



# **Applying the Gender Lens to the UN Guiding Principles on Business and Human Rights**

## **Report on the Australian Consultation**

**Held at the Australian Human Rights Commission  
Sydney, 14 – 15 November 2018**

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The consultation was a collaboration between the Australian Human Rights Institute UNSW, the Australian Human Rights Commission, and RMIT University.

With acknowledgement of Laura Melrose, Louise Chappell, Kate Grosser, Jennifer Ford and Shelley Marshall in writing the report. With thanks also to Chantelle Mayo and Laura Melrose for scribing; Roni Bintang for photography; and Professor Surya Deva of the UN Working Group on Business and Human Rights; Nick Bainton of the Sustainable Minerals Institute; and Sarah McGrath, Rohini Thomas and Lauren Zanetti of the Australian Human Rights Commission for their input.



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## Applying the Gender Lens to the UN Guiding Principles on Business and Human Rights Report on the Australian Consultation

This report summarises the key debates and recommendations arising from the Australian consultation on Applying the Gender Lens to the UN Guiding Principles on Business and Human Rights<sup>1</sup> (UNGPs) (the consultation). The consultation was held at the Australian Human Rights Commission in Sydney, Australia on 14 and 15 November 2018. The consultation did not purport to cover all matters of gender inequality in and by Australian companies, but a selection of prevalent issues and important trends occurring. While it is not possible to reflect the full diversity of contributions made at the consultation in this report, presented here is a summary of views and recommendations as provided by participants, including key highlights from each panel session.

### Key messages

1. The key message of the Australian consultation, heard from all sectors involved, is that business must be part of societal change in addressing gender inequality.
2. Business influences gendered power relations and gendered social impact in Australia across all industries and sectors.
3. The UNGPs provide little detail as to how business should implement gender-responsive practices and policies that respect, protect and remedy human rights. They also provide little guidance for governments on how to ensure that laws and policies foster gender-sensitivity and gender-equality by business.
4. Evidence collected through the Australian consultation demonstrates a crucial need for more substantive guidance to be provided to business, government and other stakeholders. A gender-blind or gender-neutral approach to human rights due diligence cannot account for the impact of business activities on the lives of women, men and gender non-binary people. The consultation supported a gender-*responsive* implementation of the UNGPs that would encourage a holistic approach to their operating environments by identifying, preventing, mitigating and accounting for the ways in which their actions or omissions may differently affect men, women and gender non-conforming people.
5. There is a well-developed body of international human rights law containing guarantees of substantive gender equality for people within all areas of economic, social, cultural and political life. This body of human rights law should be far better incorporated into the implementation of the UNGPs and adopted by Australian government at all levels in relation to business practices and impact.

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<sup>1</sup> United Nations Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, 2011, UN Doc HR/PUB/11/04  
[https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

## Overview

Over the two days of discussion, participants and panellists sought to analyse through a gender lens the human rights impact of business with respect to workplaces, supply chains, communities, the environment and public policy. The term 'gender' is used to describe the socially constructed differences between people that are: attributed throughout the life cycle; learned, not innate; changeable for any given society over time and manifested with wide variations both within and between cultures.<sup>2</sup> Gender influences the opportunities and resources accessible to people in all societies and has historically manifested in hierarchical distribution of power and rights that favours men and disadvantages women, as well as people with non-binary gender identities, such as transgender and intersex persons.<sup>3</sup>

The focus was on corporate human rights due diligence in response to concerns surrounding gender-based harm and the rights of women, as well as access to effective remedy. Human rights due diligence is taken to include how Australian businesses do the following:

- (i) Assess their actual and potential gender human rights impacts
- (ii) Integrate and act upon those findings
- (iii) Track their responses, and
- (iv) Communicate how impacts are addressed.

To achieve human rights for all it is crucial to apply a gender lens in all circumstances. In this consultation, in line with the UN Working Group on Business and Human Rights' approach, gender was understood primarily as issues relating to women's experiences, though it was widely acknowledged that broader gender issues also arise in the context of human rights, including those related to issues of sexuality, identity and masculinities. The Australian consultation examined the intersection between women as workers, communities, and consumers, as well investor perspectives, and the need for adequate protections against endemic inequalities, discrimination, harassment and gender-based violence.

The consultation was convened by the United Nations Working Group on Business and Human Rights<sup>4</sup> (UN Working Group) and hosted by the Australian Human Rights Institute, UNSW Sydney, RMIT University Melbourne and the Australian Human Rights Commission. It was attended by a wide variety of representatives from: universities; non-government organisations (NGOs), including human rights organisations; government; business including investment institutions, industry groups and law firms; workers' associations; community legal centres; and international organisations.

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<sup>2</sup> OHCHR, Women's Rights Are Human Rights, 2014, pp 35–36, <https://www.ohchr.org/Documents/Events/WHRD/WomenRightsAreHR.pdf> (last accessed 19 November 2018).

<sup>3</sup> CEDAW Committee, General Recommendation no 28 (2010), UN doc CEDAW/C/GC/28, para 5. The term 'sex' refers to a person's biological status and is 'typically categorized as male, female or intersex. There are a number of indicators of biological sex, including sex chromosomes, gonads, internal reproductive organs and external genitalia', APA, 'Definitions Related to Sexual Orientation and Gender Diversity in APA Documents', p 5, <https://www.apa.org/pi/lgbt/resources/sexuality-definitions.pdf> (last accessed 19 November 2018).

<sup>4</sup> <https://www.ohchr.org/en/issues/business/pages/wghrandtransnationalcorporationsandotherbusiness.aspx>

# SESSION ONE: Purpose and Focus of the Consultation

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Photos: Roni Bintang

## Panel

- Rosalind Croucher, President, Australian Human Rights Commission
- Surya Deva, Vice Chair, UN Working Group on Business and Human Rights
- Elizabeth Broderick AO, consultant and independent expert, UN Working Group on Discrimination against Women in Law and Practice,
- Vanessa Zimmerman, expert advisor, UN Global Compact Network Australia
- Kate Grosser, Senior Lecturer, RMIT

The purpose of the consultation was to analyse and expand the application of the UNGPs using a gendered perspective. Evidence gathered at the consultation will inform the UN Working Group's guidance to states and businesses on integrating a gender lens to practices and policies.

A brief overview was provided of the UNGPs which were drafted by Professor John Ruggie, the UN Secretary General's Special Representative for Business and Human Rights and endorsed by the UN Human Rights Council (HRC) in 2011. The UNGPs have three pillars of responsibility: state duty to *protect*, business' responsibility to *respect*, and access to effective *remedy*. There is sparse reference to gender in the UNGPs.

