Women in business and human rights: A mapping of topics for state attention in United Nations Guiding Principles on Business and Human Rights implementation processes

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We welcome your feedback on this preliminary notes draft and/or your interest in providing input throughout 2018. For any further information or expressions of interest to become involved please contact:

- Nora Götzmann, Senior Adviser, Danish Institute for Human Rights at: nog@humanrights.dk
- Elin Wrzoncki, Business and Human Rights Programme Manager, Danish Institute for Human Rights at: elwr@humanrights.dk
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1 INTRODUCTION

1.1 RATIONALE AND OBJECTIVES

This mapping paper seeks to provide an overview of key topic areas for attention for states in strengthening their gender focus in United Nations Guiding Principles on Business and Human Rights (UNGPs) implementation processes, including, but not limited to, National Action Plans (NAPs).

While it is generally acknowledged that women are disproportionately/differently affected by adverse business-related human rights impacts, there has arguably been too little attention to gender issues in UNGPs implementation processes.

This gap has been reiterated most recently by the UN Working Group on Business and Human Rights (UNWG), in their launch of a gender workstream, which commenced in late 2017, and which will include regional consultations in 2018 and the issuance of guidance to states and businesses in 2019 on addressing gender in the context of business projects and activities.

In this context, the objectives of this mapping are to:

- Contribute to understanding women’s rights and gender in relation to business and human rights (BHR) dialogue and UNGPs implementation processes, including, but not limited to, NAPs;
- Demonstrate the linkages between the UNGPs and the Sustainable Development Goals (SDGs) with regard to women’s rights;
- Identify good practices regarding selected specific areas of concern related to business and women’s rights (employment and labour rights; land and natural resources management; essential services and privatisation; public procurement; investment, trade and finance; and access to effective remedy); and
- Contribute to the work of the UNWG on gender by serving as background information for the 2018 regional consultations and drafting of guidance to states and businesses on taking a gender-sensitive approach in UNGPs implementation.

The mapping focuses in particular on actions that states may take to further strengthen attention to gender in UNGPs implementation processes, i.e. rather than on how businesses may implement gender-sensitive human rights due diligence. However, of course business good practice, civil society recommendations, UN guidance and other relevant sources should inform such state action (and vice versa). As such, this mapping may provide a resource for different actors working to further embed gender in different BHR agendas. Also, while the mapping focuses primarily on actions that states may take in national implementation processes, of course this may include actions that states take at the regional level, and includes actions that states may take at the national or regional level with the purpose of addressing transnational business impacts on the rights of women and girls.

This document presents a preliminary notes draft of the mapping, further information about the process and timeline for developing the mapping is outlined below.
1.2 OVERVIEW OF THE MAPPING
The final mapping report seeks to include:
1. An introduction outlining the rationale for strengthening attention to gender in UNGPs implementation processes from international human rights law and 2030 Agenda perspectives;
2. Research and discussion on key selected topics (employment and labour rights; land and natural resources management; essential services and privatisation; public procurement; investment, trade and finance; and access to effective remedy), for each providing:
   2.1. An overview of the gender issues
   2.2. Selected good practice examples from existing BHR baseline studies (NBAs) and NAPs, as well as from other relevant resources (e.g. SDG implementation plans, human rights action plans, gender policies and action plans);
   2.3. An overview of relevant further resources, actors and initiatives; and
   2.4. Key points for consideration in UNGPs implementation processes, including NAPs.
3. Conclusion/Next steps

1.3 METHOD
The mapping will be prepared based on desktop research as well as conversations with key resource persons to gather insights and good practice examples. The final mapping will also draw on feedback and input provided from interested stakeholders and peer reviewers.

1.4 TIMELINE FOR COMPLETION OF THE MAPPING
The anticipated process and timeline for completion of the mapping is:
• January-February 2018: peer review of draft TOC and completion of preliminary notes version;
• March-June 2018: further research, integration of input from interested stakeholders, refinement of text and drafting of suggestions regarding potential steps states could take to further embed a gender-sensitive approach in UNGPs implementation processes;
• Q3-Q4 2018: peer review and integration of input gathered from peer reviewers, completion of the mapping.

1.5 FEEDBACK AND STAKEHOLDER INVOLVEMENT
We welcome your feedback on this preliminary notes draft and/or your interest in providing input throughout 2018. For any further information or expressions of interest to become involved please contact:
• Nora Götzmann, Senior Adviser, Danish Institute for Human Rights at: nog@humanrights.dk
• Elin Wrzoncki, Business and Human Rights Programme Manager, Danish Institute for Human Rights at: elwr@humanrights.dk
2 OVERVIEW OF WOMEN’S RIGHTS IN INTERNATIONAL HUMAN RIGHTS LAW AND THE SUSTAINABLE DEVELOPMENT AGENDA

This section introduces key concepts and definitions regarding women’s rights and outlines the rationale for strengthening attention to gender in UNGPs implementation processes, based on international human rights law and 2030 Agenda perspectives.

2.1 KEY CONCEPTS AND DEFINITIONS

Definition of discrimination against women and girls

- The prohibition of discrimination against women and girls in international human rights law is broad, and includes both direct and indirect discrimination. Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) describes discrimination against women and girls as: "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field." ¹

- Whilst sex and gender are often used interchangeably in the context of discrimination, it is important to understand the difference. Whilst ‘sex’ refers to a person’s biological and anatomical characteristics, ² ‘gender’ includes characteristics that are associated with a certain sex through social roles, norms and expectations. ‘Gender identity’ is a term frequently used to refer to personal identification of one’s own gender. ³

Definition of formal and substantive equality

- Whilst formal (or de jure) gender equality looks at equality between men and women in and before the law, substantive (or de facto) gender equality considers whether women enjoy equality with men in practice. ⁴ For example, women and men may formally have the same right to apply for work in a certain industry, however, due to social roles, norms and stereotypes women may be less likely to apply for jobs in the industry, be successful in the case of applying, or work in the industry for long enough to be eligible for more senior positions. The concept of substantive equality arose out of the realisation that formal equality may not be sufficient for ensuring full equality between men and women. ⁵

Meaning and relevance of intersectionality

¹ Article 1, CEDAW
⁴ CEDAW General Recommendation No. 25, paras. 3-14
⁵ CEDAW General Recommendation No. 25, paras. 3-14
• Women are not a homogenous group, and their experiences vary greatly depending on the region, country, socioeconomic class and their identities as members of different groups, such as minorities and migrants (among others).

• Multiple (or intersectional) forms of discrimination arise from a combination of discriminatory treatments based upon various grounds which produces compounded discrimination. Intersectionality takes into account historical, social and political contexts, and recognises the unique experience of women who have been targets of discrimination on more than one ground.\(^6\) Importantly, intersectionality recognises that women who may be subject to discrimination on more than one ground (e.g. race and gender) do not simply experience ‘double’ discrimination but experience discrimination from a particular and unique position that is shaped by these multiple factors.\(^7\)

**Definition of special measures as per CEDAW recommendation, including relevance and application in the BHR context**

• At times, non-identical treatment of women and men will be required to address and overcome certain substantive inequalities. A common strategy to combat such inequalities is the use of temporary ‘special measures’ to support the achievement of equality. This is sometimes called ‘affirmative action’ or ‘equal opportunities’. An example might be a hiring programme targeting female applicants in a male-dominated profession, or setting quotas for female participation on company boards.

• Article 4 (1) of CEDAW states that the “adoption by State Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objective of equality of opportunity and treatment have been achieved”\(^8\).

• According to the CEDAW Committee, the purpose of Article 4 (1), on temporary special measures, is to accelerate the improvement of the position of women in order to achieve their de facto or substantive equality with men.\(^8\)

**2.2 WOMEN’S RIGHTS UNDER INTERNATIONAL HUMAN RIGHTS LAW**

• Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and essential UN values. Today, discrimination based on sex is prohibited under almost every human rights treaty, and states have a positive obligation to protect and promote gender equality in all their activities.

**UN Charter and UDHR provisions**

• Adopted in 1945, the UN Charter stipulates that one of its goals is “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, (and) in the equal rights of men and women”.\(^9\)

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\(^7\) Crenshaw, 1991  
\(^8\) CEDAW General Recommendation No. 25, para. 15
• It also states that one of the core purposes of the UN is to promote respect for human rights and fundamental freedoms “without distinction as to race, sex, language or religion”. The prohibition of discrimination based on sex is repeated in Articles 13 (on the mandate of the UNGA) and 55 (on the promotion of universal human rights).
• Similarly, the Universal Declaration of Human Rights (1948) proclaims that the rights contained in it must be applied “without distinction of any kind, such as (...) sex”.

**ICCPPR and ICESCR provisions**
• The International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) prohibit discrimination based on, inter alia, sex (Common Article 2), and ensure the equal right of men and women to the enjoyment of all rights contained in them (Common Article 3). The ICCPR also provides for equality before the law and equal protection of the law (Article 26).

**CEDAW provisions**
• Among the international human rights treaties, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) takes an important place in bringing the female half of humanity into focus of human rights concerns. Adopted in 1979, it has come to be known as the ‘international bill of women’s human rights’.
• Article 3 of the Convention gives positive affirmation to the principle of equality, requiring ratifying states to take “all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men”.
• Not only does CEDAW provide that states are obliged to address discriminatory laws, but also to take measures to eliminate discrimination against women “by any person, organisation or enterprise”. Thus, when developing a policy of eliminating discrimination against women, states must engage the private sector, including business enterprises, and enlist their involvement in adopting measures that fulfil the goals of the Convention.
• Article 4 provides that states may invoke temporary special measures (also known as ‘equal opportunity measures’) to accelerate de facto equality between men and women. These measures are not considered discriminatory under the Convention, as long as they are discontinued when the objectives of equality of opportunity and treatment have been achieved.
• The Convention also seeks to ensure equal opportunities, free choice of profession, the right to promotion and equal remuneration and equal treatment, among others (Article 11).

