



Project on Organizing, Development, Education, and Research (PODER)

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

The Project on Organizing, Development, Education, and Research (PODER) welcomes the development of a gender guidance to the UNGPs, motivating a richer international discussion on addressing the differentiated impacts corporate activities have on women and the numerous gender gaps existing in the BHR agenda.

In this document we are providing inputs that can feed the guidance overall, also including specific information on the case of the Mexican State.

Relevance

Women are the ones who bear differentiated responsibilities related to the care economy; when there are health problems in a community, for example, women are the ones that take care of the sick.

In rural communities, women travel miles to collect water, and are thus affected by episodes of pollution or when companies monopolize water for their operations, reducing access for human and animal consumption.

Working women have poorer working conditions, both in terms of wages as well as in health and safety measures; women suffer gender-based violence in the workplace, and encounter such violence when commuting to and from work;

[Women human rights defenders](#), especially at the community level, are threatened, harassed and often attacked when they face corporate power.

Since the end of 1979, it has been recognized that international human rights standards cannot be met without addressing gender discrimination. The Convention to Eliminate All Forms of Discrimination against Women (CEDAW) establishes that States have an obligation to guarantee men and women equality in the enjoyment of all economic, social, cultural, civil and political rights.

CEDAW delves into the consequences of gender inequality in the fulfillment of rights for women by making recommendations on the structural changes needed to achieve cultural transformations that allow for substantive equality.

Although in recent decades we have made progress in identifying and analyzing the differentiated and disproportionate impacts business activities have on women's human rights, challenges remain in bringing the new paradigm of transparency and corporate accountability, reflected in the Guiding Principles on Business and Human Rights, to fruition.

Recommendations have been made to develop participatory impact assessments on human rights, the environment and gender on extractive industry projects, trade and investment agreements to ensure that they do not have negative consequences for women and girls.^[1] In 2010, General Recommendation 28 of CEDAW pinpointed actors responsible for eliminating gender discrimination, including national and international corporations. General



Recommendations 28 and 34 then allow progress in the obligations to ensure that women have access to remediation after abuses by corporations.

However, despite these advances, the corporate social responsibility model conveys the idea that it is sufficient for companies to make a minimal investment towards social projects to maintain their good reputation. The Guiding Principles are clear in stating that companies are likewise responsible for respecting human rights and guaranteeing comprehensive and participatory mechanisms to remedy the damage when abuses have occurred.

There is a clear path for companies, governments and the United Nations to include the gender perspective in business and human rights issues. Yet, a climate that allows companies to whitewash specific actions focused on women, outside or inside their facilities, remains. This reproduces traditional gender roles, hindering the cultural transformation deeply needed to overcome gender inequality.

In this climate of the so-called "pink washing", the reconciliation between family and work life has been reduced to the opening of breastfeeding rooms for women workers and, in more liberal cases, extending maternity leave to both parents. The commitment to women's empowerment in most cases translates into messages of self-esteem and self-improvement for working "mothers" and, a few times, of social transformation, always associated with the consumption of their products. Women's human rights are often limited to marketing strategies.

Recommendations

1. Gender Impact Assessments

Human rights abuses by corporations are not gender neutral. As stated above, when it comes to labor rights violations, women are represented disproportionately in the informal sector and in vulnerable jobs. Land dispossession and the displacement of rural and indigenous communities through oil or mining exploration, and other extractive industries, has a disproportionate impact on those that care for their families - more commonly, women and girls.

Business activities can lead to an increase in gender discrimination and sexual violence, which is why Gender Impact Assessments should be required for companies' operations. Women from affected communities should have the power to choose independent and trusted entities to conduct such evaluations, to ensure that they do not serve corporate interests over human rights. The Human Rights Impact Assessments as well as the Environmental Impact Assessments must include a gender analysis and take into account the differentiated impacts on the rights of women and girls.

2. Justice with a Gender Perspective and Reparation Mechanisms

Access to justice for communities affected by corporate abuse is hampered by numerous social, economic and political factors: courts or judges absent from rural areas, unaffordable legal procedures, intimidation and threats. Legal procedures are usually not conducted in the language spoken by indigenous and rural communities, and judicial processes can be manipulated by powerful economic and political interests as well as influenced by gender stereotypes. Women usually face gender violence with certain specificities, stigmas, reprisals and insecurity in employment for reporting the abuse they suffer in the workplace.

This Guidance should encourage that States review all barriers that limit or impede access to justice and comprehensive reparation to women, and fully comply with their obligation to



ensure access to legal assistance to ensure that the systems of justice are physically, economically and socially accessible for women. These reparations must have a transforming potential, instead of reinforcing existing conditions of violence and discrimination against women and girls.

3. Ensure Respect, Protection and Generation of an Enabling Environment for Women Human Rights Defenders

It is of utmost importance that State respect, protect and create an environment conducive to the work of all human rights defenders, with special attention to women and LGBTIQ defenders. Women human rights defenders, particularly in contexts of armed conflicts and post-conflict situations, face greater risks of violence, criminalization, stigmatization and harassment. Perpetrators include state and corporate actors, as well as state and private security forces. States must recognize women human rights defenders in all their diversity, cease criminalization and other violations of their human rights, adopt protection mechanisms and make all perpetrators accountable before the justice system.