The Universal Declaration of Human Rights, along with the other international human rights instruments, provides that sex and gender discrimination must be identified and redressed to ensure that everyone can equally enjoy human rights.<sup>5</sup> The UN treaty bodies have used interpretive general

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<sup>5</sup> Provisions prohibiting sex and gender-based discrimination can be found inter alia in the International Covenant on Civil and Political Rights, Arts 2(1), 4(1), 24, 26; the International Covenant on Economic, Social and Cultural Rights, Arts 2(2), 3; the Preamble to the International Convention on the Elimination of all Forms of Racial Discrimination; the Convention on the Rights of the Child, Art 2; the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Art 1; the Preamble, Art 3 and Art 6 of the Convention on the Rights of Persons with Disabilities.

comments to advance understandings of gendered inequalities and the steps that must be taken to identify and remedy these within the context of international human rights obligations.

In its General Comment no 20 (2009), the UN Committee on Economic, Social and Cultural Rights (CESCR) noted, ‘the social construction of gender stereotypes, prejudices and expected roles ... have created obstacles to the equal fulfilment of economic, social and cultural rights’.<sup>6</sup> The HRC has stated that the non-discrimination guarantees in Articles 2 and 3 of the International Covenant on Civil and Political Rights (ICCPR) require the removal of barriers to the equal enjoyment of each of the rights contained in the Covenant and that all necessary steps must be taken to end sex discrimination in the public and private sectors.<sup>7</sup> The UN Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) has also clearly articulated the obligations of States Parties to eliminate direct and indirect discrimination ‘by any person, organization or enterprise’ against women and girls in all areas of life.<sup>8</sup> In addition, the CEDAW Committee has noted that gender-based violence, whether this is perpetrated by agents of the state or private persons, is a form of discrimination that nullifies or impairs the realisation of women’s human rights. Indeed gender-based violence is a human rights violation in itself, and its prohibition has become a principle of customary international law.<sup>9</sup>

Guarantees of non-discrimination under international human rights law encompass both direct and indirect forms of discrimination.<sup>10</sup> The achievement of substantive or *de facto*/'real' equality, as required by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)<sup>11</sup> and other international human rights instruments, goes beyond guaranteeing women treatment that is identical to that of men and may necessitate temporary special measures such as quotas and affirmative action programmes alongside efforts directed at dismantling harmful gender stereotypes and discriminatory laws and practices in order to ensure equality of outcomes.<sup>12</sup>

Many of the human rights treaty monitoring bodies, in particular the CESCR Committee, the CEDAW Committee and the Committee on the Rights of the Child, have highlighted the responsibilities of businesses to respect international human rights law, including guarantees of non-discrimination, that exist alongside the duties of States Parties to protect human rights.<sup>13</sup>

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<sup>6</sup> Committee on Economic, Cultural and Social Rights (CESCR), General Comment no 20 (2009), UN doc E/GC.12/20, para 20.

<sup>7</sup> HRC, General Comment no 28 (2000), UN doc HRI/GEN/1/Rev.9 (1), paras 3–5.

<sup>8</sup> CEDAW Committee, General Recommendation no 28, *supra* fn 12, para 5.

<sup>9</sup> CEDAW Committee, General Recommendation no 35 on Gender-Based Violence Against Women Updating General Recommendation no 19, UN doc CEDAW/C/GC/35.

<sup>10</sup> CESCR, General Comment no 16 (2005), paras 12–13: ‘Direct discrimination occurs when a difference in treatment relies directly and explicitly on distinctions based exclusively on sex and characteristics of men or of women which cannot be justified objectively. Direct discrimination occurs when a difference in treatment relies directly and explicitly on distinctions based exclusively on sex and characteristics of men or of women which cannot be justified objectively.’ CESCR, General Comment no 16 (2005), paras 12–13:

<sup>11</sup> Convention on the Elimination of All Forms of Discrimination Against Women, <http://www.un.org/womenwatch/daw/cedaw/>

<sup>12</sup> CEDAW, Article 2(e); CEDAW Committee, General Recommendation no 25 on Temporary Special Measures.

<sup>13</sup> Committee on the Rights of the Child, General Comment No.16 (2013) on State obligations regarding the impact of the business sector on children’s rights, UN doc CRC/C/GC/16; CESCR, General Comment No. 24 on State Obligations under the international Covenant on Economic, Social and Cultural Rights in the Context of Business Activities (2017), UN doc E/C.12/GC/24

It was argued that all business activities and operations have the potential to impact on gender and that it is also crucial to maintain an intersectional focus and consider how business activities impact differently on women depending on race, class, minority group, religions, sexual orientation, disability, domestic circumstances, and so on. Moreover, industrial change invariably has a gendered effect, and as a traditionally compromised group, there is a need to focus on women in both formal and informal economies, and related policies.

### Current actions and policy landscape

Nationally, the Australian Human Rights Commission is engaged in two significant projects in this area: the *National Inquiry into Sexual Harassment in the Australian Workplace* (see Session Three), and the *Wiyi Yani U Thangani (Women's Voices)* project.<sup>14</sup>

Internationally, the UN Working Group on the Issue of Discrimination against Women in Law and in Practice<sup>15</sup> conducts country visits, prepares annual thematic reports to the HRC, and communicates with state governments about alleged human rights abuses. Elizabeth Broderick outlined the 2018 report,<sup>16</sup> which took stock of the context in which the struggle for rights is occurring and recounted instances of regression of women's rights. This is partially due to the emergence of extremist ideologies, common features of which include curtailing women's rights, entrenching traditional patriarchy in relation to family roles and protection of the family unit, removal of women's rights over their bodies and sexuality, and reduction of women's participation in public life (areas of education, labour, and politics). There have also been significantly more reprisals against female human defenders simply because they are women, as well as shutting down of civil society movements and initiatives. The UN Working Group on the Issue of Discrimination against Women in Law and in Practice 2019 thematic report will focus on how and why women are deprived of liberty, and the 2020 report will focus on the changing world of work (digital and technological innovation, demographic change, increased caring burden, globalisation, green jobs and sustainability, etc.).



Photos: Roni Bintang

### Recommendations from the consultation

Since Professor Ruggie's mandate, there has been much consideration of what gender recommendations should be included in future iterations of the UNGPs. Two potential approaches to the issue were highlighted: a technological approach, namely tools and processes that all people can use regardless of their understanding of gender principles; and capacity building from a political standpoint, emphasising women's participation in decision making and governance. It is important that the UNGPs recognise women's position as stakeholders and acknowledge that gender inequality is often used as a resource for global capital. Therefore, addressing women's human rights needs to challenge business-as-usual practices. Women should not be considered as inherently weak and marginalised – they are discriminated against, subjected to violence, and their work is undervalued (especially outside the workplace). Their marginalisation is a result of systemic inequalities and discrimination, not a lack of capability. Participants identified a number of key areas for action by both government and business.

<sup>14</sup> <https://www.humanrights.gov.au/our-work/aboriginal-and-torres-strait-islander-social-justice>

<sup>15</sup> <https://www.ohchr.org/en/issues/women/wgwomen/pages/wgwomenindex.aspx>

<sup>16</sup> <https://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/Annualreports.aspx>



The discussion highlighted the need for governments to:

- Abide by the 'duty to protect' citizens against human rights abuses from business
- Hold the private sector accountable to international human rights norms and standards
- Work with business to develop a more rigorous and nuanced approach to combat inherent discrimination, marginalisation, and violence against women in the context of business
- Implement measures to prevent regression of women's rights, and
- Ensure there are effective remedy procedures for business-related human rights grievances. This requires more than just one type, but a whole program of state and non-state based, judicial and non-judicial grievance procedures that are trusted, legitimate and transparent.