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9 Preamble, UN Charter 1945
10 Article 1, UN Charter 1945
11 Preamble, UDHR 1950
12 Article 3, CEDAW 1979
13 Article 2(e), CEDAW 1979
14 CEDAW General Recommendation No. 28, para. 28
15 Article 4, CEDAW
• Article 14 specifically addresses discrimination against women in rural contexts, and provides that they should have equal access to economic opportunities through employment or self-employment, including through organising self-help groups and/or cooperatives.

• Oversight of the implementation of CEDAW is the task of the Committee on the Elimination of Discrimination Against Women.16 The Committee issues general recommendations (the equivalent of general comments), all of which are directly related to critical areas of concern, as well as state reviews. Several of these recommendations are directly relevant to BHR, addressing topics such as equal remuneration for work of equal value (Recommendation 13), unpaid women workers in rural and urban family enterprises (Recommendation 16) and women migrant workers (Recommendation 26), for example.17

• The Optional Protocol to CEDAW allows the Committee to consider complaints made by individuals on violations of rights enshrined in the Convention.18

ILO provisions

• The International Labour Organization (ILO) Declaration on Fundamental Principles and Rights at Work states that all Members States, even if they have not ratified the relevant conventions, have an obligation to promote and realise the principles concerning fundamental rights, such as “the elimination of discrimination in respect of employment and occupation”.19 Moreover, the ILO Declaration on Equality of Opportunity and Treatment for Women Workers provides that “all forms of discrimination on grounds of sex which deny or restrict such equality are unacceptable and must be eliminated.”20

• Two out of the eight ILO core conventions include specific provisions seeking to promote gender equality, including the Equal Remuneration Convention (No. 100), which establishes equal pay for equal work, and the Discrimination (Employment and Occupation) Convention (No. 111) which provides that persons cannot be discriminated against in employment or their occupation based on their sex, race, colour, religion etc.

• Many other conventions thereto address women’s reproductive roles and ability to participate in work life, including the Workers With Family Responsibilities Convention (No. 156), the Workers With Family Responsibilities Recommendation (No. 165), the Maternity Protection Conventions (Nos. 103 and 183), and the Maternity Protection Recommendation No. 191.

Regional human rights instruments provisions

In addition to international standards, regional human rights treaties include key provisions aimed at promoting and protecting women’s human rights.

• For instance, the African Charter on Human and People’s Rights prohibits discrimination on any grounds, including sex, in the enjoyment of the rights guaranteed by the Charter (Article 2). It thereto specifically mentions the obligation of African states to ensure the

16 The Committee's mandate and the administration of the treaty are defined in the Articles 17 to 30 of the Convention
17 http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/Recommendations.aspx
18 A/RES/54/4
19 ILO Declaration on Fundamental Principles and Rights At Work (1998), section 2(d)
20 ILO Declaration on Equal Opportunity and Treatment for Women Workers (1975), Article 1(1)
elimination of every discrimination against women, as stipulated in international declarations and conventions (Article 18). The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (also known as the ‘Maputo Protocol’) further elaborates states’ obligations with regard to women’s rights.21

- The Charter of the Organization of American States includes a non-discrimination provision in Chapter II, and Article 3 (I), and the American Convention on Human Rights in its Article 1. In 1994, the Organization of American States adopted the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women.
- The Revised Arab Charter on Human Rights upholds the right to non-discrimination (Article 3) and to equal protection before the law (Articles 11, 12 and 22).
- The European Convention on Human Rights and Fundamental Freedoms prohibits discrimination on any grounds, including sex, in the enjoyment of the rights contained in the Convention (Article 14).

**The Beijing Declaration and Platform for Action**

- The 1995 Beijing Declaration and Platform for Action of the Fourth World Conference on Women identified, as a critical policy priority in the global economy, the continuous burden of poverty on women, inequalities in education, training, economic structures and policies, productive activities and access to resources. The Declaration identifies a number of action points specific to women’s rights in the context of business activities, for example, noting the need for: increased training opportunities for women to enable participation in different industries; better understanding the contribution of women’s paid and unpaid work in economies; increased access to finance for women and women’s businesses; and promoting small and cooperative enterprises, including by reforming laws and regulations that may discriminate against women’s participation in these types of business activities.22
- The Commission on the Status of Women has the primary mandate to monitor and review the implementation of the Beijing Declaration and Platform for Action, and in mainstreaming a gender perspective throughout the UN’s activities.
- Following the adoption of the 2030 Agenda for Sustainable Development in 2015, the Commission on the Status of Women also contributes to the follow-up to the 2030 Agenda, so as to accelerate the realisation of gender equality and empowerment of women.23

**Relevant provisions on women, business and human rights from UN special procedures**

- The special procedures of the Human Rights Council (HRC) are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. These procedures cover all human rights, including civil, cultural, economic, political and social rights.
- Several thematic mandates are specifically devoted to women’s rights, namely: the Special Rapporteur on violence against women, its causes and consequences; the Working Group on discrimination against women in law and practice; and the Special Rapporteur on trafficking, especially women and children.

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The Working Group on discrimination against women in law and practice:
- Notes that there are significant barriers to women’s access to leadership and decision-making positions in many financial institutions, which generate policies that determine the quality of life of women, men and their communities. Moreover, in the emerging area of business responsibility, the gendered harm to women, resulting from transnational business and trade policies, has been largely invisible. There is thus a need to address these issues, and develop tools for gender responsiveness in economic leadership and business responsibility.24

The Independent Expert on the effects of foreign debt and other related international financial obligations of states on the full enjoyment of all human rights, particularly social, economic and cultural rights:
- Notes that corporate tax abuse forces governments to raise revenue from other sources, including through regressive taxes, the burden of which falls the hardest on the poor. He argues that this has important human rights implications since regressive tax structures limit the redistributive impact of social programmes, because they effectively end up being funded by the very people they are supposed to benefit. The need to make up revenue shortfalls via regressive taxes further undermines the realisation of economic and social rights for the most vulnerable. When low-income households face deteriorating public services, women and girls are frequently forced to take on additional costs of unpaid care needs. Furthermore, tax systems themselves are not gender neutral, and regressive taxes (such as consumption taxes) tend to fall disproportionately upon women. Both regressive taxes and their effects, therefore arguably undermine the achievement of substantive equality for women.25

The Special Rapporteur on trafficking, especially women and children:
- Notes that individuals in conflict contexts are particularly vulnerable to human rights violations. Pre-existing vulnerabilities, such as gender-based discrimination affecting women, children and non-citizens, are usually worsened during conflict as opportunities for exploitation increase and protections break down.26
- In post-conflict zones, the vulnerability of women and girls to trafficking-related exploitation is often heightened by their general lack of access to resources, education, protection and personal documentation. Moreover, the demand for cheap labour, in the aftermath of crises, when countries and businesses start to rebuild, may also lead to trafficking.27

2.3 THE RIGHTS OF WOMEN AND GIRLS AND THE 2030 AGENDA
- Women’s economic empowerment and the realisation of women’s rights to and at work are critical for the achievement of the 2030 Agenda for Sustainable Development.

24 A/HRC/26/39, para. 19
25 A/HRC/31/61, para. 24
26 A/71/303, para. 25
27 A/71/303, para. 40
Equality and non-discrimination – ‘leaving no one behind’ – are key cross-cutting principles of the Agenda.²⁸

- Of particular importance is Goal 5 to “achieve gender equality and empower all women and girls”, consisting of the following targets and indicators:

**Target 5.1:** End all forms of discrimination against women and girls everywhere;  
*Indicator 5.1.1* - Whether or not legal frameworks are in place to promote, enforce and monitor equality and non-discrimination on the basis of sex.

**Target 5.2:** Eliminate all forms of violence against all women in the public and private spheres, including trafficking and sexual and other types of exploitation.  
*Indicator 5.2.1* - Proportion of ever-partnered women and girls aged 15 years and older subjected to physical, sexual or psychological violence by a current or former intimate partner in the previous 12 months, by form of violence and by age; and  
*indicator 5.2.2* - Proportion of women and girls aged 15 years and older subjected to sexual violence by persons other than an intimate partner in the previous 12 months, by age and place of occurrence.

**Target 5.3:** Eliminate all harmful practices such as child, early and forced marriage and female genital mutilation.  
*Indicator 5.3.1* - Proportion of women aged 20-24 years who were married or in a union before age 15 and before age 18; and  
*indicator 5.3.2* - Proportion of girls and women aged 15-49 years who have undergone female genital mutilation/cutting, by age.

**Target 5.4:** Recognise and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate.  
*Indicator 5.4.1* - Proportion of time spent on unpaid domestic and care work, by sex, age and location.

**Target 5.5:** Ensure women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.  
*Indicator 5.5.1* - Proportion of seats held by women in national parliaments and local governments; and  
*indicator 5.5.2* - Proportion of women in managerial positions.

**Target 5.6:** Ensure universal access to sexual and reproductive health and reproductive rights as agreed in accordance with the Programme of Action of the International Conference on Population and Development and the Beijing Platform for Action and the outcome documents of their review conferences.  
*Indicator 5.6.1* - Proportion of women aged 15-49 years who make their own informed decisions regarding sexual relations, contraceptive use and reproductive healthcare; and  
*indicator 5.6.2* - Number of countries with laws and regulations that guarantee women aged 15-49 years access to sexual and reproductive healthcare, information and education.

