross-cutting, is the need for gender capacity building, to ensure that the NAP duty-bearers have the requisite gender knowledge to effectively mainstream gender in NAPs processes and content. Peer review of NAPs within the region was presented as a further opportunity to highlight gender gaps and opportunities in implementation. Lastly, where NAPs include measures to work towards binding obligations, such as mandatory human rights due diligence, it was suggested that gender dimensions should be adequately considered and reflected in such measures.

NATIONAL ACTION PLANS THEME
TAKE-HOME POINTS

1. To ensure a holistic approach, it is important that gender is meaningfully integrated throughout the NAP, including all three pillars, rather than being presented exclusively as a stand-alone section on gender.

2. In taking a gender focus, the importance of considering the cultural context is critical for ensuring the development of NAPs that address salient issues and can be effectively implemented.

3. The integration of gender in NAPs processes can be fostered through more explicitly requiring gender analysis in critical documents and gateways, such as baseline studies preceding NAPs, terms of reference for NAP development, and the various interim deliverables generated in working towards the NAP.

4. NAPs consultations provide important opportunities for hearing the voices and responding to the issues raised by diverse groups of women – including workers, business owners and community members; those from indigenous and other minorities and marginalised communities; those who own land and those who do not own land, migrants and so forth. Preferably, consultations are ongoing rather than a one-off exercise.

5. In addition to consulting with women directly, consulting gender experts and other civils society groups with experience in integration of gender into policy and those working directly with women can assist in ensuring relevant gender issues are adequately covered and responded to in NAPs.

6. Ensuring adequate financial and time resources to engage women and seek gender perspectives is important.

7. The use of reliable gender-relevant data in the NAP can contribute to setting the relevant goals and targets.

8. The implementation phase is crucial and there is need to ensure that gender considerations are clearly embedded at this stage, including through concrete and measurable action points and targets; as well as gender consideration as part of mandatory measures proposed, e.g., mandatory human rights due diligence.

9. There is need to build the capacity of duty-bearers on gender integration, in both public and private spheres; including involving gender ministries or gender focal points in NAPs processes.

10. There is need to foster collaboration between different stakeholders as a means of ensuring effective and efficient use of resources and expertise, including on gender, through networks and partnerships. Technical support for gender integration should be provided to stakeholders and rights-holders who need it.

5. FEMINIST THEORY AND BHR FRAMEWORKS

5.1 SITUATING WOMEN'S EMPOWERMENT IN BHR

The conversation was broad ranging and free flowing, with the most time spent on the first two agenda items, which were discussed in tandem. Participants noted an interest in women's empowerment in the agriculture sector and within venture capitalism where there are less women in the workforce and discussed how the concept of gender is being embedded in social relations of power and the fact that debates need to engage with patriarchy as a form of oppression rather than using an apolitical approach grounded in the concept of women's empowerment. They cited research that found that the existing initiatives that are most commonly promoted within existing corporate structures include: (1) corporate practice; and (2) corporate responsibility programmes to advance women. One participant added that the most effective strategies – quota-oriented approaches – have not always been welcomed and while business leaders respond well to information linking women's empowerment to productivity, there is danger in having to make a business case for women's empowerment. However, one participant stated that in religious and patriarchal societies, the economic case for women's empowerment can be seen as particularly persuasive.

Participants noted that in some instances, the corporate form can and should be challenged, citing the success of feminist political ecology, and added that the diversity and inclusion approach seeks to work within the limits of the corporate form and make people understand the value of diversity at large. One participant pushed back against the broader diversity and inclusion approach, arguing that women are in a materially different group from other groups and need the infrastructure in place to thrive, particularly noting the infrastructural problems of disparate unpaid care responsibilities and discrimination in access to financial and other economic resources including land. Participants agreed that it is important to work with both women and men on women's empowerment, that intersectionality is key, and that there is a need for having an understanding of the problem and undertaking a theory of change exercise on how to get to the desired endpoint. As such, there is a need to have a tool in place to fit the desired change.

> **DISCUSSION QUESTIONS WOMEN'S EMPOWERMENT IN BHR:**
>
> 1. Round of introductions – how have you personally been working with women's empowerment in BHR?
>
> 2. What have been some effective strategies/approaches of using a women's empowerment lens to the work that you do?
>
> 3. What are some of the key challenges and critiques of the women's empowerment approach, and how can they usefully inform practice?
>
> 4. What are the key points going forward – how can the discourse/practice/critique of women's empowerment contribute to strengthening the integration of gender in BHR?