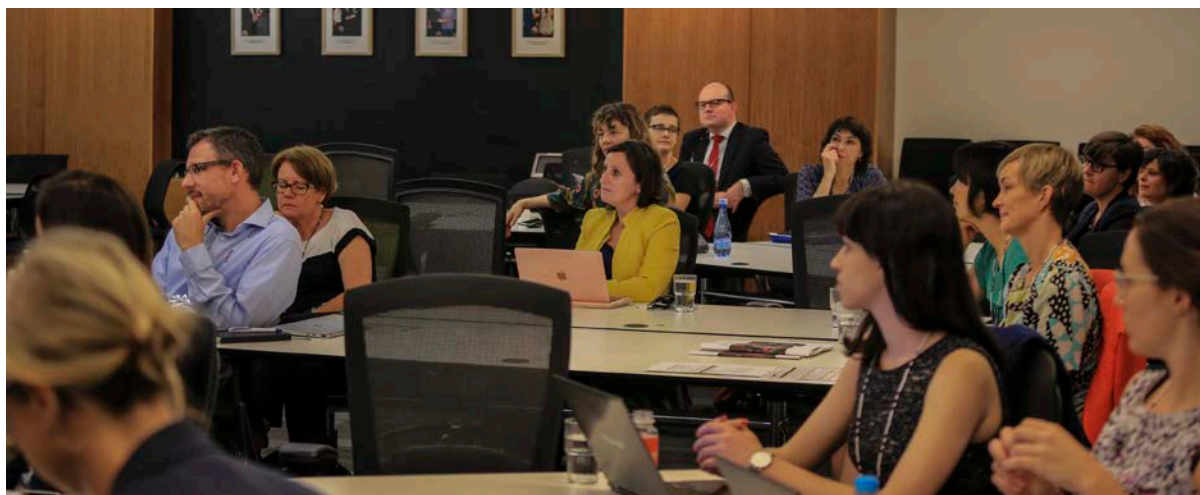
The discussion also highlighted that business should:

- Demonstrate their 'responsibility to respect' human rights as businesses and take action against risks and abuses. They should do so via a commitment to adequate human rights due diligence, including thorough impact assessments, properly addressing human rights impacts and sufficient communications regarding how they are acting on findings and tracking progress.
- Make gender equality core to their business strategy, and an equal aim to profit making.



# SESSION TWO: Situating Gender, Business and Human Rights in the International and National Context

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Photos: Roni Bintang

## Panel

- Cristina Tebar-Less, Head of Responsible Business Conduct, Organisation for Economic Cooperation and Development (OECD)
- Alison Aggarwal, Independent expert
- Anna Cody, Director, Kingsford Legal Centre

The CEDAW<sup>17</sup> provides a framework for the application of a gender lens to human rights issues. It is well established and widely endorsed, effectively clarifying the meaning of significant terms (such as 'gender equality' and 'discrimination'), explores both public and private rights and issues faced by women, and recommends how states should address those issues.

The Organisation for Economic Cooperation and Development (OECD) collects a vast amount of information on gender issues from varying perspectives (e.g., comparisons of investment flows with women's financial literacy). With respect to anti-discrimination it helps countries identify risks in terms of gender issues (wage equality, child labour, sexual harassment, etc.), and operates under a core belief that companies should do good while doing no harm.

Community legal centres are an important method by which people may access justice. There are 200 in Australia. They provide legal advice, conducting policy research and advocating for human rights. Kingsford Legal Centre (KLC) has been particularly active in the CEDAW Review of Australia<sup>18</sup>

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<sup>17</sup> Convention on the Elimination of All Forms of Discrimination Against Women, <http://www.un.org/womenwatch/daw/cedaw/>

<sup>18</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the eighth periodic report of Australia, 25 July 2018, CEDAW/C/AUS/CO/8

(CEDAW Review) in 2018, notably producing the shadow report<sup>19</sup> to that of the Australian Government.<sup>20</sup>

### Key issues

The CEDAW Review examined Australia's human rights performance and compliance with its women's rights treaty obligations. Findings included:

- Australia has a substantial gender pay gap of 15.3%, a below average performance for a developed economy, with a notable link between below-livable wages and either homelessness or inability to retire.
- 49% of women report discriminatory acts by employers due to pregnancy, with higher concentrations among diverse women, and
- Paid parental leave and flexible work options for mothers returning to work are crucial to reduce the gender pay gap.

The 2018 OECD Jobs Strategy Report on Australia<sup>21</sup> finds that in addition to the income gap between men and women, the incidence of part-time employment for women in Australia is higher than the OECD average. Further, one participant spoke about a 2018 Shine Lawyers survey of 2,009 women in which 35% of participants had been victims of harassment or discrimination in the workplace, almost half of which were sexual advances. In 70% of discrimination cases, the victimised women did not report the incident to senior staff due to: fear of inaction (45%); the fact that senior staff were the perpetrators (36%); embarrassment, fear of losing their employment or not being believed.<sup>22</sup>

In addition, it was recommended that federal and state parliaments are understood as workplaces and subject to the same rules and regulations as other workplaces.

### Recommendations from the consultation

One representative highlighted a crucial element of the debate: that the standard of equality cannot be limited to basic equity, but must consider systemic structural inequality, de facto equality and informal equality. Equality of opportunity and whether people are enabled and empowered to take those opportunities by way of their economic, social and cultural situations must be considered. Treating men and women equally or with 'gender-blindness' risks indirectly perpetuating gender inequality. According to one representative, the gender lens must: be intersectional in order to be effective; work with the understanding and in accordance with the principles of CEDAW; and take into account both public and private spheres.

Participants identified a number of key areas for action by both government and business during the discussion.

Areas for government action:

- Enact a national charter of human rights

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[https://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fAUS%2fCO%2f8&Lang=en](https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fAUS%2fCO%2f8&Lang=en)

<sup>19</sup> [https://awava.org.au/2018/06/15/submissions/2018/2018-cedaw-shadow-report-violence-against-women?doing\\_wp\\_cron=1547679570.4377510547637939453125](https://awava.org.au/2018/06/15/submissions/2018/2018-cedaw-shadow-report-violence-against-women?doing_wp_cron=1547679570.4377510547637939453125)

<sup>20</sup> <https://www.pmc.gov.au/resource-centre/office-women/australias-eighth-report-implementation-convention-elimination-all-forms-discrimination-against-women-august-2010-july-2014-0>

<sup>21</sup> <http://www.oecd.org/australia/jobs-strategy-AUSTRALIA-EN.pdf>

<sup>22</sup> <https://www.shine.com.au/media-centre/media-releases/new-survey-the-worst-workplaces-in-australia-for-sexual-harassment-and>

- Enact comprehensive anti-discrimination policies that acknowledge the different hierarchical places of men and women in society, with a focus on intersectional discrimination
- Governments are also economic actors and, as outlined in Pillar I of the UNGPs, are required to embed human rights due diligence across their activities, business relationships and value chains.