**Target 5.A:** Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws.

*Indicator 5.A.1 - (a) Proportion of total agricultural population with ownership or secure rights over agricultural land, by sex; and (b) share of women among owners or rights-bearers of agricultural land, by type of tenure; and indicator 5.A.2 - Proportion of countries where the legal framework (including customary law) guarantees women’s equal rights to land ownership and/or control.*

**Target 5.B:** Enhance the use of enabling technology, in particular information and communications technology, to promote the empowerment of women.

*Indicator 5.B.1 - Proportion of individuals who own a mobile telephone, by sex.*

**Target 5.C:** Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.

*Indicator 5.C.1 - Proportion of countries with systems to track and make public allocations for gender equality and women’s empowerment.*

- **Goal 8** is also important to achieving gender equality, seeking to accomplish “full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value”.
- Further linkages to gender equality and women’s empowerment can be found in **Goal 10** which seeks to “reduce inequality within and among countries”, emphasising income growth of the bottom 40 per cent of the population, the elimination of discrimination, and the adoption of fiscal wage and social protection policies to progressively achieve greater equality.
- In his 2017 report, the Special Rapporteur on the right to development observes that the implementation of the right to development and related sustainable development processes have not been successful in integrating a gender perspective. He thus aims to pay particular attention to the gender dimensions of his work – especially the developmental challenges that women and girls face in most societies. These challenges are many, and range from laws that give unequal access to land and other resources, to development or disaster reduction policies that do not provide women with access to education and financing to develop their businesses, or even enough food to feed their families.²⁹

**Contextualising the linkage between BHR and the SDGs**

- The SDGs include a call to all businesses to play a role in their implementation.³⁰
  Contributing to the SDGs is neither a substitute for, nor unrelated to, implementation of the UNGPs. In fact, the two agendas are interwoven; in order for business to realise its

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²⁹ A/HRC/36/49, para. 31
full contribution to sustainable development, it must put efforts to advance respect for human rights at the heart of its strategy.31

3 SELECTED TOPICS FOR ATTENTION IN UNGPS IMPLEMENTATION PROCESSES

This part of the mapping paper seeks to provide an initial overview of six key topic areas for attention for states in strengthening their gender focus in UNGPs implementation processes: (i) employment and labour rights; (ii) land and natural resources management; (iii) essential services and privatisation; (iv) public procurement; (v) investment, trade and finance; and (vi) access to effective remedy. Based on further research, stakeholder input and analysis, next steps will be to identify good practices regarding these selected topic areas and potential recommendations to states for how to further address their gender dimensions, in particular with the view to strengthening attention to the rights of women and girls.

3.1 EMPLOYMENT AND LABOUR RIGHTS

3.1.1 Female participation in the global labour force

- Businesses, including both public and private, are a key source of employment. Both the UNGPs and the 2030 Agenda recognise the importance of the private sector in contributing to employment and related development and human rights outcomes. As such, women’s participation in the labour force should be a key area for attention for states in UNGPs implementation processes.

- Globally, gender inequality in economic participation and opportunity remains problematic. Although globalisation has brought millions of women into paid labour, the number of women in the formalised global workforce is far behind that of men. According to the ILO (2017), the current global work participation rate for women lies at 49.4 per cent – 26.7 percentage points lower than the rate for men in 2017.32

- In terms of regions, the gaps are the widest within the Arab States, Northern Africa and Southern Asia, where they exceed 50 percentage points.33

- The ILO reports that, in ‘emerging countries’ (or the Global South) the gap has widened during the last decade, going from 0.5 percentage points in 2007 to 0.7 in 2017. In contrast, since 1997 the gender gap in southern and northern countries has narrowed by 0.2 and 0.8 percentage points respectively. As of 2017, northern countries have the smallest gender gap in unemployment rates, with a gap of 0.5 percentage points.34

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31 Shift, What do the UN Sustainable Development Goals have to do with corporate respect for human rights?, 2016: https://www.shiftproject.org/resources/viewpoints/sustainable-development-goals-corporate-respect-human-rights/
According to UN Women, these gender disparities in the formalised labour market are especially acute in regions such as Northern Africa and the Arab States, where female youth unemployment is almost double that of young men, reaching around 44 per cent.\(^{35}\)

### 3.1.2 Representation of women in different industries

- The importance of sex segregation at work, as an indication of discrimination, is recognised by the ILO Convention on Discrimination (Employment and Occupation) No. 111. It is one of the most detrimental aspects of gender inequality in the labour market, since it generally accompanies lower pay and less favourable working conditions in female dominated occupations. According to the ILO, sex segregation is also one of the most enduring aspects of labour markets around the world.\(^{36}\)
- The ILO describes sectoral and occupational segregation as a cycle: as women and men are confined to certain occupations, stereotypes are strengthened regarding women’s and men’s aspirations, preferences and abilities. In turn, this affects the perception of employers about women’s and men’s skills and attitudes, as well as the aspirations of individual workers. Consequently, women and men are likely to pursue careers in sectors and occupations that are considered ‘feminine’ and ‘masculine’ and are often discouraged to do otherwise.\(^{37}\)
- According to the ILO’s ‘Women At Work’ report (2016), women are considered to be more concentrated than men in a particular sector or occupation when their employment in that sector or occupation, as a share of their total employment, is greater than men’s employment in that particular sector or occupation, as a share of men’s total employment. Large differences between women’s and men’s shares of employment in a sector or occupation thus suggests that women or men are highly overrepresented in that sector or occupation.\(^{38}\)
- Women in employment are overrepresented in a narrow range of sectors and occupations: in ‘upper-middle-income countries’, 33.9 per cent of women are employed in wholesale and retail services, and 12.4 per cent in the manufacturing sector; in ‘high-income countries’ 30.6 per cent of women are employed within the health and education sector; and in ‘low-income and lower-middle income countries’ agriculture is the most important source of employment for women.\(^{39}\)
- An analysis of 142 countries, by the ILO, shows that women remain overrepresented (compared to their share in total employment) as “clerical, service and sales workers”


and in “elementary occupations”. These occupations are usually associated with part-time employment and low pay jobs.\textsuperscript{40}

- Studies show that women make up between 70 and 90 per cent of the workforce in Export Processing Zones (EPZ).\textsuperscript{41} The ILO reports that, while EPZs are undoubtedly major employment generators, particularly for women in southern countries, too many EPZs continue to be hampered by a reputation of low wages, poor working conditions and under-developed labour-relations systems.\textsuperscript{42}

- Similarly, women make up the majority of the workforce in textile, footwear and apparel sectors. According to Business for Social Responsibility (BSR), globally women represent an average of 68 per cent of the garment workforce and 45 per cent of the textile sector workforce.\textsuperscript{43} The global apparel sector faces numerous and well-documented challenges in relation to its workforce, including: low pay, piece-rate pay and/or failure to pay overtime; health and safety concerns (e.g. fire safety and exposure to chemicals); irregular work volume and schedules; lack of access to benefits (e.g. health insurance and maternity leave); and instances of workplace-based harassment and discrimination.\textsuperscript{44}

3.1.3 The gender pay gap

- In 2017, the Commission on the Status of Women expressed concern over the persistently low wages earned by women workers, which frequently inhibits women from providing decent and dignified living conditions for themselves and their families.\textsuperscript{45}

- According to the ILO’s Global Wage Report 2016/17, the gender pay gap, while on the decline in many countries, is a persistent feature of virtually every nation’s labour market.\textsuperscript{46} Today, globally women earn approximately 77% of what men earn – i.e. a 23 per cent pay gap.\textsuperscript{47}

- The gender pay gap cannot be explained by merely looking at differences in education or age, but is also directly connected to the under-valuation of the work that women generally undertake, and the skills required in female dominated sectors/occupations. It is thereto linked to the continuous practices of discrimination against women and the need for most women to take a break from their careers to attend care responsibilities.\textsuperscript{48}

\textsuperscript{40} International Labour Organisation, Women at Work, 2016: \url{http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_457317.pdf}


\textsuperscript{43} Business for Social Responsibility, Empowering Female Workers in the Apparel Industry, 2017: \url{https://www.bsr.org/reports/BSR_Empowering_Female_Workers_in_the_Apparel_Industry.pdf}

\textsuperscript{44} Business for Social Responsibility, Empowering Female Workers in the Apparel Industry, 2017: \url{https://www.bsr.org/reports/BSR_Empowering_Female_Workers_in_the_Apparel_Industry.pdf}

\textsuperscript{45} E/2017/27-E/CN.6/2017/21, para. 21

\textsuperscript{46} International Labour Organisation, Global Wage Report 2016/17, 2017:

\textsuperscript{47} International Labour Organisation, Women At Work, 2016: \url{http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_457317.pdf}

\textsuperscript{48} International Labour Organisation, Women At Work, 2016: \url{http://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_457317.pdf}
• Moreover, the ILO reports that although gender pay gaps are found in all types of business enterprises they are particularly high in businesses with high average wages.49
• Disparities in pay are thereto especially apparent in the informal labour market, where female dominated jobs are concentrated. These include sectors where workers are paid based on production (i.e. quantity of goods produced), as opposed to being paid based on the hours worked.50
• The low rates of formal wage and salaried employment, and fewer working hours in the formal economy, means fewer years in ensured employment for women. This has a detrimental effect on seniority premiums in pay, and for coverage by employment-related contributory schemes. For example, the proportion of women above retirement age receiving pension is on average 10.6 per cent lower than that of men, globally. The ILO reports that approximately 65 per cent of people above retirement age without any regular pension are women.51
• Action Aid (2016) states that minimum wages can be an important strategy to respond to the gender pay gap in the workplace; not only does it target inequalities between men and women, but also between the rich and poor.52