The conversation turned to the subject of a living wage and wage parity, which participants agreed companies must be transparent in striving for. One participant stated that the minority of companies seem to be working on this, though it should be seen as a standard imposed by international labour law and international human rights treaties, and the UNGPs should be seen as an obligation supported by international human rights law.

Some challenges, however, were noted. Participants brought up that the current focus of the women's empowerment movement is on what women lack, rather than what they have, and there is a need for greater recognition of women's agency as well as transformative approaches rather than seeking to fit women into existing, unequal socio-economic power structures. They added that the current approach can lead to sex segregation in the workforce and a failure to acknowledge that sexism is a broader issue in communities. Participants from the business sector cited programmes which are focused on women's empowerment within their business and value chain (e.g., advertising campaigns) and those aimed at the broader community (e.g., street harassment) to note the need for different efforts based on the target audience. Participants agreed that it is important to show that women's empowerment is relevant to different stakeholders.

One participant noted that the next industrial revolution shows both challenges and opportunities for women. It was noted that the Covid-19 pandemic has presented

both, with an increase in women being able to work and attend meetings because of these moving online, but increased care responsibilities, which for instance have resulted in a decrease in the number of publications by women in academia as well as numerous job losses in female-dominated sectors of the economy. Other opportunities and next steps that were contemplated included: the development of a universal basic income; a stronger push towards awareness of discrimination against women; a re-evaluation of the corporate form through a gender-transformative approach; and a shift from business volunteerism to obligation. Speaking on the latter, participants noted the distinction between a business's obligation to 'do no harm' and desire to do good, as enshrined in the UNGPs. Participants agreed that there is a need for a stronger focus on integrating gender into the UNGPs, lamenting that very few business' action plans under the UNGPs include points on gender, and praising the UN Working Group's Gender Guidance to the UNGPs.

5.2 UNWG GENDER GUIDANCE AND UNGPS+10

In terms of where and how the UN Working Group's Gender Guidance has been useful, participants noted that a key benefit is that it challenges the prior gender-blindness in the implementation of the UNGPs. For example, the Gender Guidance makes clear that SGBV is a key issue in all industries, global regions and BHR facets, rather than being isolated to, for instance, conflict zones. This has been further reinforced by ILO 190 on Violence and Harassment in the World of Work which coincidentally was adopted at the same time as the publication of the Gender Guidance and sets for the first time a standard for business on the matter. Furthermore, it was pointed out that the Gender Guidance's illustrative examples provide useful practical guidance on how gender can be better integrated into each of the UNGPs' three pillars. In particular, the unequivocal call for gender impact assessment as a core part of human rights due diligence provides practitioners with a solid basis for action, with participants sharing concrete examples of where they had already implemented this requirement in due diligence tools used. Participants also noted that a critical point made by the Gender Guidance is to clarify and re-iterate that the understanding of non-discrimination and gender equality should be one of substantive gender equality, including proactive use of influence and special measures to achieve gender equality in BHR, rather than remaining within a more narrow ambit of understanding of non-discrimination focused on formal equality and non-interference. One participant usefully summed up these sentiments by suggesting that rather than viewing the Gender Guidance as a 'guidance', it could be viewed as the UNGPs 2.0, with the implication that gender must be an inherent element of any UNGPs implementation.

Several challenges, however, were also noted. In particular, that the Gender Guidance is not widely known and that in many situations and organisations frameworks such as the UNGPs, SDGs and women's empowerment are most commonly relied upon, although they are insufficiently connected to the Gender Guidance. This, participants considered, reflects the wider remaining divide between the fields of 'gender' and 'BHR'. While references to intersectionality in the guidance were welcomed by participants, the understanding and practical application of the concept of intersectionality remains limited among many BHR stakeholders. Practical chal-

lenges were also pointed to, such as how to: collect workplace diversity data while respecting privacy; address systemic inequality; institutionalise gender in companies beyond the human resources domain; and how to ensure more coherence in state approaches to gender (e.g., where gender is integrated in foreign policy but at the same time not considered in policy and frameworks for holding companies accountable for adverse gender impacts in overseas activities). A further discussion point revolved around the engagement of women and women's organisations in BHR processes, such as the negotiations for a binding treaty; and the need to integrate gender perspectives in diverse BHR themes and processes, rather than it being a separate and stand-alone discussion.