Areas for business action:

- Acknowledge and actively work to combat examples of everyday sexism and gender stereotyping
- Accelerate progress for gender equality by trialling new policies
- Increase transparency surrounding issues in supply chains in order to facilitate change and enable conversation and widespread action
- Have parental leave policies of at least 26 weeks plus accompanying superannuation, and provide more flexible options for mothers returning to work, and
- Impose a positive obligation on management to address all sexual harassment issues in the workplace, encouraging reporting of sexual harassment and adopting gender-sensitive reporting and investigative options.

# SESSION THREE: Addressing Workplace Inequalities

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Photos: Roni Bintang

## Part A: Sexual Harassment

### Panel

- Kate Jenkins, federal Sex Discrimination Commissioner, Australian Human Rights Commission
- Elizabeth Broderick AO, consultant and independent expert, UN Working Group on Discrimination against Women in Law and Practice
- Nicola Street, National Manager, Workplace Relations Policy, the Australian Industry Group (AI Group)

### Current actions and policy landscape

In 2018, the Australian Human Rights Commission released results of the fourth National Survey into workplace sexual harassment, and in June of the same year, announced the National Inquiry into Sexual Harassment in the Australian Workplace (National Inquiry).<sup>23</sup> The National Inquiry will examine data from the four national surveys (2003, 2008, 2012 and 2018) as well as conduct consultations in all major Australian cities and some regional centres, with specifically targeted sessions for the hospitality and retail sector, the LGBTQIA+ community, migrant workers, Aboriginal and Torres Strait Islander workers, and about online and tech-based harassment. The National Inquiry report aims to outline strategies for prevention and responsiveness in workplaces, the implications of technology, legal frameworks and best practice and the effects of harassment.

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<sup>23</sup> <https://www.humanrights.gov.au/our-work/sex-discrimination/projects/national-inquiry-sexual-harassment-australian-workplaces>

## Key issues

The Sex Discrimination Commissioner provided an overview of some of the preliminary findings of the National Survey. These include:

- One in three people in the last five years have experienced sexual harassment, up from one in five people as reported in 2012
- 39% of women and 26% of men have experienced sexual harassment
- Highest rates are among 18 to 29 year olds, although even one in five of 15 to 17 year olds have experienced this
- Media, entertainment and telecommunications industries are the worst with 85% of people having experienced harassment
- Male dominated industries (e.g., mining, construction, postal, transport warehousing) see high rates of harassment with women at high risk
- Sexual harassment is occurring across the board
- Less than one in five people feel confident to make a complaint, and
- One in three people will do something about sexual harassment if they witness it.

Further discussion with participants brought to light some other trends that have surfaced, including:

- The humanitarian emergency aid sector can serve as a way for perpetrators to access vulnerable victims, and
- People who go into other people's homes to complete their work are at high risk of experiencing sexual harassment.

The discussion highlighted the need for businesses and organisations to focus on reducing cases of sexual harassment, create prevention strategies, and facilitate better complaints processes and management. Employers have legal obligations to employees, both victims and perpetrators – and there is a complicated relationship between sexual harassment claims and unfair dismissal laws, especially if the impact on the dismissed employee is deemed 'sufficiently high'. This needs to be resolved in a manner that protects victims and their identities. Companies are beginning to realise the commercial risk of tolerating sexual harassment, and the price tag on complacency, and are changing accordingly. It was agreed that all stakeholders need to take responsibility for countering the harmful normalisation of sexual harassment as 'everyday' behaviour.

## Recommendations from the consultation

Areas for government action:

- Examine current legislation with a view to enacting strong law reform in the area to reduce discrimination and increase protection and access to remedy.

Areas for business action:

- Interrogate how their own business culture or practices might contribute to or perpetuate sexual harassment and abuse both within workplaces, supply chains and the wider community
- Brands must make a 'long-term commitment' to engage with their suppliers and contractors on sexual harassment within the workplace

- Examine processes and procedures related to sexual harassment complaints and be willing to grow, learn and change, as complainants should not be victimised for bringing sexual harassment incidents to the attention of the organisation. Potential strategies include:
  - Use of contact officers and safe spaces within the business
  - Increasing management capability, especially in smaller organisations without human resources teams
  - Robust code of conduct for hiring and firing, and
  - Development of gender-focused programs that focus on power relationships, the business's role in community engagement, breaking down stereotypes and removing unconscious bias.
- Develop a transition strategy, establish 'safe places' where individuals can make anonymous reports, either in person or online. When a person is supported in a victim-centric manner, they may feel empowered to make an unrestricted report. Multiple reports may suggest a serial predator and indicate a need to progress the issue.

For government and business:

- Educate the community as to what constitutes sexual harassment and ensure that victims have access to the necessary services.

The Australian Human Rights Commission's National Inquiry will release its final report in late 2019. The report will make recommendations addressing sexual harassment in Australian workplace.

## *Part B: Equal Pay*

Panel:

- Gillian Whitehouse, Professor, School of Political Science and International Studies, University of Queensland
- Janin Bredehoeft, Professor, University of New South Wales
- Miriam Thompson, Researcher, United Voice

### Current actions and policy landscape

The federal Workplace Gender Equality Agency (WGEA) is a soft regulator and influencer that organisations report to annually, and that conducts consultations with employees. Organisations that do not report are named on a non-compliance list tabled in parliament. Since 2013, the WGEA has seen significant change, including that:

- The pay gap is reducing overall, but is still 21.3% in private sector organisations with 100+ employees (comprises approx. 40% of Australian employees)
- The highest pay gaps exist in finance, the lowest in education and trade
- There has been an increase in women in management roles – 39% of all management roles are held by women, 43% of all promotions go to women
- More organisations are conducting gender pay gap analyses within their businesses, but there are low rates of actioning the results (approx. 40%)
- 47.8% of organisations have policies for parental leave, and
- 70% of organisations have flexible work arrangements.



## Key issues

The reasons for the gender pay gap are numerous. They include parenting and maternity/parental leave policies, the stigma attached to flexible working arrangements, the issue of 'presenteeism'/the false association between working long hours and career or pay scale progression, higher proportions of women in lower or award levels (while men hold more managerial positions), negotiated work contracts, the care burden, as well as bad management systems. According to one representative from the private sector, feminised industries are not immune to the gender pay gap either with a 16.1% pay gap in healthcare and social work, and low paid industries overly populated by women like cleaning and hospitality are volatile with little to no job security. One academic advocated the need to combat gender segregation in these industries with the goal of fair wages for all, rather than gender parity at the expense of decent wages. An increase in wages in these areas will also induce more men to take these roles.

