

PUTTING GENDER ON THE BUSINESS AND HUMAN RIGHTS AGENDA

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INTRODUCTION

There is currently a marked absence of gender as an area of intervention or reporting or even as a discussion point within the growing field of business and human rights. This scoping paper seeks to address this gap in analysis and action by providing an assessment of gender issues in ongoing corporate responsibility initiatives and offering some recommendations for future actions.

The paper is divided into three parts:

- PART ONE: ASSESSING GENDER INEQUALITIES - explores the current state of key gender inequalities relevant to the private sector.
- PART TWO: TAKING STOCK OF PRIVATE SECTOR GENDER INITIATIVES - sets out some of the efforts made to integrate gender into private sector policies and practice and examines them from a human rights standpoint.
- PART THREE: INCORPORATING GENDER INTO BUSINESS AND HUMAN RIGHTS - situates part one and two within the context of the developing business and human rights agenda and puts forward some initial recommendations, with particular focus on the work of the UN Special Representative on Business and Human Rights.

An annex to this paper lists a variety of initiatives and NGO projects aimed at the private sector which consider gender issues within the scope of their work.

Throughout this paper, the term 'gender' is used to indicate the socially constructed relations between women and men and the roles and behavioural norms which result from such learned differences. In this sense gender is to be distinguished from the biological differences between women and men which are seen as fixed. Gender roles vary depending on the given context and over time:

*"Gender roles are learned behaviours in a given society, community or other social group. They condition which activities, tasks, and responsibilities are perceived as male and female. Gender roles are affected by age, class, race, ethnicity and religion, and by the geographical, economic and political environment."*²

¹ The author is an independent consultant to Realizing Rights – the Ethical Globalization Initiative and Director of the Global Business Initiative on Human Rights. This scoping paper is written in her personal capacity. The author would like to thank all individuals who provided ideas and feedback in relation to this paper and to Amila Jayamaha and Jo Clark for their research assistance.

² ILO, ABC of women workers' rights and gender equality, 2000, p.34

Women and men are inherently impacted differently because of their respective roles as defined by society, although women are disproportionately affected in a negative way. In turn, policies that are 'gender-blind' are not always 'gender-neutral':

*"Gender-blind' policies and programs do not distinguish targets, participants or beneficiaries by sex or gender. 'Gender-blind' policies and programs are not necessarily 'gender-neutral' in impact, that is, they do not necessarily affect men and women in the same way."*³

In part one of this paper, some of the existing inequalities most pertinent to the private sector are set out.

PART ONE: ASSESSING GENDER INEQUALITIES

*"Women make up nearly 70 per cent of the world's 1.3 billion people living in poverty, 65 per cent of the world's refugees and two-thirds of the world's illiterate population. They constitute two-thirds of the exploited informal workforce, own just one per cent of the world's resources, and earn one-tenth of the world's income. Girls are twice as likely to die from malnutrition and preventable childhood diseases as boys, while almost twice as many women suffer from malnutrition as men. Women constitute less than one seventh of administrators and managers in developing countries, and hold only 10 per cent of seats in the world's parliaments".*⁴

These statistics provide a contextual backdrop for the scope of this paper. The disproportionate inequalities facing women today have been highlighted further as a result of the current global economic crisis. The Director-General of the International Labour Organization recently stated:

*"Gender inequality in the world of work has long been with us – but it is likely that it will be exacerbated by the crisis. In times of economic upheaval, women often experience the negative consequences more rapidly and are slower to enjoy the benefits of recovery. And already before the crisis, the majority of working women were in the informal economy with lower earnings and less social protection".*⁵

Against this general backdrop, a number of key gender issues of relevance to the private sector are explored below⁶.