3.1.4 Participation of women in senior management
• According to the Committee on the Status of Women (2017), women’s active participation in economic leadership and decision-making are essential for shaping the changing world of work to achieve gender equality and women’s economic empowerment.53
• Despite steps forward, women continue to be underrepresented in management and leadership positions, in both public and private spheres. According to UN Women (2017), approximately one-third of all senior and middle management positions were held by women.54
• The ILO (2016) reports that men continue to remain overrepresented in occupations such as legislators, senior officials and managers – positions which are typically well paid and enjoy high status. According to 2016 ILO figures, only five per cent or fewer of the chief executive officers of the world’s largest corporations are women.55

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50 Verite, Women at work in global supply chains: https://www.verite.org/women-work-global-supply-chains/
52 Action Aid, Not ready, still waiting: governments have a long way to go in preparing to address gender inequality and the SDGs, 2016: http://www.actionaid.org/sites/files/actionaid/not_ready_still_waiting_final_0.pdf
53 E/CN.6/2017/3, para. 44
54 E/2017/66, para. 9
3.1.5 Special measures to promote participation of women in the labour market

- Whilst many countries have eliminated discriminatory legislation and adopted equal employment opportunity laws, there is not full equality of results in any labour market.\(^{56}\)
- Strategies to improve gender equality in outcomes in the labour market are referred to as “temporary special measures” in CEDAW.\(^{57}\)
- According to CEDAW General Recommendation No. 25, the purpose of such measures is to “accelerate the improvement of the position of women to achieve their de facto or substantive equality with men, and to effect the structural, social and cultural changes necessary to correct past and current forms and effects of discrimination against women, as well as provide them with compensation”.\(^{58}\)
- Furthermore, the term ‘measure’ includes a variety of legislative, executive, administrative and other regulatory instruments, policies and practices, such as: support programmes; allocation and/or reallocation of resources; preferential treatment; targeted recruitment, hiring and promotion; numerical goals connected with time; and quota systems.\(^{59}\)
- The European Institute for Gender Equality (EIGE) explains that gender quotas establish a defined proportion (percentage) or number of places/seats to be filled or allocated to women and/or men, generally under certain rules or criteria.\(^{60}\) Gender quotas are sometimes used to improve political representation of women in government, as well as to improve participation of women on corporate boards.
- For instance, in its latest ‘Women, Business and the Law’ report (2016), the World Bank reported that – of the economies measured – nine countries had quotas to improve representation of women on corporate boards: Belgium, France, Germany, Iceland, India, Israel, Italy, Norway and Spain. The most recent quotas were introduced in Germany (30 per cent) and India (at least one board member has to be a woman). Quotas range from 20 per cent in France to 40 per cent in Iceland, Norway and Spain. \(^{61}\)

3.1.6 Women workers in informal sectors and formalisation of the labour market

- Informal employment comes in different forms, including wage employment in informal establishments and households, self-employment, unpaid family work, or informal wage employment in formal establishments.\(^{62}\)
- Informal work is usually characterised by low, or lack of, access to and coverage by social protections and labour rights, often poor and/or hazardous working conditions, and with low pay and productivity. Consequently, informal workers usually experience higher

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\(^{56}\) A/HRC/26/39, para. 45

\(^{57}\) CEDAW, Article 4

\(^{58}\) CEDAW General Recommendation No. 25, para. 15

\(^{59}\) CEDAW General Recommendation No. 25, para. 22

\(^{60}\) European Institute for Gender Equality, Gender Quotas: [http://eige.europa.eu/rdc/thesaurus/terms/1203](http://eige.europa.eu/rdc/thesaurus/terms/1203)


levels of decent work deficits and working poverty than those working in formal employment.  

- Generally, the share of women in salaried employment tends to increase with a country’s level of economic development. For instance, in southern countries, merely 13.6 per cent of women enjoy wage and salaried employment, compared to 24.3 per cent of men. At the other end of the spectrum, the share of women in salaried employment in high-income countries is currently 89.1 per cent, compared with 83.7 per cent of men.

- The greatest disparities can be seen in sub-Saharan Africa, where the female share in salaried employment is at 22.6 per cent – 13.7 percentage points lower than the male share (36.3 per cent). Southern Asia also has a large gender gap in salaried employment shares, in which the female share is at 18.2 per cent – 8.6 percentage points lower than the male share (26.8 per cent).

- According to the Commission on the Status of Women, rural women and migrant women workers are particularly marginalised within the informal economy, as they are often concentrated in low-paid and precarious informal work. Poor working conditions are further exacerbated by commonplace labour discrimination, sexism, racism and xenophobia.

- Efforts are needed to promote the transition to formal employment, providing women workers with social protections and labour rights guarantees.

### 3.1.7 Sexual harassment and violence against women in the workforce

- Violence against women in the world of work is a human rights violation that affects women regardless of age, location, income or social status. Not only does it restrict their economic and social potential, but it can also have significant impacts on their physical and mental health – something which can lead to absenteeism, missed promotions and job losses.

- Sexual harassment is a common form of violence against women. It affects women not only at work and in educational institutions but also in public places. UN Women (2016) reported that one in three women globally have experienced physical and/or sexual violence at some point in their lives.

- Similarly, the World Bank (2016) indicates that, within European Union economies, 40 to 50 per cent of women have experienced sexual harassment at work.

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67 E/CN.6/2017/15, para. 5


In its ‘Women, Business and the Law’ report, the World Bank (2016) shows that 41 economies out of the 173 examined have no laws against sexual harassment. Where laws do exist, they vary in the areas covered, such as employment, education and public places. However, specific provisions covering sexual harassment in employment are the most common, having been enacted in 114 economies.  

3.1.8 Pregnancy and maternity-related discrimination at work

In its ‘Progress of the World’s Women Report 2015-2016’, UN Women report that declining fertility rates play a part in increasing labour force participation rates among women of prime working age (24-54). Globally, median female labour force participation rate for this age group increased by 11 percentage points, from 63 to 74 per cent, while the median male participation rate in the same age group changed very little, from 95 to 94 per cent. Moreover, during their reproductive years (between ages 20 and 44), women’s labour supply was reduced by the equivalent of nearly two years for each child born.

According to the International Planned Parenthood Federation (2017), the most frequently cited policies that influence women’s participation in the workforce are parental leave, childcare and access to contraceptives, and other policies that are often described as ‘family friendly’ or ‘equal opportunity’ – which ease the care burden that women face in the home. Lack of these policies, combined with a lack of policies that seek to distribute care work evenly, are cited as reasons due to which women in many regions remain in the informal or agricultural sectors, and are relatedly more vulnerable to poverty, ill health and precariousness.

It is crucial not only to protect women’s employment during pregnancy, maternity leave and during a given period following their return to work, but also to ensure that maternity is not a source of discrimination in employment. ILO Convention No. 183 provides protection in that the burden of proving that reasons for dismissal are unrelated to pregnancy, childbirth and nursing shall rest upon the employer. However, in 2014 only 54 countries had legal provisions that place the burden of proof on employers.

According to the ILO, the guaranteed right to return to work in the same or equivalent position at the end of maternity leave is important for women’s permanence and progression in paid labour after childbirth. In an examination of 146 countries, the ILO (2016) found that merely 38 countries had legal guarantees for a woman’s right to return to work in the same or equivalent post, 26 guaranteed the same post, and 82 did not have any guarantee in place.

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73 E/CN.6/2017/NGO/20, section E
Furthermore, in many countries women face ‘motherhood wage penalties’ (a term coined by sociologists who argue that working mothers encounter systematic disadvantages in pay, competence and benefits relative to childless women\(^76\)) when re-entering employment after having a child. According to Budig and England (2001), motherhood wage penalties are often driven by one or a combination of the following elements: loss of job-experience; less productive at work; trade off higher wages for motherhood-friendly jobs; and/or direct discrimination by employers.\(^77\) However, the ILO states that wage penalties disrupt progress towards gender equality in both low- and middle/high-income countries.\(^78\)

3.1.9 Unpaid household and care work

Women’s employment options in many countries are significantly limited by societal expectations that burden them with disproportionate responsibilities for unpaid care and domestic work. Without adequate support, they may ‘choose’ part-time or informal work that can be combined with these unpaid responsibilities. According to UN Women, because women typically earn less than men, household decisions tend to reinforce a division of labour where men ‘specialise’ in paid work, while women ‘specialise’ in homemaking.\(^79\)

Unpaid work includes a diverse set of activities, which are carried out predominantly by women and without remuneration. UN Women refers to three broad categories, including: (i) contributing family work (e.g. unpaid work in a family business, the production of goods and/or services for sale on the market for no direct pay); (ii) unpaid work that involves the production of goods for self-consumption (e.g. the collection of water); and (iii) unpaid work that involves the provision of services for self-consumption (e.g. cooking and cleaning).\(^80\)

Women’s involvement in this type of work varies greatly across countries, depending on the extent and coverage of public services such as water, health and childcare. Within countries there are also significant variations in the amount of unpaid care and domestic work carried out by women based on age, income, location and the presence of young children in the household.\(^81\)

According to the ILO, women carry out at least two and a half times more unpaid household and care work than men. Although this gender gap has decreased over time, women continue to work longer hours per day than men, when both paid work and unpaid work are taken into consideration. Even when women are employed, they still

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\(^76\) See e.g., Budig and England, 2001.
tend to carry out the larger share of unpaid household and care work – which limits their capacity to increase their hours in paid, formal and wage work.\textsuperscript{82}

- According to UN Women (2016), policy can make a real difference. For instance, EU countries that provide comprehensive support to working parents have higher rates of female employment than countries without such policies. In southern countries, on the other hand, being married and having young children are associated with lower employment rates for women and higher rates for men.\textsuperscript{83}

- Southern countries can take a range of measures to recognise, reduce and redistribute women’s unpaid care and domestic work. UN Women suggests investments in basic social services and infrastructure, particularly healthcare and water and sanitation; and provision of childcare services, which can enable women to participate in paid work. UN Women also suggests the implementation of more comprehensive systems for paid paternal leave as part of facilitating women’s access to the job market.\textsuperscript{84}

### 3.1.10 Women migrant workers, including domestic workers

- The ILO Migrant Workers Convention (No. 143) defines ‘migrant worker’ as “a person who migrates or who has migrated from one country to another with a view to being employed otherwise than on his own account and includes any person regularly admitted as a migrant worker”.\textsuperscript{85}

- Approximately half of the world’s migrant workers are women. The majority of women migrant workers are channelled into traditionally female dominated occupations, such as domestic work and the garment industry, where they commonly work under precarious conditions. In these roles, women workers are frequently excluded from labour law protection, affected by discriminatory residence regulations, and often face the risk of numerous human rights abuses, such as violence and forced labour.\textsuperscript{86}

- Whilst migration creates many economic opportunities, it also bears many risks to women, many whom end up at the lower end of supply chains.\textsuperscript{87} It can thereto be said to entrench the globalised division of labour, in which there is a general demand for women and migrant workers in receiving countries, often within the care and domestic sectors, as well as the service sectors and the sex industry.