Building on these experiences, the session concluded with consideration of some of the opportunities going forward. On the state side, it was pointed out that more use could be made of existing gender data (e.g., CEDAW, OHCHR Working Group on discrimination against women and SDG 5 reporting) to inform Pillar I initiatives. More could be done in both using available data but also seeking to produce data on the 54 gender-specific SDG indicators across the 17 SDGs not just SDG 5. The momentum for increased focus on SGBV generated by Covid-19 could also be harnessed to inform BHR work and frameworks going forward. To work towards greater integration and synergy between gender and BHR efforts, further collaboration and engagement both in the applied and academic spheres could be promoted through, for example, drawing on the gender work of foundations, drawing on gender theory in the development of human rights due diligence frameworks and practice, or generating joint practice-research gender BHR initiatives that can serve the dual purpose of increasing attention to gender in BHR practice as well as scholarly enquiry. Participants also pointed to engagement opportunities in several current standards revision processes, for example, the update of the UNGC Communicating on Progress framework and the Women's Empowerment Principles reporting guidance (presenting opportunities to align gender and UNGPs indicators), as well as the GRI reporting update. Engaging with efforts to address the rights of LGBTI+ persons was noted as an opportunity, including to further understanding of the changing concept of intersectionality. In terms of business actors, participants pointed out that those that have ambitious targets on gender are often those that move most quickly on other aspects of gender integration into human rights due diligence. As such, setting ambitious targets on gender presents a key opportunity for businesses to build their gender approach more broadly. Lastly, increasing efforts to bridge between the SDGs and the UNGPs was noted as a key opportunity for strengthening BHR action on gender going forward.

5.3 FEMINIST THEORY AND BHR

In terms of key gaps and challenges related to connecting feminist theory and BHR, participants raised a number of interrelated points. A first discussion topic centred around the persistence of the business case for women's rights, across several iterations of various BHR spaces. Several participants pointed out that predominant reliance on the business case can undermine women's rights and the greater integration of feminist perspectives in BHR, as the importance of women's rights is not recognised a priori but rather, needs to be justified in terms of economic benefits. This was noted as deeply problematic both from a normative perspective but also a practical one, as attention to women's rights issues that cannot be promoted through an economic argument risk falling by the wayside.

A second related point centred on the definitions of 'feminism' in the context of BHR. Coming from different disciplinary and regional perspectives, all participants pointed to the need for more nuanced understandings. For instance, that application of different types of feminism in BHR frameworks and practice remains limited, posing challenges to developing more dynamic understandings of gender equality. How to avoid an application of gender that essentialises women, in favour of approaches that provide the possibility of solidarity without being essentialising, was flagged. Some participants also raised the concern that generalised application of gender in BHR in the absence of a thorough basis in feminism and women's rights risks softening the challenges that are being posed and the responses being developed, resulting, for instance, in the all-too-common 'add women and stir' approach. Similarly, relegating discussions of gender to single-issue hot topics such as SGBV, participation or equal pay risks undermining a more holistic perspective that addresses the full range of women's rights and is premised upon an understanding that these are interrelated and challenged by systemic structural discrimination.

A third discussion point related to the intersections of gender and race. It was noted that the BHR agenda remains very euro-centric and that there is often a stark absence of Global South communities, especially those that are most affected by corporate power and BHR, and the group discussed the absence/exclusion of Black Women and Women of Colour in BHR policy spaces. One participant aptly summarised this as much of the BHR discourse currently being 'too male, too pale and too stale'. While this issue is not exclusive to BHR, participants noted that unless BHR discourse and spaces effectively problematise such dynamics and tackle the underpinning structural barriers, racism and discrimination, that BHR will remain exclusive and continue to alienate more diverse participants and allies, in particular communities from the Global South. Relatedly, the development of more intersectional approaches to BHR that tackle human rights issues as experienced by different women, will be inhibited.