ISSUE ONE: THE GENDER PAY GAP

One of the ongoing challenges facing companies in numerous industry sectors and countries concerns inequities in pay between women and men. In March 2009, the International Trade Union Confederation (ITUC) published a report looking at gender inequalities in the labour market. The study included data from 20 countries based on survey responses by over 300,000 waged workers and compared the pay gaps between women and men. The results indicate that on average the gender pay gap between women and men increased with age in the respondent

³ ILO Gender Promotion Program, Promoting Gender Equality - A Resource Kit for Trade Unions, August 2001, http://www.ilo.org/public/english/employment/gems/eeo/tu/cha_1.htm#4.%20Some%20basic%20concepts%20relating%20to%20gender%20equality

⁴ <http://www.oxfam.org.au/world/gender/>

⁵ http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang--en/WCMS_103447/index.htm

⁶ Two helpful studies setting out the persistent gender gap based on a variety of indicators are the World Economic Forum Global Gender Gap Report <http://www.weforum.org/en/Communities/Women%20Leaders%20and%20Gender%20Parity/GenderGapNetwork/index.htm> and the Social Watch Gender Equity Index 2008 http://www.socialwatch.org/en/avancesyRetocesos/IEG_2008/index.htm

countries and that there was a greater gap in the private sector than the public sector.⁷ In 2008 the ITUC found that the world average gender pay gap was 15.6%, with less of a gap in Europe, Oceania and Latin America and a greater gap in Asia and Africa.⁸

In March 2009, the European Union launched an information campaign on the gender pay gap in all EU countries. The campaign notes that the average gap across the EU is 17%, ranging from 4% in Italy to 30% in Estonia⁹.

The reasons why women are on average paid less than men vary from country to country but some common factors that have been cited in the European context include: direct discrimination, the undervaluing of work done by women, the division of the labour market on gender grounds, stereotypes and traditions and the challenges of balancing family life obligations¹⁰.

Some countries are taking steps to better implement legislation in this area which has been on the statute books for several decades. For example, in the UK a proposed new law is currently being debated in Parliament which includes provisions for gender pay audits by companies in an effort to better implement equal pay legislation dating back to the 1970s.

ISSUE TWO: WOMEN AND LEADERSHIP

Another key indicator of persistent gender inequalities in the private sector is the number of women and men holding board level and CEO positions within companies. This has been an area of focus for leading multinationals throughout the globe often within the context of wider diversity and inclusion programmes.

In November 2008, the Cranfield School of Management published the Female FTSE 100 report which maps female leadership in business in the United Kingdom¹¹. The study noted that in 1999 there were 79 directorships held by women on the boards of the FTSE 100 companies (a total of 7%). In 2008 this number had increased to 131 (a total of 12%). Additionally, there was a marked increase in the number of companies with more than one woman at board level and there are now 39 companies with two or more women on their boards, compared to 13 a decade ago. However, the report indicated that 22 of the companies still have all-male boards.

Looking more globally, according to a study carried out in 2008, women hold only 8.3% of board directorships in Australia, 13% in Canada, 14.3% in South Africa, and 15.2% in the United States.¹²

In terms of CEO positions held by women, the Fortune 500 listing, which ranks the top 500 companies in the United States, includes 15 companies with female CEOs, up from 12 in 2008¹³. In the Fortune Global 500 listing for 2008, 12 of the companies are run by female CEOs, this is up from 10 companies in 2007. These companies are headquartered predominantly in the US and Europe. More globally, as of March 2009, Australia had four female CEOs, while Canada

⁷ <http://www.wageindicator.org/documents/publicationslist/publications-2009/GAP-09-EN.pdf>

⁸ <http://www.ituc-csi.org/IMG/pdf/gap-1.pdf>

⁹ <http://ec.europa.eu/social/main.jsp?catId=685&langId=en>

¹⁰ <http://ec.europa.eu/social/main.jsp?catId=682&langId=en>

¹¹ <http://www.som.cranfield.ac.uk/som/dinamic-content/research/documents/ft2008.pdf>

¹² <http://www.catalyst.org/publication/239/australia-canada-south-africa-united-states>

¹³ <http://postcards.blogs.fortune.cnn.com/2009/04/20/fortune-500-ceos-women-on-the-rise/>

had 30 and South Africa 13 in total¹⁴. This inequality is not only the case amongst major companies – women are also under-represented at the top tiers of trade unions.