- Many countries have laws that prevent migrant domestic workers from escaping from abusive employers, unionising, changing employers and from accessing justice. The APWLD (2017) thereto reports that employers often withhold migrant workers’ official documents, including their passports, which leaves them vulnerable to arrest and deportation if workers try to leave their employment.\textsuperscript{88}


\textsuperscript{85} ILO Migrant Workers Convention No. 143, Article 11(1)


\textsuperscript{87} UN Women, Migrant workers: [http://asiapacific.unwomen.org/en/focus-areas/women-poverty-economics/migrant-workers](http://asiapacific.unwomen.org/en/focus-areas/women-poverty-economics/migrant-workers)

\textsuperscript{88} E/CN.6/2017/NGO/45, page 2
- The ILO Domestic Workers Convention (No. 189) defines ‘domestic work’ as “work performed in or for a household or households”\(^8^9\) and ‘domestic worker’ as “any person engaged in domestic work within an employment relationship”\(^9^0\).
- There are currently more than 53 million domestic workers worldwide, of whom more than 21 million are in Asia and the Pacific. According to the ILO, more than 80 per cent of all domestic workers are women.\(^9^1\)
- Domestic workers make a valuable contribution to the economic development and social wellbeing in the countries where they work. However, the nature of their work makes them one of the most vulnerable groups of workers. Typically, they work for private households behind closed doors, often without clear terms of employment, and excluded from the protection of labour legislation.\(^9^2\)
- Human Rights Watch (2017) reported that many domestic migrant workers in Middle East Gulf region fall under the abusive ‘kafala’ (visa sponsorship) system, which prevents them from leaving or changing employers without their initial employer’s consent. If they do, they risk being arrested and punished with fines, detention and deportation.\(^9^3\)
- In some of the interviews by HRW in the area, women also described how they were often sexually harassed or assaulted by male family members. When trying to report the incidents the victims faced challenges such as language barriers and fear of deportation.\(^9^4\)

### 3.1.11 Women’s access to social protections, including pensions and unemployment compensation

- Women are over-represented among the 73 per cent of the world’s population which has partial, or no access to social protections. According to the Commission on the Status of Women (2017), many women face gender-specific barriers to employment and income security because of lower participation in the formal labour market, earning lower wages and enjoying less access to credit and assets than men. As a consequence, many women have lower coverage with regard to contributory social protection instruments, such as unemployment compensation, pensions and health insurance. Globally, the proportion of women above retirement age receiving pension is on average 10.6 percentage points lower than that of men.\(^9^5\) According to the ILO, the majority of social security programmes are formal, employment-based and contributory. Women often face two related difficulties in accessing these programmes: (i) where they are in employment, women on average earn less than men and are more likely to work in the informal economy; and (ii) much of the

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\(^8^9\) ILO Domestic Workers Convention No. 189, Article 1(a)
\(^9^0\) ILO Domestic Workers Convention No. 189, Article 1(b)
\(^9^5\) E/CN.6/2017/3, para. 23
work undertaken by women – i.e. household and care work – is not formally recognised as such, and thus renders them ineligible to participate in social protection schemes.96

3.2 LAND AND NATURAL RESOURCES MANAGEMENT

- For many women, land is key to living a life with dignity and a basis for entitlements that can ensure an adequate standard of living and economic independence, and thereby personal empowerment. Regardless of whether a woman lives in a rural or urban environment, land rights have major implications for the achievement of other human rights.97

3.2.1 Women’s land and property rights

- Globally, 2017 estimates indicate that women own less than 20 per cent of the world’s land. Furthermore, whilst land and property can constitute up to 75 per cent of a nation’s wealth, three quarters of the world’s population cannot prove they own the land on which they live and work, for example, because of lack of ownership documentation or land rights recognition.98

- Women’s access to, use of and control over, land – and other productive resources – are essential to ensuring their right to equality and to an adequate standard of living. These resources assist women to provide for their day-to-day needs and those of their families.99 However, whilst less than 20 per cent of the world’s landowners are women, they make up approximately 43 per cent of the agricultural labour force.100

- According to the Global Initiative for Economic, Social and Cultural Rights, in many countries women are restricted to secondary land rights, whereby they hold their rights through a male family member. Moreover, under many systems of customary law, widowed women are not permitted to inherit land or property from their deceased husbands, and continue to be subject to so called ‘property grabbing’ by their in-laws. Where women do have access to land, their parcels are often smaller and of lower quality than those of men.101

- According to the World Bank (2016), giving women greater access to assets, such as land, through inheritance can change outcomes for children – particularly girls.102

96 ILO, Gender equality and national social protection floors, 2013: http://www.social-protection.org/gimi/gess/ShowTheme.action?id=3646
97 UN Women, Realising women’s rights to land and other productive resources, 2013, p. 3
98 World Economic Forum, Women own less than 20 % of the world’s land. It’s time to give them equal property rights, 2017: https://www.weforum.org/agenda/2017/01/women-own-less-than-20-of-the-worlds-land-its-time-to-give-them-equal-property-rights/
100 Working Group on the issue of discrimination against women in law and in practice, Insecure land rights for women threaten progress on gender equality and sustainable development, 2017
Moreover, FAO (2017) reports that if women would have the same access to productive resources and services as men they could increase yields on their farms by 20 to 30 per cent.103

3.2.2 Women’s access to land during conflict
- Conflict almost invariably has an impact on the availability and use of natural resources, such as land, agricultural crops and water. Women, especially in rural areas, tend to be disproportionately affected by these changes, since they generally depend on these resources for their livelihoods and are most commonly the ones responsible for acquiring and using them to meet daily household needs. Moreover, conflict significantly disrupts social and cultural management systems for natural resources, especially land. In conflict-affected areas, this can have acute implications for women, as their access to land is typically dependent on the social structures of their communities.104

3.2.3 Meaningful engagement of women in consultation and agreement-making processes
- The UNGPs highlight the importance of meaningful consultation and engagement as part of a business exercising human rights due diligence. However, in many contexts women’s social disadvantages, including their lack of formal land rights, may make it difficult for them to raise their interests in the management and proposed allocation of community land in investment contexts.105
- For example, according to CORE and Womenkind (2017), any agreement reached with male-dominated community leadership, prior to engagement with the whole community, may result in women being coerced to agree with unfavourable proposals and should thus be avoided.106
- In its General Recommendation No. 23, the CEDAW Committee states that “the most significant factors inhibiting women’s ability to participate in public life have been the cultural framework of values and religious beliefs, the lack of services and men’s failure to share the tasks associated with the organisation of the household and with the care and raising of children”. Specific efforts are therefore needed to ensure that engagement and consultation processes are meaningful for women.
- The international community has been paying increasing attention to inclusiveness and community participation in decision-making regarding land, and efforts have been made to make transparency and meaningful consultation part of the norm. For instance, the Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and

106 CORE, Land intensive corporate activity: the impact on women’s rights, 2017, p. 3
Forests (2012) now contain specific provisions for advancing women’s participatory rights.\textsuperscript{107}

- The World Resource Institute (2016) found that many communities practice a top-down approach, where decisions are made predominantly by male community leaders and often in men-only meetings. Whilst some communities may allow wider participation, women present at meetings are often outnumbered by men or remain on the side-lines of the decision-making.\textsuperscript{108}Taking steps to engage women specifically – for example, through women-only meetings or focus groups, household surveys, and having women lead consultation and engagement activities – may therefore be necessary to ensure an accurate understanding of the gendered impacts of a certain project and how to address them.