Moving into solutions mode, the group discussion focused on the need for a shift in power to enable the development of more gender-transformative approaches in BHR. A first set of practical suggestions centred around getting more diverse women into different positions, for example, fostered through paid scholarships at universities and the UN; greater integration of women's rights organisations in

international processes such as that for a binding treaty and CEO positions in businesses. Creating more connections between academics and women's rights organisations, is one way through which current binary and reductionist interpretations of gender and women's empowerment could be challenged. Building on participant concerns regarding a disconnect between feminism and global capitalism, opportunities to rethink how business is done were flagged, for example, through exploring alternative economic structures and business models. Neo-liberal feminist critique was pointed out as particularly helpful for articulating and addressing these challenges. The current Covid-19 crisis has elevated the urgency and provides impetus for change in this regard. Lastly, the issue of 'silos as strategic silence' emerged and participants discussed the need for inter-disciplinary discussion and approaches, including to foster greater connection between human rights, feminist and BHR perspectives and practices.

5.4 FEMINIST PERSPECTIVES ON B-CORP

The discussion on feminist perspectives on B-corp cast doubt on whether such topics were compatible, with participants sharing their scepticism as to the existence of a feminist perspective within the realm of B-corp. One participant shared that they are usually reticent to engage on this topic, as it ignores wider reform efforts, furthering that the B-corp model was created by a small group of individuals whose demographics do not represent those of the full population who will be impacted by the model, and whose model only mimicked the existing approach to considering shareholder interests, and in so doing, created celebrity status for themselves. In addition, they noted that B-corp circumvented the broader efforts to reform the corporate form, with the creators lobbying governments to adopt their approach, which is private, with all websites leading to the B-corp page, rather than being state led. Although the dialogue surrounding B-corp includes maximising stakeholder (rather than shareholder) value, it is regulated like a standard corporation. The participants expressed deep concern about labelling B-corp as feminist, stating that it is a movement that privatises the movement for change, a lobbying machine, and extremely problematic.

Another participant contributed the perspective in which B-corp is seen only as a label to attract consumers. They also agreed with the scepticism expressed before on integrating a feminist perspective into B-corp, noting that the gender approach they had observed functioned more as a tick-the-box exercise. Another participant joined

in the criticism, adding that the current parame-ters of B-corp do not allow for space to act in a socially responsible manner, and the way that the B-corp approach views the corporate model must be challenged to allow a broader perspective. Another participant noted that in their jurisdiction there is not a clearly defined purpose of the company, but provisions on directors' duties speak to what must be considered. The participant noted the difficulty of getting directors to balance those interests and stated the need for structural reform.

Pondering the previous conversation, it was suggested that perhaps one manner of looking at B-corp from a feminist perspective is that it did broaden the greater conversation surrounding the corporate model to include a more diverse range of stakeholders. This point was contested, with a participant countering that the B-corp narrative did not deserve praise for broadening the conversation to additional stakeholder interests, as it still exists within existing corporate confines and requires certification. In addition, one participant contributed their jurisdiction's perspective, in which directors are mandated to consider various interests aside from shareholders. It was suggested that there was no value in pushing governments with stronger directors' duties to apply this nor was there a benefit in lobbying for B-corp internationally. They added that the agenda of 'now considering other interests' was quite weak and contributed to the fallacy that an individual company's economic benefit could be considered a public benefit.

Agreeing on the distractive and topical nature of B-corp, a participant questioned what existing alternatives are. Participants raised the challenges associated with allowing businesses to regulate themselves and spoke of the pervasive nature of B-corp, noting the difficulty of leaving the model. Reiterating the importance of the UNGPs to integrating feminist perspectives and human rights into business models, a participant noted that the UNGPs aim to push the state to the centre in regulating businesses and added that the B-corp model might try to push the state aside. They also spoke to the value of the UNGPs in providing common languages and expectations through which to judge companies. Concluding the discussion, a participant summarised that B-corp legislation is focused on limiting corporate liability and furthering private interests. As such, it was difficult to envision a gender perspective, and unsurprising to see a lack of gender and wage parity. They noted that B-corp could also take attention away from broader issues like the climate crisis and access to justice issues.

DISCUSSION QUESTIONS FEMINIST PERSPECTIVES ON B-CORP:

1.Round of introductions – how have you personally been working on B-corp and other alternative business models?