ISSUE THREE: WOMEN IN THE INFORMAL SECTOR

The term 'informal sector' is used to designate economic activity which is not taxed or monitored by a government and does not form part of the country's GDP. In many countries workers in the informal economy are not able to join unions, depriving them of one of the best vehicles for strengthening influence, voice and bargaining power.

The informal economy provides a massive source of revenue for governments throughout the world and particularly in developing countries. There is a significant interplay between the informal and formal sectors and as such multinational corporations can play an influencing role here.

Overall, women make up a larger proportion of informal sector workers than men. Although data on the informal sector is not widely available, there are dedicated organisations such as WIEGO (Women in Informal Employment Globalizing and Organizing) that focus on mapping the relevant statistics¹⁵.

A key category of informal workers is street vendors and women here make up the majority in a number of areas, particularly in Africa, Southeast Asia and Latin America. In Benin, for example, 92% of the informal traders are women. Women also tend to work in insecure or illegal places and sell directly from the street. They also tend to trade in perishable or less lucrative goods.¹⁶

Furthermore, home workers represent one of the categories of the informal sector with the least security and the lowest earnings. Although a very difficult area for obtaining data, there are an estimated 100 million home-based workers and women make up 80% of this group.

All of the above results in a situation where women and men operating within such structures have less personal and financial security. There is a marked advantage for workers in the informal sector who have been able to develop and join trade unions through which they can collectively call for better treatment by government and others. This was voiced recently at the International Colloquium on Women's Empowerment in Monrovia, Liberia, where workers in the informal sector focused on the importance of organising to ensure recognition and realisation of rights¹⁷.

ISSUE FOUR: UNEMPLOYMENT

As noted above, there has been considerable attention to assessing the gender aspects of unemployment as a result of the global economic crisis. Clearly, the impacts of the ongoing crisis on women and men vary considerably depending upon the sector and country in focus.

In March 2009 the International Labour Organization stated that many of the job losses to date in developed economies have predominantly affected men, particularly in areas such as finance and construction¹⁸. Women are

¹⁴ <http://www.catalyst.org/publication/239/australia-canada-south-africa-united-states>

¹⁵ http://www.wiego.org/program_areas/statistics/index.php

¹⁶ http://www.unifem.org/attachments/products/PoWW2005_eng.pdf and http://www.wiego.org/occupational_groups/streetVendors/index.php

¹⁷ <http://www.realizingrights.org/?option=content&task=view&id=396&Itemid=104>

¹⁸ The Financial and Economic Crisis: A Decent Work Response: <http://www.ilo.org/public/english/bureau/inst/download/tackling.pdf>

feeling the impact if they work in export-oriented businesses in emerging and developing countries, for instance, those industries which export in particular to OECD countries where women represent the majority of the workforce. The crisis is also likely to have a negative impact on women working in the informal sector and may exacerbate the gender pay gap set out above. The ILO report calls for greater attention to gender analysis as part of potential strategies to address the current situation.

CONCLUSION

The examples of gender inequalities in this section have been set out to paint a picture of the challenges facing business today.

Several reports have highlighted the economic advantages of closing prevalent gender inequalities¹⁹. For instance, Goldman Sachs published a report stating that closing the gaps between male and female employment rates could increase the GDP in the US by as much as 9%, in the Eurozone by 13% and in Japan by 16%.²⁰ World Bank research shows that average household earnings in the Middle East and North Africa could increase by 25% per year if female participation in the labour force increased to predicted levels, (based on existing levels of female education, fertility, and age structure).²¹ These findings provide a strong case for business, governments and other actors to work towards the aim of closing gender gaps.²²

The second part of this paper sets out some of the efforts taken to date to integrate gender into private sector policies and practice.