- Research by the Centre for Social Responsibility in Mining (CRSM) showed that gender equity as a specific requirement for land use agreements in mining is absent in most jurisdictions. Interviewees provided that associated agreement procedures were generally gender-blind – i.e. they failed to identify gendered factors precluding women’s issues from being brought to the table in agreement negotiations. Interviewees also noted that agreement negotiations were often based on land ownership, where voting rights were tied to land. Thus, where men typically held land title, women’s rights to participate in decision-making processes became more limited.\textsuperscript{109}

- In summary, the CRSM research identified some of the main challenges of involving women in agreement processes to be: formal and informal representation of women; tensions between cultural norms and gender equality; and other prevailing challenges in agreement processes (e.g. imbalanced power relations between company and community at the negotiating table, finding skilled negotiators, complexity of discussions and lack of information).\textsuperscript{110}

### 3.2.4 Women in resettlement and compensation arrangements

- Where investments result in communities losing land, women are more likely to be disproportionately affected than men. It is therefore important to consider the gendered impacts of livelihood replacement, participation in pre-investment consultations and access to benefits from investments, when establishing requirements for businesses using land. Gender-neutral compensation procedures thus do not suffice; without


\textsuperscript{108}World Resource Institute, Making women’s voices count in community decision-making on land investments, 2016: https://www.wri.org/sites/default/files/Making_Womens_Voices_Count_In_Community_Decision-Making_On_Land_Investments.pdf

\textsuperscript{109}Centre for Social Responsibility in Mining, Mining and local level development: Examining the gender dimensions of agreements between companies and communities, 2012: http://www.minerals.org.au/file_upload/files/reports/Mining_and_Local_Level_Development_Examining_the_Gender_Dimensions_of_Agreements_Between_Companies_and_Communities.pdf

\textsuperscript{110}Centre for Social Responsibility in Mining, Mining and local level development: Examining the gender dimensions of agreements between companies and communities, 2012: http://www.minerals.org.au/file_upload/files/reports/Mining_and_Local_Level_Development_Examining_the_Gender_Dimensions_of_Agreements_Between_Companies_and_Communities.pdf
explicit provisions to protect women’s interests, compensation or resettlement schemes risk further marginalising women.¹¹¹

- For instance, drawing on practical case studies on the relocation of customary communities in eastern Africa, the World Resource Institute (2017) noted that far fewer women than men received compensation, despite the fact that similar proportions of men and women lost access to similar land. This was because most farms cultivated by women were labelled as ‘household’ property, and thus registered in the name of the household head – i.e. a husband or other male relative who then received the compensation payments. This had implications for the whole household, since it was women who usually produced for household food consumption, meaning that limited means to acquire replacement land had a severe impact upon families’ food security. The study thereto found that the most common use of compensation by the few women who received it was for school fees, whereas for the men it was consumption.¹¹²

- In its Handbook on the compulsory acquisition of land and compensation (2008) FAO states that if compensation is paid to the male head of the household, “the needs of women and children may be ignored” as the money vanishes to the detriment of the whole family’s health and welfare.¹¹³

- In its gender checklist for resettlement, the Asian Development Bank (2003) guides staff and consultants to identify and address gender issues in resettlement planning, implementation and monitoring, and designing gender-inclusive resettlement plans. It highlights the importance of the participation of women in the preparation and review of resettlement plans and encourages efforts to ensure that women do not feel hindered from speaking up.¹¹⁴

- The African Development Bank’s involuntary resettlement policy (2003) seeks to ensure that gender is mainstreamed throughout its projects (including agriculture and rural development, human resource development and private sector development) in a fully participatory manner. The policy addresses issues connected to resettlement, including its gender dimensions – suggesting that a proper examination of the relationship between men and women, with regard to land, may help minimise disparities.¹¹⁵

- The IFC Handbook for Preparing a Resettlement Action Plan (2002) provides that particular attention should be given to vulnerable groups, such as women, when setting up a resettlement plan. For instance, when conducting socioeconomic surveys, resettlement planners should ensure that a statistically valid representative sample of all data of the affected population – including women and other vulnerable groups – is included in the survey. Furthermore, the IFC encourages the establishment of

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¹¹¹ World Resource Institute, Ensuring equity in compensation and resettlement schemes related to commercial land investments in Tanzania and Mozambique, 2017

¹¹² World Resource Institute, Ensuring equity in compensation and resettlement schemes related to commercial land investments in Tanzania and Mozambique, 2017


‘resettlement committees’ which include representatives from the community that would otherwise have no formal leadership role, such as women.\textsuperscript{116}

- In its report ‘Land acquisitions and resettlements: lessons learned’, the International Council on Mining & Metals (ICMM) finds that the needs of women are often ignored in resettlement – with livelihood restoration, cash compensation and employment opportunities mainly targeted at men – leaving women vulnerable to impoverishment. It is therefore suggested that any form of stakeholder engagement should consider whether community leaders are truly representative, taking steps to create space for vulnerable groups, such as women, which may not always claim leadership. All consultation teams should thereto have a balance between men and women.\textsuperscript{117}

3.2.5 Agriculture, including trade liberalisation

- According to the Special Rapporteur on the right to food (2015), gender gaps are observed in access to all productive resources, such as land, seeds, fertilizers, pest control measures and mechanical tools, credit and extension services.\textsuperscript{118}

- Agricultural trade liberalisation is often premised on export-promotion policies that benefit larger-scale farmers. Liberalisation has thereto opened up for smaller markets to subsidized imports, thereby displacing the farmed products of smaller-scale farmers (often women), and encouraging the production of export crops over subsistence agriculture. As such, many female small-scale farmers struggle to maintain household incomes due to the increased competition with imported agricultural goods, reduced prices and declining commodity prices in international markets.\textsuperscript{119}

- Women tend to engage in agricultural production on a scale that is not compatible with a large, corporate model of farming, holding smaller plots than men, which are often circa 20 to 30 per cent less productive than plots managed by men.\textsuperscript{120}

- Even without formal prohibitions to market access, structural barriers may challenge women’s ability to establish relationships with buyers or market their own goods. Women may thereto lack sufficient time to engage in market activities as a result of their unpaid household and care burdens.\textsuperscript{121}

- Many female farmers are excluded from the benefits of contract farming arrangements, central to the agro-industrial model of modern agriculture. This is largely because men continue to be in control of contract arrangements.\textsuperscript{122}

- Furthermore, agro-biotechnology is posing specific challenges for women. Women may be less likely to understand the negative impacts of technological developments and the effective and safe use of technology. Thereto, women’s participation in the development of agro-biotechnology may be restricted, and technologies fail to account for needs of women.\textsuperscript{123}

\textsuperscript{118} A/HRC/31/51, para. 9
\textsuperscript{119} A/HRC/31/51, para. 41
\textsuperscript{120} A/HRC/31/51, para. 42
\textsuperscript{121} A/HRC/31/51, para. 45
\textsuperscript{122} A/HRC/31/51, para. 45
\textsuperscript{123} A/HRC/31/51, para. 43
• Many countries restrict foreign investments in land and provide leases or concessions to investors on a case-by-case basis. However, unless governments provide specific exemptions in agreements, land can be purchased by foreign businesses and individuals. Ultimately, this makes small land holdings vulnerable, especially those where documentation of land tenure is not secured. The majority of small-scale, subsistence farms of women will be unable to compete with large agro-business monopolies because of economies of scale and the benefits of large capital, coupled with the pre-existing discrimination against women in access to inputs, credits, technology and information.¹²⁴

3.3 ESSENTIAL SERVICES AND PRIVATISATION
• Many governments around the world are embracing the privatisation of services – such as hospitals, schools and of infrastructure, including roads and water delivery systems – often with the view to improving efficiency and quality of service delivery. Both risks and benefits associated with privatisation of essential services have been identified, all of which need to be carefully considered in specific contexts to evaluate potential impacts on human rights enjoyment. Women may be adversely impacted by changes in such services, including privatisation, if this reduces accessibility or quality of such services.
• The 2017-issued General Comment No. 24 by the UN Committee on Economic, Social and Cultural Rights, for example, explicitly addresses the topic of essential services and privatisation. The Committee recalls that whilst privatisation is not prohibited by the ICESCR, states have an obligation to ensure that private providers are subject to strict regulations that impose relevant standards for equitable service delivery, and points out that it is “particularly concerned that goods and services that are necessary for the enjoyment of basic economic, social and cultural rights may become less affordable as a result of such goods and services being provided by the private sector”. The Committee also notes that privatisation can be associated with problematic effects and processes (in particular equal access by different rights-holder groups), which should be carefully analysed and avoided, and notes that that state parties cannot use privatisation as a “convenient excuse” not to discharge their human rights duties.¹²⁵

(a) Access to educational services
• The Special Rapporteur on the right to education (2014) states that privatisation adversely affects the right to education, both as an entitlement and as empowerment. The Rapporteur states that, “privatisation in education (…) exacerbates discrimination against girls in gaining access to education. It is well known that families prioritize the education of boys over girls and that girls are less likely to be enrolled in private education owing to parents’ perceived return on the costs of educating girls compared to that of boys”.¹²⁶
• In a written submission to the UN Committee on the Elimination of Discrimination against Women, Action Aid, Open Society Foundations and Education International

¹²⁶ A/69/402, para. 47
(among many others), concluded that in order for women and girls to be able to realise their right to education (as well as their right to non-discrimination and equality more broadly), it is imperative that education is seen as public good, and not as a commodity. They argued that this is in line with a human rights-based understanding of the right to education, and also underscores not only the state’s obligation to protect, but also fulfil the right to education.\textsuperscript{127}

- The Committee has also pointed out that privatisation of education may include poor regulation and oversight of education providers leading to, in some cases: lack of accountability for sexual assault of girls by school personnel; promotion of gender stereotypes in schooling; lack of access to sexual and reproductive health education, which also have a disproportionate impact upon girls.\textsuperscript{128}

(b) Access to health services
- As part of protecting, respecting and fulfilling the right to health, states need to ensure that privatisation does not constitute a threat to the availability, accessibility, acceptability, and quality of services.\textsuperscript{129}
- Furthermore, CESC General Comment No. 14 recommends that states integrate a gender perspective in their health-related policies, planning, programmes and research, in order to promote better health for both sexes.\textsuperscript{130}
- In its General Recommendation on women and health, the UN Committee on the Elimination of Discrimination against Women states that it “is concerned about the evidence that States are relinquishing (their) obligations as they transfer State health functions to private agencies”.\textsuperscript{131} The Committee specifies that “State parties cannot absolve themselves of the responsibility in these areas (women’s ill health) by delegating or transferring these powers to private sector agencies”.\textsuperscript{132}