2.How can feminist perspectives on business models inform BHR?

3.What key challenges remain for strengthening feminist/gender analysis of business models?

4. How could these be addressed going forward? What do you see as next steps?

FEMINIST THEORY AND BHR THEME
TAKE-HOME POINTS

1. The UNWG Gender Guidance usefully challenges the gender-neutrality evinced in many BHR frameworks and approaches. It could be considered 'UNGPs 2.0' to signal that gender must be an inherent element of any UNGPs implementation.

2. It is important that the understanding of gender in BHR is grounded in international human rights and entails challenging structural discrimination and working towards substantive gender equality, rather than resulting in 'add women and stir' approaches.

3. It is important that the rights of women, girls and LGBTI+ persons are holistically integrated in BHR frameworks and approaches to avoid single-issue interpretations of gender that relegate women's rights to equal pay, participation and SGBV, in the absence of recognising the interrelatedness of different issues.

4. Ample opportunities exist to build further connections between 'gender', 'BHR' and 'human rights' organisations, frameworks and practices. Interdisciplinary approaches can be key to breaking down silos and work towards more holistic ways of realising the rights of women, girls and LGBTI+ persons in BHR.

5. Fostering opportunities for the greater involvement of diverse women and women's rights organisations in BHR processes is key for dismantling the Global North bias in many BHR frameworks and practices.

6. Timely opportunities exist for the greater integration of gender in the revision and development of instrumental BHR frameworks, such as the UNGC reporting on progress, Women's Empowerment Principles, GRI reporting, mandatory human rights due diligence legislation and other developments.

7. While helpful in some circumstances, it is important that the realisation of women's rights in BHR goes beyond the business case for women's rights, to recognise the inherent value of the rights of women and girls from a human rights perspective.

8. Women's empowerment should focus on what women have, rather than what they lack, and allow for women to assert agency.

9. While overall devastating for gender equality, the Covid-19 crisis has also highlighted opportunities for elevating attention to gender going forward, which can be usefully capitalised on in the coming years.

10. Opportunities exist to rethink economic structures and business models from different feminist perspectives, including neo-liberal feminist critique, with a view to creating more gender transformative structures. However, this should be done in a manner that fully integrates feminist perspectives, strives for the aims of the UNGPs and challenges the corporate model.

ANNEX A: PARTICIPANTS
THEME ONE GENDER IN THE DIGITAL TRANSITION IN EASTERN-SOUTHERN AFRICA

GROUP 1: ARTIFICIAL INTELLIGENCE
Marlena Wisniak, Senior Advisor, Artificial Intelligence and Human Rights, European Center for Not-for-Profit Law
Şebnem Keniş, Senior Policy Adviser, Raoul Wallenberg Institute
Dr. Rachel Adams, Senior Research Specialist at the Human Sciences Research Council, South Africa
Chenai Chair, Research Manager: Gender and Digital Rights, World Wide Web Foundation

Moderator: Emil Lindblad Kernell, Adviser, Human Rights and Business, DIHR

GROUP 2: INTERNET ACCESS/ GENDER DIGITAL DIVIDE
Lillian Nalwoga, Programme Manager, Collaboration on International ICT Policy in East and Southern Africa (CIPESA)
Josephine Miliza, Africa regional coordinator for the APC-LOCNET project (KICTANET)
Peace Amuge, Executive Director, Women of Uganda Network (WOUGNET)

Moderator: Emil Lindblad Kernell, Adviser, Human Rights and Business, DIHR

GROUP 3: CONTENT REGULATION

Rikke Frank Jørgensen, Senior Researcher, DIHR
Grace Mutung'u, Research fellow, Centre for IP and IT Law (CIPIT), Strathmore University.
Victor Kapiyo, Partner, Lawmark Partners LLP & Researcher, CIPESA

Moderator: Ioana Tuta, Adviser, Human Rights and Business, DIHR

THEME TWO: GENDER IN NAPS PROCESSES

GROUP 1: NAPS – AFRICA FOCUS
Wangui Rose Kimotho, PHD candidate and Research Associate, Institute for Business Ethics at the University of St. Gallen
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Moderator: Andrew Charles Odete, Adviser, Human Rights and Business, DIHR