Another academic noted that the invisibility of care is also problematic in this area, as many women take time off to raise children, or care for sick family members, or retire early to care for parents, spouses, or grandchildren. It was argued that this vital, mostly unpaid, work subsidises industry.

In response to the issue of men not utilising parental leave, one representative suggested a three-pool solution, whereby a certain percentage of the allowable leave may be taken by the mother, a second percentage by the father, and a third percentage may be taken by either. An academic working in the field cited Scandinavian examples of this model, noting that where a certain proportion of leave is reserved for fathers this has led to an increase in men's use of parental leave, however there is still not parity.

## Recommendations from the consultation

Key areas of action for government:

- Reform the federal Fair Work Act to further facilitate making equal pay claims
- Raise the minimum wage from its current ratio of one half the median wage to two thirds in order to reach a living wage, which by default will have a bigger effect for women, being the larger proportion of people earning minimum wage
- Commit to improving pay in feminised industries that rely on government funding, e.g. early childhood care
- Create pay schemes that reflect the skills and education required to provide care, e.g., high quality disability support, and
- Use its procurement power to provide a living wage for workers in government supply chains.



Photos: Roni Bintang

Key areas of action for business:

- Enact more egalitarian parental leave policies
- Have flexible work arrangements for employees, reduce the stigma of using those provisions, and push for greater acceptance of universal caregiver norms
- Take responsibility for providing job security, as it promotes higher productivity and higher retention rates
- Employ additional support strategies such as childcare, higher superannuation for women, and job sharing



- Ensure that positive strategies for women in head office be replicated throughout the company and the same expectations are communicated to contractors
- Remove the connection between long hours and career advancement (presenteeism), a phenomenon that is problematic for both women and men.

# SESSION FOUR: Gender and Supply Chains

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Photos: Roni Bintang

## Panel

- Shelley Marshall, Senior Research Fellow, RMIT
- Makiko Nishitani, Postdoctoral Research Associate, La Trobe University
- Sally Moyle, Chief Executive, CARE Australia
- Nicole D'Souza, Ethical Sourcing Manager, Konica Minolta

## Key issues

One academic spoke of studies conducted with fruit-pickers and farm workers in Victoria that showed the problematic nature of the Australian seasonal workers scheme. Under this scheme, migrants may earn the right to extend their working visa by completing a set period of seasonal farm work, however while completing the seasonal work they must still be employed by their initial sponsor. Some employers capitalise on Australia's immigration rules to pressure people to work in environments that may have low regard for personal safety, economic stability or the law, under threat of losing their visa. The system tempts people to work outside legal programs and without work visas because they can bypass bureaucratic scrutiny and risks, however they do so at a higher risk of exploitation.

Businesses are uniquely placed to advance gender equality through creating leverage over their suppliers. However according to one NGO representative, there is not yet a strong enough motivation to incorporate the cost of improving supply chains into the cost of a product. Corporate capital is being built on inequality, and business is reluctant to fix a problem where there is little or no incentive to do so in the form of a penalty or damage to their business profitability.

Multiple panellists and other members of the consultation identified company grievance mechanisms as being central to effective supply chain management. One participant called on businesses to learn to engage with women and their grievances to effectively address those issues, and to consider the volumes of research conducted by community organisations, grassroots, NGOs and other groups.

Key areas of action for government:

- Consider the unintended impact of immigration laws on facilitating exploitative employment arrangements, and possible amendments to mitigate this issue such as permitting migrant workers to choose whether to remain with their sponsoring company or not.

Key areas of action for business:

- Engage in responsible and ethical sourcing practices and consider all human rights risks and impacts
- Enact and abide by a supplier code of conduct
- Take into consideration research that has been published by community organisations, grassroots organisations, NGOs, etc in relation to facilitating respect for human rights in company supply chains
- Pay workers a living wage and ensure that people feel safe and supported at work, and
- Engage and deal with grievances effectively via clear mechanisms for making and addressing complaints.

# SESSION FIVE: Protecting Human Rights in Gendered Workplaces

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Photos: Roni Bintang

## Part A: The Care Sector

### Panel

- Sara Charlesworth, Professor, RMIT University
- Elizabeth Hill, Chair, Department of Political Economy, University of Sydney
- Melissa Coad, Executive Projects Coordinator, United Voice

### Key issues

The care sector represents a large proportion of the Australian workforce as it is estimated that there will be one million workers in aged care alone by 2050. All areas of the care sector are highly gendered. Women represent 85% of workers in residential aged care, 80% in home care/support, and 95% in early childhood education and care. Gender norms that assume carer roles are appropriate 'women's work' means care work is lowly paid and undervalued. These norms are reflected in and reinforced by inadequate and marketised government funding. Common realities of work in the care sector include the fragmentation of work hours, unpaid travel/preparation/administrative time, understaffing, insufficient training, lack of benefits, compromised personal security, unreliable income, use of personal time/money for patient care or self-education, unsafe working conditions, abuse and harassment, and physical and/or mental health issues. One participant further emphasised the issues with an example of superannuation, wherein the current average for care workers is \$90,000 at retirement thereafter creating an annual income of \$25,000 a year. This does not meet the recommended amount for basic living costs, which is \$27,000 per year assuming home ownership.

The care sector requires a significant shift to ensure that workers receive the compensation and respect they deserve. One academic advised that a lack of sufficient government funding and robust minimum labour standards in the care sector underpin the lack of decent work conditions and therefore the necessary conditions for the provision of high quality sustainable care services. While debates in this area predominantly focus on business, one participant noted that it is the

government that shapes the labour rights and human rights of workers and therefore it is from the government that this normative shift needs to begin.

Another academic gave an example of where the rights of care workers intersect with another area of human rights: migrant workers. There are high concentrations of migrant workers in care with more than half of the frontline workers in residential aged care being born overseas as are 37% of those working in home care and 35% in early childhood education and care.<sup>24</sup> While historically there have been no direct migration pathways into care work in Australia, recent policy have introduced a temporary 'Pacific Labour Scheme' (PLS). This Scheme is designed to meet labour shortages for care workers and others outside major cities and is intended to promote women's labour force participation and gender equality in the Pacific Islands. The PLS only provides for temporary migration and workers will be unable to bring their families so it will have a significant impact on children, families and communities in the sending nations of the Pacific. The employment prospects for care workers upon return and reintegration also remain underdeveloped.<sup>25</sup>

Other issues that were raised in the debate include for-profit and not-for-profit care organisations, the impact of the National Disability Insurance Scheme (NDIS), and the risks associated with moving towards for-profit healthcare schemes such as in the USA. One participant informed the consultation that aged care organisations are a mix of for-profit and not-for-profit while home care-focused organisations are mostly not-for-profit. They also detailed that the NDIS has had some benefits but has overall been damaging for members of the workforce, with increased casualisation and fragmentation of working time, limitations on training and support, implementation of unit prices for the provision of services that are too low and do not adequately reflect the work. One of the academics also advised against strict means testing for disability support services such as occurs in the USA and UK and warned that though Australia is shifting toward this model, we must ensure that we do not reach the point of stringent restrictions on the provision of social care.