(c) Access to water services
- Protecting the right to water requires the State to ensure that non-state actors, including private water providers, do not take any actions that undermine the enjoyment of the right to water. The Special Rapporteur on the right to safe drinking water and sanitation (2017), “recommends that development cooperation entities ensure that external assistance from non-governmental organizations, development agencies and the private sector comply with human rights standards and include measures to eliminate gender inequalities in access”.\textsuperscript{133}

\textsuperscript{127} Action Aid et al., \textit{Privatisation and its impact on the right to education of women and girls}, 2014: \url{http://www.campaignforeducation.org/docs/reports/GCE_Submission_Privatisation_CEDAW_2014.pdf}


\textsuperscript{129} WHO, \textit{Human rights and gender equality in health sector strategies}, 2011: \url{http://www.ohchr.org/Documents/Publications/HRandGenderEqualityinHealthSectorStrategies.pdf}

\textsuperscript{130} CESC General Comment 14, para. 20

\textsuperscript{131} CEDAW General Recommendation No. 24, para. 17

\textsuperscript{132} CEDAW General Recommendation No. 24, para. 17

\textsuperscript{133} A/HRC/36/45, para. 78
Action Aid has argued that where women’s access to water is compromised by privatisation through price hikes or water cut-offs, women and their children are likely to have to travel greater distances from home in search of water, limiting their time available for other social, economic and cultural activities. Their safety may also be put at risk when water restrictions force them to collect water at night-time, or from far-away or isolated places.  

3.4 PUBLIC PROCUREMENT
- The Beijing Declaration and Platform for Action made several recommendations related to public procurement and gender equality in 1995. For instance:
  - Actions to be taken by governments should “review, formulate, if necessary, and implement policies, including business, commercial and contract law regulations, to ensure they do not discriminate against micro, small, and medium-scale enterprises owned by women in the rural and urban areas”.  
  - Actions to be taken by governments, central banks and national development banks, and private institutions should: “ensure that women’s priorities are included in public investment programs for economic infrastructure, such as water sanitation, electrification and energy conservation, transport and road construction; promote greater involvement of women beneficiaries at the project planning and implementation stages to ensure access to jobs and contracts”.  
  - Actions to be taken by the private sector, including transnational and national businesses: “adopt policies and establish mechanisms to grant contracts on non-discriminatory basis”.  
- Research has indicated that there are still significant gaps in terms of developing and applying comprehensive approaches that address gender equality in public procurement processes from the perspective of women’s entrepreneurship, and women’s utilisation of public works, goods and services.  
- In an effort to support the implementation of the Women Empowerment Principles (set up by UN Women and the Global Compact), UN Women (2017) published a guide on gender-responsive procurement. In this guide, UN Women states that public procurement is powerful tool for promoting socio-economic objectives, since it sits at the intersection of the government’s regulatory and buying powers. Because of this, governments are uniquely positioned to promote gender equality and women’s empowerment through gender-responsive procurement processes.
3.5 INVESTMENT, TRADE AND FINANCE

- Economic policies impact different segments of the population, including men and women, in different ways. In turn, gender inequalities impact on trade policy outcomes and economic growth. Taking into account gender perspectives in macro-economic policies, including trade policies, is thus essential to pursuing inclusive development, and to achieve fairer and beneficial outcomes for all.\(^\text{140}\)

3.5.1 Trade and investment agreements and implications on gender equality

- Trade and investment can be important sources of economic growth, which includes benefits for women. However, trade and investment agreements and structures in the global economy have also been criticised from a human rights perspective. As such, the gendered implications of trade and investment structures should be carefully considered as part of establishing how women and girls may be adversely impacted and how they may benefit.

- In 2015, for example, HRC mandate holders voiced concerns about the impacts of trade and investment agreements on human rights. In a collective statement, a group of UN experts stated that trade agreements “are likely to have a number of retrogressive effects on the protection and promotion of human rights, including lowering the threshold of health protection, food safety and labour standards, by catering to the business interests of pharmaceutical monopolies and extending intellectual property protection”.\(^\text{141}\)

- The European Parliament (2016) explains that gender inequality in trade is apparent through three main channels: (i) employment; (ii) consumption; and (iii) public provision. Consequently, different groups of women and men are affected in their multiple roles as workers, producers and consumers, and as citizens and taxpayers entitled to public services.\(^\text{142}\)

- In terms of employment, trade expansion and liberalisation lead to changes in the structure of production. These changes in regulatory environments affect the quality and security of employment for various groups, with small-scale producers and low-skilled workers bearing the heaviest burden. Because of the occupational segregation between women and men, existing in both northern and southern countries, women are often in the lower segments of the employment categories, and are thus most vulnerable to changes in market structures.\(^\text{143}\)

- Regarding consumption, trade induced changes in relative prices of goods and services generates changes in real incomes that affect different households and individuals within

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households differently—depending on their consumption needs as well as their access and control over income. Gendered effects may result, for instance, because of prevailing norms assigning women the primary responsibility for the purchase and preparation of food for the family. Since women generally spend higher percentages of their incomes on food and their children’s education, any increase in such goods and services may have a detrimental effect upon the whole family.\textsuperscript{144}

- Furthermore, according to Public Service International, trade agreements increasingly include service chapters that require state services to be opened to foreign investment if any part of the industry is currently provided by the private sector. Monopoly protections awarded to pharmaceutical companies may increase the costs of medicines, which particularly impact the poorest.\textsuperscript{145}

- Lastly, preferential trade agreements may deepen the economic inequality between men and women, especially where the reduction of tariffs denies governments an important source of revenue. Tariffs can make an important percentage of income, especially in economies with poorly developed tax systems, and where tax incentives are used to drive foreign direct investments. Reduced public expenditure usually impacts more heavily on the poor—particularly poor women. Women are disproportionately impacted by funding cuts focusing on reductions in subsidies, public wages and social protection payments since they are more likely to use public services and claim social welfare payments.\textsuperscript{146}

3.5.2 Financial services, including access to finance and project financing

\textit{Micro-finance and gender equality}

- Rather than enabling women to secure their livelihoods, both formal and customary laws are often barriers to women’s economic independence. Credit markets are not gender-neutral, and women may find themselves prohibited from entering into contracts, opening bank accounts, or from entering into loan agreements.\textsuperscript{147}

- The provision of micro-finance has been promoted as an economic empowerment strategy for women in the Global South. However, it has also been pointed out that there is evidence that the increasing access to debt has failed to address either poverty or inequalities and has, in many cases, deepened exploitation and poverty. The APWLD (2017), for example, reported that many of these loans come with an interest as high as 30 per cent, indebting women quickly.\textsuperscript{148}

- For many female migrant workers, the cost of migration is covered by loans from informal sources, such as recruitment agencies and loan sharks, since women often lack the collateral required by the formal banking system.\textsuperscript{149}

\textit{Macro-finance and gender equality}

\begin{thebibliography}{99}
\bibitem{145} Public Services International, \textit{Free trade or women’s rights}, 2018: \url{http://www.world-psi.org/en/free-trade-or-womens-rights}
\bibitem{146} Public Services International, \textit{Free trade or women’s rights}, 2018: \url{http://www.world-psi.org/en/free-trade-or-womens-rights}
\bibitem{147} A/HRC/31/51, para. 18
\bibitem{148} E/CN.6/2017/NGO/45, page 3
\bibitem{149} E/CN.6/2017/NGO/45, page 3
\end{thebibliography}
• All aspects of gender equality are impacted by macro-economic policy. Yet, macro-economic policy formation remains largely the domain for economists, free from the scrutiny and input from civil society.¹⁵⁰

• According to the Bretton Woods Project, whilst having taken steps in recognising the ‘macro-criticality’ of some elements of gender equality, the IMF still has a long way to go in ensuring that its work truly contributes to achieving the SDGs (especially Goal 5), and do not undermine gender equality. It points out three major criticisms to the IMF’s gender work. Firstly, whilst gender is becoming an institutionalised part of the Fund’s work, it has only developed a handful of surveillance reports and two lending programmes on the matter. This is far from applying a comprehensive gender lens to its work. Secondly, the IMF’s work relies heavily upon pointing out gender gaps in labour force participation, which compromises only one element of gender equality, and will not contribute to any improvement if treated in a vacuum. Lastly, the IMF’s new gender work does not address how its conventional policy advice, like cutting social services and restricting labour rights, undermines gender equality.¹⁵¹

• In December 2015, the World Bank released its new gender strategy for 2016-2023. The strategy outlines the Bank’s objectives related to gender equality and suggests how they should be operationalised within the institution – with SDG 5 at the core of the strategy. It has been argued that the strategy primarily focuses on how women can contribute to economic growth, paying less attention to the quality and conditions of women’s work.¹⁵²

• Regionally, the African Development Bank has a separate policy on gender, which defines the Bank’s commitment to promote gender mainstreaming as a means of fostering poverty reduction, economic development and gender equality on the continent.¹⁵³ The Asian Development Bank also has a separate policy on gender and development, adopting gender mainstreaming as a key strategy in promoting gender equality.¹⁵⁴ So does the Inter-American Development Bank¹⁵⁵, and the European Investment Bank.¹⁵⁶

3.6 ACCESS TO EFFECTIVE REMEDY
• The right to remedy is considered not only a human right per se but also a pre-requisite for the enjoyment of other human rights. A gender analysis is therefore necessary to

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ensure that women who are victims of business-related human rights abuses have access to effective remedies.