PART TWO: TAKING STOCK OF PRIVATE SECTOR GENDER INITIATIVES

Traditionally, gender issues have been approached by business almost exclusively from the perspective of diversity and non-discrimination policies. This section examines two initiatives in particular which look at gender and the private sector and go beyond these traditional areas of focus. Additionally, some company-specific examples of action on gender issues are explored. It is argued here that by approaching the issue of gender from a broader human rights lens, a business will be able to address gender issues in a way that is more comprehensive and more rooted in contemporary expectations of business practice.

INITIATIVES AIMED AT THE PRIVATE SECTOR

Calvert Women's Principles: A code of conduct on gender

Introduction

¹⁹ See for instance <http://pslforum.worldbankgroup.org/resources/empowerment.aspx>

²⁰ Global Economics Paper No: 154 http://pslforum.worldbankgroup.org/docs/Kevin_Daly_Global_Ageing_Gender_Inequality.pdf

²¹ Gender and Development in the Middle East and North Africa: Women in the Public Sphere http://www-wds.worldbank.org/servlet/WDSContentServer/WDSP/IB/2004/03/09/000090341_20040309152953/Rendered/PDF/281150PAPER0Gender010Development0in0MNA.pdf and <http://pslforum.worldbankgroup.org/resources/empowerment.aspx>

²² One of the responses to the global economic crisis has been the creation of a Private Sector Leaders Forum by Dr. Ngozi Okonjo-Iweala, Managing Director of the World Bank. This programme is designed specifically to have a focus upon women and girls during the financial crisis <http://pslforum.worldbankgroup.org/>

The Calvert Women's Principles were developed in June 2004 by the investment firm Calvert in cooperation with the United Nations Development Fund for Women (UNIFEM). They were re-launched as the *Women's Principles* in March 2009 by the UN Global Compact and UNIFEM as part of an event to mark International Women's Day and are now subject to a consultation phase.²³ This voluntary code of conduct is the first of its kind to specifically propose how the private sector should approach gender issues. It originated within an investment firm and therefore represents a strong call to action to businesses on this subject.

The *Women's Principles* are clearly grounded in human rights principles and go beyond the narrow scope of non-discrimination or access to board level positions. The human rights content of note within the principles includes:

- Provisions to stop violence against women in the workplace and to prevent trafficking
- Steps to ensure the safety of female employees in the workplace
- Protection from exposure to hazardous or toxic chemicals in the workplace, particularly those that have adverse effects on women's health
- Provision of gender equitable health services and insurance
- Refusal to tolerate situations where cultural differences or customs are used to deny the basic human rights of women and girls
- Ensuring a grievance policy is established for employees concerning their treatment in the workplace
- Forbidding business-related activities that condone, support, or otherwise participate in trafficking

Initial assessment and recommendations

The strong human rights content which has been incorporated throughout the *Women's Principles* is to be welcomed. Nevertheless, it is helpful to explore them further from a human rights viewpoint for two reasons. Firstly, their recent launch by UNIFEM and the Global Compact offers an opportunity to provide public submissions to the process that could further strengthen the human rights emphasis. Secondly, there are lessons to be learnt from the business and human rights agenda which has developed significantly since 2004 when the Calvert Women's Principles were initially launched.

Below are a few areas where further attention is recommended in the development of these principles as a global code of conduct for multinational corporations:

- The focus of the principles is mainly on the internal influence a business may have, for instance on the diversity of its employees and in its choice of suppliers, rather than also focusing on the external impacts. Such external impacts might result from community relocation or the use by business of critical resources such as water, and these impacts can affect women and men differently. For instance, if women in the community are predominately responsible for sourcing water for the household, then a reduction in resources or the creation of a new access point for water can have a significant impact.
- The section of the principles entitled "civic and community engagement" contains a variety of provisions, some of which concern corporate philanthropy while others address corporate lobbying on women's human rights. It would be interesting to reorganise this particular section in light of the developing business and human rights agenda which has moved away from corporate philanthropy and focuses increasingly on the impacts of companies with respect to human rights.