### Recommendations from the consultation

Key areas of action for government:

- Invest more in care industry infrastructure, for example by bringing Australia's current investment of around 1.0% GDP in long-term care closer to the OECD average of 1.8%<sup>26</sup>
- Ratify and implement the International Labour Organisation (ILO) instruments *C143 Migrant Workers (Supplementary Provisions) Convention 1975* and *C189 Domestic Workers Convention 2011*
- Enact comprehensive migration and employment policies to combat the transnational flight of expertise and resources, prevent exploitative employment practices, avoid the separation of families, and maintain human rights as a core focus while recognising the complexities of transnational family relationships. Some policy options that were discussed included:
  - Develop a plan for families to accompany migrant workers to Australia – spouses should have work rights and children should be able to access education
  - Where separation does occur, provide travel and communication support with a focus on safeguarding children's wellbeing, such as annual trips home, flexible

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<sup>24</sup> See fact sheets on these three groups of workers that draw on 2016 Census data at: <https://www.sprc.unsw.edu.au/research/projects/markets-migration-and-the-work-of-care-in-australia/>

<sup>25</sup> See the Pacific Labour Scheme Policy Brief [https://www.sprc.unsw.edu.au/media/SPRCFile/PLS\\_Policy\\_Brief\\_FINAL\\_June\\_2018.pdf](https://www.sprc.unsw.edu.au/media/SPRCFile/PLS_Policy_Brief_FINAL_June_2018.pdf)

<sup>26</sup> According to Sara Charlesworth, RMIT University. See [https://www.workandfamilypolicyroundtable.org/wp-content/uploads/2019/04/WorkCareFamilyPolicies\\_2019-online\\_s.pdf](https://www.workandfamilypolicyroundtable.org/wp-content/uploads/2019/04/WorkCareFamilyPolicies_2019-online_s.pdf) at p 6.

- care/special emergency leave arrangements, scheduled call times, and free Wi-Fi/phone credit
- Provide culturally appropriate and diverse support programs for workers and their families, and
- Use Australia's aid program to complement the Pacific Labour Scheme with assistance in migrant workers' home countries by providing better infrastructure for childcare and education, to ensure those returning from the program have good job prospects. This would also combat the flight of expertise and resources and the exacerbation of inequality in Pacific countries that often results from temporary migrant worker schemes.
- Develop and implement a superannuation scheme that does not disadvantage care workers, which would also result in less reliance on state support in retirement.

Key areas of action for business:

- Prioritise the welfare of their workers with comprehensive workplace policies and support systems, covering issues such as job security, fair and equal pay, the payment of superannuation, predictable and regular working hours, and access to effective grievance mechanisms, and
- Facilitate forums for information and research sharing and connecting with other care workers.

## *Part B: The Sex Industry*

### Panel

- Meagan Tyler, Senior Lecturer, RMIT
- Rachel Reilly, Executive Director, Project Respect
- Zahra Stardust, Scarlett Alliance, and Spokesperson, Australian Sex Workers Association

The discussion brought to light different perspectives, including two distinct and conflicting positions on the sex industry: sex work as a legitimate industry, and sex work as dangerous or an unacceptable form of work and the potential normalisation of violence under the guise of business.

### Current actions and policy landscape

Legislation and regulation of prostitution varies in different states and territories across Australia, from criminalisation in Western Australia and South Australia, to forms of legalisation in Queensland and Victoria, to full decriminalisation in New South Wales. For example, in 1995 NSW decriminalised sex work as a partial response to high levels of police corruption. Decriminalisation repealed criminal laws and led to sex industry businesses being regulated as other standard business, rather than being singled out for particular regulation. In Victoria, however, brothels are specifically licensed and regulated under the Sex Work Act (1994). Guidelines around sexual health relate mostly to protecting the 'client' or sex buyer.

### Problems identified

The sex industry is often closely connected with human trafficking, with the nexus of these, slavery, exploitation and harmful work practices being profit making.

Some participants suggested that hegemony shapes the roles in the sex industry for both men and women, as it is predominantly men's demand that drives behaviours in the industry. The 'last resort'

to remuneration through the sex industry can be categorised as a failing of the state's responsibility to uphold women's human rights, protect their welfare, and ensure the availability of well-paid flexible work.

Within the sex industry, problems for workers are not restricted to those surrounding their agency and personal safety, but also their relationships with law enforcement. Another participant pointed to over regulation and criminalisation resulting in a perception of police not as protectors but as prosecutors who engage in entrapment, assumptive policing (such as the carrying of condoms being evidence of sex work), targeting and harassment. The effect on migrant workers is even more acute due to the threat of deportation.

### Key issues

One of the core issues of debate at the consultation was regulation, however it was noted that, efforts to regulate the sex industry in Australia have had limited success. It was argued that the regulatory approach used in Victoria has resulted in exploitative practices such as minimal prerogative for workers in choosing clients, no superannuation, inflexible work arrangements, potential criminal prosecution for providing sexual services outside regulations with no defence for coercion or trafficking, and high risk of sexual, physical and verbal assaults with little to no repercussions. According to the participant, the business-focused and gender-blind approach led to the failings of the regulation. It was also highlighted that many assault cases see management siding with and even refunding the client, leaving the victim hurt and unpaid.

The discussion highlighted that it is near impossible to apply normal labour practices to sex work, and there is no homogenous experience – some women may choose it as a career, while others may not have felt they had another choice, having been exploited, coerced, or trafficked. The normalisation of sex work is challenging to the intersection between this industry and human rights.

Proponents of a safe sex industry state that the stigma and criminalisation of sex work affects workers' experience and safety, and that the issue is not under regulation, but a lack of access to justice. To challenge the issue of demand, some states have criminalised solicitation by the client, but one participant claimed however that this approach resulted in compromises on safety for the worker (for example, meeting in unsafe locations or not being able to insist on condom use) and argued that criminalising one party has inevitable human rights implications for the other. The Kirby Institute estimates that in Victoria and Queensland, 50 to 90% of sex workers are working illegally, concluding that regulations force sex workers to choose between personal safety and lawfulness.

The alternatives to regulation offered were either asymmetric decriminalisation (the Equality or Nordic Model) or full decriminalisation. It was argued that as a first step, decriminalisation must be implemented in conjunction with exit programs and anti-discrimination programs to combat the social stigma and, if they exist, any socio-economic reasons for the initial entrance into the sex industry. A number of participants strongly articulated that sex workers and sex trade survivors have useful inside knowledge for movements against gendered violence and can be useful allies and stakeholders in progressing gender equality.

### Recommendations from the consultation

Key areas of action for government:

- Continue working with proponents and opponents, workers, victim/survivors, health, gender and justice professionals to seek best outcomes for this industry and for gender equality more broadly
- Allocate funding and resources for peer-based advocacy and sex worker legal clinics
- Develop comprehensive anti-discrimination programs to combat the stigma of sex work



- Allocate funding for exit programs where industries have lost their license to operate and to help women who want to leave, and
- Develop education and training programs for businesses, the judiciary, police, councils, healthcare providers and communities on the topic of safe sex work practices, violence against women and the harms of the sex industry.