- The third pillar of the UNGPs is dedicated to access to remedies. This includes access to judicial and state-based non-judicial remedies, as well as access to operational-level grievance mechanisms.

3.6.1 Gender considerations for judicial and non-judicial access to remedy

- The Working Group on the elimination of discrimination against women in law and practice states that the effective elimination of discrimination against women in economic and social life requires gender-responsive and effective accountability systems. Although there have been some judicial decisions on discrimination against women in economic and social life at the international, regional and national levels, the numbers are disturbingly low.\(^{157}\)
- The gender-specific application of the state obligation to provide mechanisms of accountability for violations of economic and social rights (including courts and quasi-judicial bodies) still requires elaboration.\(^{158}\)

3.6.2 Barriers to judicial remedy and access to justice

- The marginalisation of women in many contexts, stemming from entrenched gender-based power asymmetries, means that their barriers to accessing justice are frequently further increased.\(^{159}\)
- Normative frameworks for advancing women’s rights have been developed and have progressed significantly over the past decades. However, studies show that women around the world continue to have little or no access to formal justice systems, and much less the ability to hold large business actors to account.\(^{160}\)
- Gender norms, interfering with women’s leadership and agency, along with their disproportionate unpaid care responsibilities, undermine women’s voice, time and freedom of movement to participate in remedial processes. Their exclusion from such processes can thereto give rise to a general lack of trust between them and other parties involved, leading to additional barriers and increased social conflicts.\(^{161}\)
- Gender inequalities in access to education also means that women have lower levels of literacy, and awareness of rights, laws and available mechanisms for redress – whether judicial or non-judicial, and how to access them.\(^{162}\)

\(^{157}\) A/HRC/26/39, para. 20  
\(^{158}\) A/HRC/26/39, para. 21  
• Furthermore, the general absence of gender sensitivity within judicial, non-judicial and company based grievance mechanisms (and among the state or business actors overseeing them) mean that women’s specific concerns – whether immediate or long-term – are often overlooked.163

• Financial costs of participating in consultations and grievance processes, and the lack of legal aid, can be a huge obstacle for women accessing justice, given their socioeconomic marginalisation in many contexts.164

• Moreover, women within marginalised groups can encounter additional legal and structural barriers in accessing judicial mechanisms. These include, for instance, migrant women, displaced or indigenous women – especially if they only communicate in their own native language.165

• Women working under insecure (or non-existent) work contracts often have to put their jobs and livelihoods at risk if trying to access remedy.

• The threat of gender-based violence, perpetrated by business or state actors, and the stigma associated with sexual violence, can deter women from seeking redress. Even where it is possible, it can be particularly difficult for women to access redress, due to the potentially sensitive nature of the issues, such as reproductive rights.166

• In factories where the majority of the workers are women, most supervisory and management positions are held by men. This can result in an environment where female workers do not come forward to report even the most egregious abuse or sexual harassment. The lack of female representation among factory management can also mean that women’s needs are not properly articulated and addressed – such as requests to improve quantity and quality of on-site childcare, or the desire of female workers to access transportation from their work place.167

• Importantly, the increasing complexity of business operations (operating in different countries, through different actors) often requires remedies that reach beyond national boundaries, and an ability to investigate complex corporate structures, finances and relationships. Thus, civil remedies, such as tort law, may be the only option in some of these cases. However, this area of law may not always be best suited to addressing gender discrimination, inequality and human rights abuses.168

• There are also concerns about remedy for rights violations not taking into account the gender dimensions within households. For instance, changes in household finances can

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167 Verite, Women at work in global supply chains: https://www.verite.org/women-work-global-supply-chains/

cause increasing domestic violence due to disagreement about priorities for spending the funds. Settlements with companies, or profit sharing agreements, that do not take into account the gender dimensions of how the money will be distributed can indirectly contribute to increased levels of violence against women.\footnote{Ama Marston, Women, business and human rights: a background paper for the UN working group on discrimination against women in law and practice, 2014: \url{http://www.ohchr.org/Documents/Issues/Women/WG/ESL/BackgroundPaper4.pdf}}

- Furthermore, when payment of compensation or benefits are paid out by companies, these often go to the man of the household, or on behalf of their families and communities. This denies women access to, and control over, the financial benefits of, for instance, large scale industry projects. Instead, it encourages women’s economic dependence on men – exacerbating existing inequalities.\footnote{Oxfam Australia, A guide to gender impact assessments for the extractive industries, 2017, p. 4}

### 3.6.3 Women human rights defenders

- Whilst women human rights defenders (WHRDs) are subject to the same types of risks as other HRDs, they are also targeted for, or exposed to, gender specific threats and violence. For instance, the work of WHRDs is often seen as challenging traditional family and gender roles in society, and they are thus likely to be stigmatised if their family and community consider them a threat to the religion, culture etc.\footnote{AWID, Our right to safety: women human right defenders’ holistic approach to protection, 2014: \url{http://defendingwomen-defendingrights.org/wp-content/uploads/2014/03/Our-Right-To-Safety_FINAL.pdf}}

- In 2017, the UN Working Group on Business and Human Rights launched a workstream on this issue, noting that: “there are increasing records of killings, attacks, threats and harassment against human rights defenders who speak up against business-related human rights issues, including the particular challenges faced by women human rights defenders”.\footnote{UN Working Group on Business and Human Rights, Informal background note Human rights defenders and civic space – the business & human rights dimension: \url{http://www.ohchr.org/Documents/Issues/Business/ForumSession6/UNWG_ProjectHRDsBackgroundNote12052017.pdf}}

- According to the Front Line Defenders, defamation, intimidation and threats were more commonly used against WHRDs than their male counterparts, and often contained a gendered dimension. Approximately 23 per cent of the Urgent Appeals issued by Front Line Defenders in 2017 on WHRDs related to threats or intimidation because of their work, compared to 10 per cent for their male counterparts. Reportedly, the gendered dynamic to the targeting of WHRDs was prevalent in every region in 2017.\footnote{Front Line Defenders, Annual report on human rights defenders at risk in 2017}

### 3.6.4 Non-judicial remedies

- All non-judicial grievance mechanisms should meet the effectiveness criteria set out in the UNGPs, being: legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on dialogue and engagement.\footnote{UN Guiding Principles on Business and Human Rights, Principle 31}

- Non-judicial grievance mechanisms include, for instance, intergovernmental grievance mechanisms (such as mechanisms linked to UN treaty-based and charter-based bodies, the ILO’s Committee on Freedom of Association, and National Contact Points), National Human Rights Institutions, mechanisms associated with Development Finance

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\footnote{170 Oxfam Australia, A guide to gender impact assessments for the extractive industries, 2017, p. 4}

\footnote{171 AWID, Our right to safety: women human right defenders’ holistic approach to protection, 2014: \url{http://defendingwomen-defendingrights.org/wp-content/uploads/2014/03/Our-Right-To-Safety_FINAL.pdf}}


\footnote{173 Front Line Defenders, Annual report on human rights defenders at risk in 2017}

\footnote{174 UN Guiding Principles on Business and Human Rights, Principle 31}
Institutions (such as the Inspection Panel of the World Bank and the Compliance Advisor Ombudsman of the IFC), sectoral and multi-stakeholder grievance mechanisms (such as the Fair Wear Foundation), and operational level grievance mechanisms (established by businesses themselves).\footnote{SOMO, The patchwork of non-judicial grievance mechanisms, 2014: \url{https://www.grievancemechanisms.org/attachments/ThePatchworkofNonJudicialGrievanceMechanisms.pdf}}

- In its latest report to the UN General Assembly (2017), the Working Group on Business and Human Rights explains how women’s experiences and expectations should inform the provision of effective remedies, in all types of remedial mechanisms, in line with the UNGPs. It states that women’s experiences should be relevant in three interrelated ways: “how corporate activities may affect women differently, including by reinforcing or exacerbating existing gender discrimination by adopting gender-neutral policies; what additional barriers women may face in gaining access to effective remedies to redress human rights abuses; and what remedial responses women may need to achieve substantive justice in an era in which the private sector is playing a dominant role”.\footnote{A/72/162, para. 28}

- The Working Group on Business and Human Rights thus states that it is “critical for both States and businesses to engage with women by applying a gender lens while implementing the Guiding Principles, including pillar III”.\footnote{A/72/162, para. 31}

- According to IWRAW-Asia Pacific and Landesa (2017), designing effective, gender-responsive remedies requires specific attention to women’s social contexts and legal rights status. For instance, company-based grievance mechanisms can ensure that women’s land rights and interests are captured, although their rights are generally more likely than men’s to be unregistered, informal and contested. Establishing such remedies will require local knowledge and assistance and involve consultations with both men and women in the affected communities.\footnote{IWRAW, Submission to the UN Working Group on the issue of human rights and transnational corporations and other business enterprises on access to remedy, 2017: \url{https://business-humanrights.org/sites/default/files/documents/Joint-submission-on-access-to-remedy-women-long-version.pdf}}

- Moreover, there have been cases of women reporting allegations of rape by companies’ private security firms, with remediation packages falling short of international standards – including the UNGPs. Operational-level grievance mechanisms should thus be independently reviewed, and the right to access court and obtain judicial review or appeal decisions should be facilitated. Stakeholders have also argued that state parties should ensure that violence against women should not be addressed by non-judicial mechanisms, in particular operational-level grievance mechanisms, but should be sanctioned under criminal law.\footnote{IWRAW, Submission to the UN Working Group on the issue of human rights and transnational corporations and other business enterprises on access to remedy, 2017: \url{https://business-humanrights.org/sites/default/files/documents/Joint-submission-on-access-to-remedy-women-long-version.pdf}}