GROUP 2: NAPS – LATIN AMERICA AND THE CARIBBEAN FOCUS
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Krista Orama, Ministry for Foreign Affairs of Finland
Matias Rodriguez Urrutia, Coordinator of the National Action Plan for Human Rights and Business in Chile
Mónica Peceros Suárez, Lawyer at the Ministry of Justice and Human Rights of Peru
Humberto Cantú Rivera, Law Professor at Universidad de Monterrey and Executive Director of its Institute for Human Rights and Business

Moderators: Álvaro Amaya, Regional Expert, DIHR & Daniel Morris, Adviser, Human Rights and Business, DIHR

GROUP 3: NAPS – ASIA FOCUS
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Nareeluc Pairchaiyapoon, Director of the International Human Rights Division Rights and Liberties Protection Department Thailand Ministry of Justice
Patricia Selda, Gender Officer & Senior Project Officer at IDEALS, Inc.
Dr. Aishah Bidin, Professor of Corporate and Insolvency Law at National University of Malaysia

Moderator: Kayla Winarsky Green, Adviser, Human Rights and Business, DIHR

GROUP 4: NAPS – EUROPE FOCUS
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Diego Quiroz, Policy and International officer at Scottish Human Rights Commission
Ana Lobzhanidze, Chief Specialist, Gender Department, Georgia Public Defender's Office
Max Mousel, Legal Adviser, Consultative Human Rights Commission of Luxembourg

Moderator: Daniel Morris, Adviser, Human Rights and Business, DIHR

THEME THREE: CONNECTING FEMINIST APPROACHES AND BHR

GROUP 1: SITUATING WOMEN'S EMPOWERMENT IN BHR
Dr. Archana Shukla Mukherjee, Senior Manager- Gender, Diversity and Inclusion, Change Alliance Private Limited
Banu Ozkazanc-Pan, Ph.D., Professor of Practice at Brown University's School of Engineering and School of Professional Studies
Dr. Joanna Bourke Martignoni, Senior Research Fellow at the Geneva Academy
Frances Raday, International Human Rights Law, COLMAN Professor of Law, Emerita, Hebrew University; Formerly: Special Rapporteur, UN Human Rights Council; Expert Member, UN CEDAW Committee

Julie Vallat, Vice President of Human Rights, L'Oréal
Maxime Belingheri, Human Rights Manager, L'Oréal

Moderator: Kayla Winarsky Green, Adviser, Human Rights and Business, DIHR

GROUP 2: UNWG GENDER GUIDANCE AND UNGPS+10
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Lee Badgett, Professor of economics, University of Massachusetts Amherst and Williams Distinguished Scholar at UCLA's Williams Institute
Anna Falth, Head, Women's Empowerment Principles Secretariat, at UN Women
Francesca Manta, Manager, Human Rights, BSR
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Moderator: Nora Götzmann, Senior Adviser, Human Rights and Business, DIHR

GROUP 3: FEMINIST THEORY AND BHR
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Kate Grosser, Senior Lecturer in the School of Management, RMIT University Melbourne
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Charmika Samaradiwakera-Wijesundara, Lecturer, University of the Witwatersrand, Johannesburg (Wits) School of Law
Priyanthi Ferdando, Executive Director at International Women's Rights Action Watch-Asia Pacific (IWRAW-AP)
Felogene Anumo, Interim Co-Manager, Building Feminist Economies, Association for Women's Rights in Development (AWID)
Mariana Ruiz Alvarado, Senior Social Development Specialist at the European Investment Bank (EIB)
Marianna Leite, Women's Rights Strategic Adviser, Christian Aid

Moderator: Nora Götzmann, Senior Adviser, Human Rights and Business, DIHR

GROUP 4: FEMINIST PERSPECTIVES ON B-CORP
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Carol Liao, Associate Professor, UBC Sauder Distinguished Scholar, Director of the Centre for Business Law, Peter A. Allard School of Law
Victoria Schnure Baumfield, Assistant Professor, Bond University
Martine Bosman, Lawyer and researcher, Nyenrode Business University
Andrea Shemberg, Chair Global Business Initiative on Human Rights; Co-Founder Sila Advisory

Moderator: Kayla Winarsky Green, Adviser, Human Rights and Business, DIHR

ANNEX B:
FURTHER RESOURCES

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