²³ http://www.unglobalcompact.org/Issues/human_rights/5March2009_LookingAhead.html

- Much of the content of the principles focuses primarily on the concerns of business headquartered in the ‘global north’ – for instance, provisions on work-life balance including childcare services, flexible work options, networking opportunities, etc. The risk here is that they may be dismissed by companies and individuals where such issues are not of primary concern. For example, women in developing countries would more likely prioritise issues such as access to funds without onerous requirements for collateral or the challenges of accessing international markets for instance.
- Although challenges such as violence in the workplace and adequate wages are included in the principles, no practical guidance to business is provided on how to realise these aspirations – particularly in situations where local practices conflict with international or local laws. This is a challenging area and one where the ongoing work of the United Nations Special Representative on business and human rights may be of assistance.
- The call in the principles for companies to refuse to accept situations where women and girls are denied their human rights due to cultural considerations is a strong and an important one. Within this it would be helpful to see examples of ways in which companies might address gender inequalities from a human rights perspective in order to avoid justifying certain actions (or inaction) on the basis of cultural relativism²⁴.
- It is unclear throughout the principles whether “employees” refers only to female employees or to the whole workforce. In some cases the term “women workers” is used while in other places there is no qualifying term.
- No reference is made in the principles to gender inequalities experienced by men in the workplace since the focus is on women. It may be helpful to include a definition of gender which incorporates reference to both women and men.

In terms of what might be added to the current content of the Women’s Principles, it is noted that:

- The informal sector is not a focus of the document although home-based workers and vendors are mentioned in the discussion on supply chain. It would be helpful to include greater references to the informal sector here and in other areas.
- There is little mention of communities and the impact of businesses on access to water and food. Such issues have obvious gender implications and would be important to address for certain sectors in particular.
- From a human rights perspective, it would also be important to see additional provisions related to:
 - Forced labour and the particular risks experienced by female migrant workers.
 - The right to privacy – in particular not interfering with reproductive rights, or refraining from employer questioning of female workers with regard to pregnancy status unless it is directly relevant to the performance of the role.
 - The right to an adequate standard of living, including adequate food, clothing and housing – this may apply in the context of migrant workers or workers based in Export Processing Zones where the responsibilities of employers may be greater.

A helpful next step during the consultation phase for the principles would be to conduct a gap analysis based on existing business and human rights tools such as the Danish Institute for Human Rights Compliance Assessment Tool²⁵

²⁴ <http://www.ethicalcorp.com/content.asp?ContentID=6422>

²⁵ http://www.humanrightsbusiness.org/?f=compliance_assessment

or the Essential Steps within the human rights matrix developed by the Business Leaders Initiative on Human Rights (BLIHR)²⁶.

Additionally, there is a need to test and promote the principles more with companies based outside of North America and Europe to better determine their applicability in different contexts.

It should be pointed out that as a joint party to the launch of the *Women's Principles* in cooperation with UNIFEM and Calvert, the UN Global Compact has demonstrated a strong commitment to helping business leaders understand how their operations impact gender issues globally. According to the timeframe set out on the Global Compact website, the *Women's Principles* will be finalised in time for the July 2010 Global Compact Leaders Summit²⁷. This additional focus on gender by the world's largest corporate responsibility initiative is to be welcomed since there are now over 5000 companies signed up to the Global Compact from a wide variety of geographies. It has previously been argued that the Global Compact has an implicit gender equality mandate which applies to all ten of the principles²⁸.

Applying a gender lens to other key Global Compact initiatives such as the CEO Water Mandate, which is currently exploring the human rights dimensions of access to water, would also merit further consideration. As dialogues around the right to water are increasing, it would be helpful to also see an acknowledgement of the different gender issues at stake.

The above analysis addressing the content of the *Women's Principles* will form part of a wider submission to the ongoing consultation process held by the UN Global Compact and UNIFEM.