4. On women workers' rights

States need to remain accountable for what they agreed under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), International Labor Organization (ILO) and other human rights and labor frameworks to ensure that women workers' rights become a reality. Given that gendered inequalities translate into women workers being more likely to experience violence, have short-term contracts, lower wages, less benefits, less social protection and less likely to access justice that upholds their dignity it is essential to put the issue of women worker's rights on the table.

The political will to implement human rights continues to be lagged behind the needs and interests for profits. Workers rights need to be at the front. The call is for States to ensure that national laws reflect progressive human rights standards, and the creation of strong, independent and effective monitoring and enforcement mechanisms to hold business accountable for non-compliance. Central to this is creating an enabling environment for women workers to speak, organize and unionize freely and collectively without reprisals.

5. On linkages with Trade and Investment agreements

States need to ensure policy coherence with economic and investment agreements, especially given that women dominate the labor force in export-driven industries but women's roles are not fully recognized or considered. States need to safeguard their policy space and prioritize their human rights obligations in investment treaties.

Business need to make their supply chains transparent and undertake rigorous gender impact assessments to identify the gender dynamics at recruitment, supervision, remuneration and complaint processes to ensure that they implement human rights based due diligence measures.

When negotiating trade and investment agreements, not only a human rights perspective should be included, but also a gender perspective must be considered.



6. On Mexico

The Mexican State has adopted several international commitments on women's rights¹.

- The Convention on the Political Rights of Women, 1981
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1981, and its amendment of par., 1 art. 20, 1996
- Optional Protocol – CEDAW (2002)
- And many others related to slavery and human trafficking

On labor rights, the Federal Labor Law provide protections on non-discrimination on article 133, and it has a whole Title V related to Women's Work (pregnancy and tests for recruitment, health, night shifts – art. 166). It has ratified several ILO conventions (79 out of 188).

On Violence, Mexico adopted the General law of access for women to a life free of violence in 2007.

The Supreme Court of Justice has developed a Protocol to render Justice with a gender perspective and it is recalled while using other protocols as the Acting Protocol for justice in cases of infrastructure and development. The latter talks about the disproportionate effect on women when forced evictions are in place, the judicial discrimination and other types of discrimination in terms of private property issues or housing, and the particular acts of violence and sexual abuse when they face the risk of or become homeless.

These are important steps forward, but the reality for women is still highly concerning. There are many pending issues in terms of lax and permissive regulations to violate women's labor rights regarding domestic work, maquila textile sector, agriculture and temporal migration. The work spaces have a high rate of human rights violations, precarious conditions, feminization of the workplace, not being represented by unions.²

Also, femicide has increased to ten thousand women between 2012 and 2016, and making Mexico one of the 25 more dangerous countries for women.³

Even though Mexico has rather good legislation, its implementation is far from reaching adequate levels. The information given here on the context and situation of the country is non-exhaustive.

The disaggregated information regarding women and corporate activity needs to be addressed in any public policy instrument as in the National Action Plan on Business and Human Rights. The efforts made with a multi-stakeholder approach to develop a NAP in Mexico, in the process and in the draft of the instrument was lacking of a gender perspective.

With a new government in office and a new guidance to implement the UNGPs with a gender perspective there is an opportunity to advance in business and women's human rights in

1 CSOs Focal Group on Business and Human Rights. 2016. *National Baseline Assessment for the implementation of the UN Guiding Principles on Business and Human Rights in Mexico*. <https://www.projectpoder.org/2017/01/national-baseline-assessment-for-the-implementation-of-the-un-guiding-principles-on-business-and-human-rights-in-mexico/>

2 Proyecto de Derechos Económicos, Sociales y Culturales (PRODESC) Mujeres hacen frente a violaciones de derechos laborales. <http://www.prodesc.org.mx/index.php/es/2014-04-21-22-19-12/prodesc-en-medios/notas/511-mujeres-hacen-frente-a-violaciones-de-derechos-laborales>

3 Peace Brigades International. Mujeres defensoras de derechos humanos. <https://pbi-mexico.org/es/themes/mujeres-defensoras-de-derechos-humanos>



Mexico. If the NAP was to be published, it is essential that recommendations regarding the inclusion of a gender lens are put forward.

Conclusion

It is essential that the business and human rights movement pays more attention to gender impact assessments to better identify and study how corporate abuses affect women and men. If cultural inequalities are exploited and further entrenched by corporations themselves, we need to understand the roles that women and men have assumed in the context of business activities, as well as how motherhood impacts women, to know how to address these differences and how to build greater regulation and greater corporate accountability. We need to strengthen women's leadership and make sure they have a place at decision-making tables.

It is time to change the paradigm, and to understand that the profound transformation of the system will only be possible if we recognize that substantive equality is key to social and economic justice. There is no democracy without women.

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