Key areas of action for business:

- Engage with government and sex workers to develop and abide by workplace health and safety guidelines that ensure the human rights of sex workers are centred, and
- Engage with sex trade survivors and consider understanding them as whistleblowers regarding sex industry practices.

# SESSION SIX: The Gender Impact of Mining and Construction in and outside Australia

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Photos: Roni Bintang

## Panel

- Sharon Flynn, Head of External Affairs and Social Performance, OceanaGold
- Ruth Soavana-Spriggs, expert, Papua New Guinea
- Lisa Interligi, Chief Human Resources and Corporate Services Officer
- Lucy Manne, Head of Policy and Campaigns, Action Aid
- Nick Bainton, Principle Research Fellow, Sustainable Minerals Institute, University of Queensland

Mining and construction represent a huge section of global business, and the sector has wide-reaching impacts for human rights. It is also a heavily male dominated workforce, which can raise challenges for women in the sector. One industry representative recounted the recent and gradual perspective shift of mining from being about physical labour to requiring more technicality, intelligence and specialised education, which is reflected in newer projects requiring higher levels of education and higher rates of female participation. Despite this, mining and construction sites are still heavily male-dominated workplaces.

## Key issues

The perception of mining and construction as ‘men’s work’ presents a challenge to women in these industries, primarily due to conflict with masculine cultures and remote locations. Regardless of qualifications, women are underrepresented in these industries and likely to be employed in technical roles which results in a lower likelihood of promotion. Other challenges include inadequate toilet facilities for women at some mining and construction sites, and an overarching lack of gender awareness which makes it hard for women to raise important issues.

From an international perspective, communities in which these mines are located often see negative impacts on their health and safety, relationships to power and authority, and surrounding environment. Such negative impacts disproportionately affect women in these host communities.

The consultation debated some of the key issues in this sector as pertains to Australia, Papua New Guinea, India and Indonesia. Australia has a significant global presence in terms of mining companies (highest after Canada) that operate extraterritorially, with its largest presence in Africa. As highlighted by an NGO representative, a presence of this magnitude increases the importance of Australia recognising its duty of care in these territories, and yet members of local communities experience many of the problems outlined above.

In Papua New Guinea, the region of Bougainville has experienced severe negative outcomes as a result of the development of the Pangaua copper mine in the early 1970s prior to Independence from Australia. At the time this was one of the largest open cut mines in the world. Residents of the area have had to deal with undercompensated resettlement, vastly uneven distribution of royalties and other benefits, and critical environmental impacts resulting from the mining activities. According to one representative, the mine was established to service colonial political interests, and the commercial interests of a foreign developer mining company. Following widespread concerns over the unequal distribution of the benefits and burdens of the mine, angry community members forced the mine to close in 1989. The state's heavy-handed response provoked the development of a civil war, which in addition to massive bloodshed, also limited access to education and health care systems for the people of Bougainville. Traditionally, the Bougainvillean social system allocates women a certain level of power and authority that can be traced back through the matrilineal line. With the impact of contemporary and neo-colonial mining projects, however, traditional values are overwhelmed, and patriarchal dominance prevails. The discussion highlighted that no one has taken responsibility for the clean-up and lasting impacts on the community.

With respect to Papua New Guinea one academic identified the five top issues for women as being:

- challenges in representation and participation
- lack of free and informed consent for new development projects
- gender-based violence
- lack of remedy, and
- the slow creep of everyday discrimination.

The participants debated issues in Papua New Guinea and other mining communities including systematic violence against women (including the exchange of sex for employment or access to mining-related benefits, compounded by the influx of men as traditional mining workers), food and water insecurity when mines take too much and men are given power over systems, health issues (e.g. silicosis), gendered exclusion of access to benefits (compensation) and remedy (such as for assault by security personnel), increased unpaid labour and unfair conditions.

One participant outlined major challenges in India and Indonesia relating to the need for women to seek permission from their families and/or community chief to work in the male-dominated mining industry. This included a need for security to be ensured on the job site, in their accommodations, and in the community as a whole.

### Recommendations from the consultation

One industry representative called for the establishment of a principle of 'change starts when the deal is signed', rather than down the track when projects are well established and have deeply ingrained negative norms. Positive strategies may then be embedded in the policies and procedures, with both the government and company needing to understand the meaning of a gender lens on the industry, and implementation of policies accordingly.

Government and business together should engage in more consultations with residents of the areas in which mines are projected to be located, as conversations with government are insufficient to

map the potential impacts on local communities.

Key areas of action for government:

- Taking responsibility for preventing and addressing the human rights issues that stem from Australian mining and construction projects overseas including through legislation
- For government funded projects, conduct human rights impact assessments, involving women in the assessment process, and
- Provide structured and fair grievance mechanisms and pathways for remedy for people negatively affected by both domestic and international mining and construction projects.

Key areas of action for the mining and construction sector:

- Undertake gender-sensitive, local community consultations when considering new mining projects and obtain free, prior and informed consent of Indigenous peoples, including Indigenous women, before proceeding with any new project
- Conduct a human rights impact assessment before commencing any project and act on the results
- Take a tailored approach to assessing and addressing the impact of mines on local communities noting that different considerations are relevant for different locations, demographics and cultures, and be creative in devising solutions and programs
- Address the gap between human rights, diversity and inclusion and sustainability policies developed in head offices in Australia and the practical applications of those policies on the ground overseas
- Invest in infrastructure, education and skill sets aimed at increasing female participation in leadership roles and other decision making processes, and
- Facilitate cultural change that challenges the 'boys club' mentality by addressing gender and human rights issues through strong leadership, leading by example, and accountability processes that enforces gender equality, so that women who join the company will stay to and have successful careers.

# SESSION SEVEN: Gender, Investment and Finance: Impacts and Responses

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Photos: Roni Bintang

## *Part A: Impact of commercial investment: projects, project finance and investments*

### Panel

- Brynn O'Brien, Executive Director, Australasian Centre for Corporate Responsibility
- Pablo Berrutti, Head of Responsible Investment Asia Pacific, Colonial First State
- Daisy Gardner, Advocacy Lead, Oxfam Australia
- Erin Levey, ESG Data Services Manager, CAER
- April Klineberg, Masters in Law student, University of Sydney

The panel discussion highlighted the various ways in which the finance industry negatively impacts upon women in Australia and globally, but also has unique leverage to pressure corporations to take a gender sensitive and human rights approach to their businesses.

### *Investment and its impact on women's rights*

Climate change is a human rights issue with gendered impacts, as the front lines of affected people consist disproportionately of women, often from migrant or Indigenous backgrounds. If we accept that the last line of defence against climate change is rapid and drastic emissions reductions, then according to one industry body representative, climate considerations should be integrated into every action. Strong pressure, such as via withholding investment or investing in responsible competitors, can and should be put on corporations to reduce emissions and strive for more ambitious climate goals. The role of individuals as shareholders was also explored. For example, by holding their financial institutions and superannuation funds to account (*see*, the Australasian Centre for Corporate Responsibility '[Vote Your Super](#)' or Responsible Investment Association Australia '[Responsible Returns](#)'.)