Global Reporting Initiative: Reporting guidance on gender

Introduction

The International Finance Corporation (IFC) and the Global Reporting Initiative (GRI) have been collaborating on the development of guidance for companies when reporting on gender data²⁹. The project has brought together a group of gender experts to provide advice and has organised stakeholder sessions in London, Johannesburg, Sao Paulo, New Delhi and Washington DC. The project has a dedicated section on corporate social responsibility as part of the OECD resource "wikigender"³⁰ and the IFC and the GRI are due to release a Gender Sustainability Reporting Resource Guide before the end of 2009.

The business case put forward by the IFC and the GRI argues that gender reporting:

- Helps companies recruit, retain and motivate female employees;
- Increases market share by attracting socially conscious as well as female consumers;
- Strengthens relationships with investors seeking socially responsible investing options;

²⁶ www.blihr.org see also BLIHR#4 Policy Report, June 2009

²⁷ http://www.unglobalcompact.org/Issues/human_rights/5March2009_LookingAhead.html

²⁸ The UN Global Compact and Substantive Equality for Women: revealing a 'well hidden' mandate, Maureen A Kilgour, Third World Quarterly, Vol. 28, No 4 pp 751-773

²⁹ [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/web_GenderReporting_index/\\$FILE/index.html](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/web_GenderReporting_index/$FILE/index.html)

³⁰ http://www.wikigender.org/index.php/New_Home

- Differentiates the company brand and strengthens the company's reputation as a "women-friendly" enterprise.³¹

No systematic guidance presently exists to help companies report on gender-informed practices globally. The current GRI guidelines known as G3 only contain three performance indicators that highlight gender issues specifically:

1. Total number and rate of employee turnover by age group, gender, and region;
2. Composition of governance bodies and breakdown of employees per category according to gender, age group, minority group membership, and other indicators of diversity;
3. Ratio of basic salary of men to women by employee category.

However, research into UK companies carried out by the International Centre for Corporate Social Responsibility at Nottingham University indicated that few companies were reporting on the above indicators, and that instead gender reporting was limited to recording workplace and management ratios of women to men. In addition to that, companies would report on the process and lines of accountability with relation to diversity in the workplace and training programmes on this subject.³²

A separate analysis was carried out in 2008 of existing national initiatives aimed at business that call for some reporting on gender issues. This assessment covered the UK, the US and Australia and noted that the requirement to publicly report on gender helps move forward the business case within companies and encourage monitoring of gender issues. Additionally, it renders gender diversity programmes more sustainable within the company and less likely to be cut in times of financial difficulties.³³

The draft guidance to be put forward for companies reporting to the GRI standards on gender is not yet public, but a list of items it might cover is available on the wikigender site. These include the gender impacts of products and services; product development using gender information; supply chain labour practices; gender as part of the community and human rights impacts of a business; and community development and philanthropic efforts which respond to gender-specific needs in the community.³⁴ These items are to be welcomed for their strong human rights relevance and recognition of the global dimension of gender issues.

A series of recommendations made by participants at the various stakeholder sessions has been made publicly available in the context of this project. For instance, participants recognise the need for the guidance to:

- Be global in its reach, whilst understanding the local context and recognising that this is a challenge given the variety of approaches present in different cultural or country contexts;
- Recognise not only the business case, but also the fact that this subject sits within a wider rights and equality framework – both are important here;
- Bring about a standardised system, since many companies report on gender information but it is currently very difficult to compare businesses since the data is very different;

³¹ [http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/web_GenderReporting_gendermatters/\\$FILE/gendermatters.html](http://www.ifc.org/ifcext/sustainability.nsf/AttachmentsByTitle/web_GenderReporting_gendermatters/$FILE/gendermatters.html)

³² Developments in company reporting on workplace gender equality?: A corporate social responsibility perspective, Kate Grosser and Professor Jeremy Moon, 2008

³³ "Equal Opportunity for Women in the Workplace: A Study of Corporate Disclosure", 2008, ACCA, Kate Grosser, Professor Jeremy Moon and Professor Carol Adams

³⁴ http://www.wikigender.org/index.php/Corporate_Social_Responsibility

- Apply also along the supply chain to ensure that it is not only the large corporations which report on gender, but also the numerous Small and Medium Enterprises (SMEs);
- Capture stories from companies already doing well in terms of gender and develop an understanding of how this was achieved, what the process was, what worked in their organisation, etc.