It was highlighted that there are a range of potential human rights risks and impacts or the financial sector. For example, it was noted that investors need to be mindful of is avoiding financing projects

involving human rights abuses such as land grabbing. Land grabbing is the process by which companies buy or lease large tracts of land (often with the aid of government concessions) and force local communities off the land in order to develop it. This process often occurs without proper consultation; free, prior and informed consent; or adequate compensation of local communities. It was reported that in many instances, displaced people are relocated to smaller, less fertile lands, cannot grow crops and have to take out loans to buy food. An NGO representative related the gendered effects of land grabbing, as women often forgo meals in favour of feeding their families, and may take their children out of school so they can work and contribute to the household. It was also noted that, women in developing countries own approximately 10% of land, which has gendered implications regarding compensation when it is taken away. The role of banks and financial institutions in funding these large-scale land deals was discussed and many agreed that banks and financial institutions need to do more to understand where their money is going and how it might be linked to human rights abuses. Furthermore, when trying to access grievance mechanisms to address the effects of irresponsible investments, people are faced with barriers such as a general lack of transparent public information on corporate loans and project finance loans, use of complicated jargon, unclear procedures, and untranslated information.

### *Superannuation*

The discussion highlighted that the superannuation gap between men and women is wider than the wage gap and even more discriminatory. As women are overrepresented in low paid or informal industries (care industry, sex work) and often experience intersectional disadvantage (Indigenous workers, etc.). As a group, women miss out on a large share of the benefits of superannuation due to the gender pay gap, workforce participation patterns, and misplaced tax concessions. According to one academic, 41% of superannuation tax concessions go to the top 10% of households, while the bottom 50% get only 11% of concessions.

### *Recommendations from the consultation – responsible investment and superannuation*

Key areas of action for government:

- Implement economic policies that consider both profitability and social justice
- Regulate the requirements for approvals in corporate loans and project finance
- Remove tax breaks for big banks and financial institutions
- Ensure adequate funding for the aged pension, social housing and aged care.

Key areas of action for various actors in the financial sector:

- Facilitate increased literacy in relation to sustainable finance and the social and environmental impacts of the sector
- Consider the impacts of the sector on climate change of every action, and use leverage points within the sector to pressure corporations to drastically reduce emissions
- Increase transparency regarding corporate loans and project finance and improve screening processes and due diligence procedures for finance applications. This would include remedying unequal accessibility to information and databases, and an increase in reporting on smaller projects and corporate loans
- Balance business benefits with social justice benefits and equally consider both profit and diversity, as both sides are valued by stakeholders and investors
- Develop and implement effective grievance mechanisms at an operational level (Oxfam and Bank Track are developing recommendations on this).

## Part B: Impact of retail banking: domestic violence and issues of financial abuse

### Panel

- Jan Breckinridge, Professor/Course co-convenor, University of New South Wales
- Melissa Clare, Senior Manager, Customer and Community Liaison, Group Customer Advocacy, Commonwealth Bank of Australia

### Key issues

When discussing domestic and family violence (DFV), financial abuse is discussed much less often than sexual abuse, however financial abuse occurs in 80% of DFV cases. The factors and effects of financial abuse are more hidden, but can occur when a perpetrator interferes with their partner's ability to go to work (not permitting them to leave the house, hiding their keys, interfering with childcare arrangements, calling/texting incessantly while their partner is at work, etc.), partners accruing debt in the victim's name, withholding living allowances if the victim has no other income, and so on. This may be compounded by the victim feeling unable to leave the abusive partner as a result of the financial instability – in Australia, 55% of requests for housing assistance are due to domestic violence, but only 44% of *those* requestors receive aid. Lastly, financial abuse is an ongoing issue – once a victim experiences it, even after they have left the relationship, it may leave them without assets.

### Current actions

The Commonwealth Bank of Australia (CBA) highlighted actions they take to address this issue including: education programs in schools to promote financial literacy and awareness of gendered issues, workplace training to ensure that employees were acutely aware of risk signs and able to support customers in crisis, and providing trauma counselling and grants for customers escaping DFV. One of the main focuses is financial independence, and the need for emergency support, separation of assets, financial guidance or advice, or explanations of what different bank accounts mean. CBA has also partnered with Domestic Violence Australia to produce guidance, including a financial abuse guide, a financial wellbeing guide for women, and a 'safe and savvy' guide for elder abuse. The limitation of these types of programs are that banks ultimately have to do as they are instructed by the customer. If there is suspicion surrounding a transaction, then bank employees can question it, suggest potential risks, even hold it for a period of time to investigate – but ultimately, a customer has the final right to do as they wish with their money.

### Recommendations from the Consultation – retail banking and domestic/family violence

#### Action for Government:

- Develop and implement education programs to raise awareness about financial abuse.

#### Key areas of action for banks and financial institutions:

- Develop and implement policies and education programs to combat the impacts of financial abuse and DFV, and
- Develop company procedures to support individual women in cases of abuse, harassment, discrimination, and domestic and family violence.



## SESSION EIGHT: Next Steps and Closing Remarks

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*Photos: Roni Bintang*

The goal for the UN Working Group's final report on Applying the Gender Lens to the UN Guiding Principles on Business and Human Rights will be to capture a wide range of gender issues in business and human rights, to address all three pillars of the UNGPs, and to point towards more specialised information that is still needed. This final report will be tabled at the Human Rights Council session in June 2019.

# Academic Roundtable

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*Photos: Roni Bintang*

The consultation was followed by an academic roundtable discussion. This roundtable was convened by Australian Human Rights Institute UNSW and RMIT University and included representatives from UTS, Curtin University, and the Sustainable Minerals Institute University of Queensland, among others.

The roundtable highlighted that there is a need to create a space for interdisciplinary dialogue given that current business and human rights debates rarely address gender. It was reported that the Australian Journal of Human Rights may release a special edition on business and human rights following the AHRI conference in May 2019.

A lack of funding and research in this area was noted, exacerbated by some companies only funding research in their specific areas of business interests. This sort of compromised research work can serve to skew the information available and can present challenges to the relationship between academics and business – some companies only want to be told what they want to hear.

One of the main challenges will be to make issues like gender equality and implementing CEDAW matter to government and industry. Issues that need to be considered include: reframing ideas to highlight relevance for individuals and organisations; getting academics to think about how their work relates to human rights; reflecting on Australian hypermasculinity; increasing engagement between academics, governments and business with regard to human rights policy and practice; and examining the relationship between grassroots, foreign policy and international values. The key is starting and maintaining a dialogue, rather than simply getting something published as soon as possible.

Work in this area needs to link gender, feminism and business together with the aim of situating gender power analysis at the heart of the business and human rights agenda.