Initial assessment and recommendations

The joint GRI/IFC project on gender reporting is to be welcomed. It is helpful that the starting assumption for the project is that there is a business benefit in ensuring gender equality within the workforce. The project's aim is to use this as a departure point and make data publicly available in a way that is standardised to allow for comparisons between companies. It is to be hoped that the guidance produced as a result of this exercise is ambitious and progressive and that it provokes direct action from companies in terms of gender reporting.

One of the challenges associated with this project is the need to tackle the barriers which prevented companies from reporting well under the G3 guidelines on gender noted above. As noted by Kate Grosser and Jeremy Moon, company representatives are faced with a number of disincentives to full disclosure on gender issues. These include market disincentives such as the risk of miscommunication, misrepresentation through inaccurate comparison with other companies, or the risk of informing competitors³⁵. Additionally, a lack of pressure from civil society actors such as NGOs was noted as a factor along with a lack of government influence in encouraging reporting on gender data³⁶.

These underlying challenges need to be addressed, either directly through the guidance from the GRI/IFC project or through more widespread dialogue with gender experts, NGOs and government representatives as a follow-up to the guidance.

A second area of focus is the need to compel companies to also report on bad news and include the negative stories in relation to gender which may well have led to public pressure or litigation. A parallel here can be drawn with the calls for companies to report more widely and fully on human rights issues, including challenging situations companies have been involved in. This discursive style of reporting which begins to tell the stories behind the numbers might well be welcomed also by those working on gender issues beyond the private sector.

One way to develop this would be to draw on the ongoing parallel project led by GRI, Realizing Rights and the UN Global Compact which is addressing human rights reporting by companies, and considering possible improvements to the GRI human rights indicators. To date there has not been visible crossover between the two projects, but collaboration could be beneficial.

Finally, it would be helpful to see the guidance document as part of a long-term strategy to ensure that reporting on gender is prioritised so that it is not seen as an additional burden for companies. Part of this relates to the previous point about joining up efforts on gender and human rights reporting but also connects to the earlier point about the importance of government and NGO pressure on business to report on these issues.

INITIATIVES BY INDIVIDUAL COMPANIES LOOKING AT GENDER

³⁵ Developments in company reporting on workplace gender equality?: A corporate social responsibility perspective, Kate Grosser and Professor Jeremy Moon, 2008

³⁶ Developments in company reporting on workplace gender equality?: A corporate social responsibility perspective, Kate Grosser and Jeremy Moon, 2008

The following examples of specific company actions are based mainly on information provided via individual conversations between the author and business representatives. They highlight some examples of actions taken by business when looking at gender which highlight a human rights perspective.

RioTinto spearheaded a cross-industry initiative on gender within the mining sector in March 2008. This initially involved several mining companies, however, over time other companies did not continue with the programme for various reasons. The company proceeded with its efforts and is due to publish guidance for community relations practitioners on gender before the end of 2009. Of interest here is that the background document to the project sets out as part of the business case for a gender focus the responsibility to uphold corporate commitments to human rights. In the elaboration of this section, the following rights are included as potential cross-over points: right to development, adequate standards of living and a sustainable livelihood, equal access to employment that provides safe conditions and fair remuneration, education, health, participation in political and economic life and impacts on indigenous women.

Newmont Mining has created a gender team as part of extensive community engagement efforts connected to the Akyem mine north of Accra in Ghana. The author met with representatives of this group in March 2009, along with a local NGO representative to discuss the various social and cultural patterns which may create difficult situations for women living close to a mine site.

A study was commissioned by the company to look at gender within the scope of the project and the findings of that study pointed to various recommended actions. Some of the highlighted steps include the need to convene meetings with senior female tribal representatives; identifying ways to ensure that women without customary title to land can still obtain cash and crop compensation; and the need to ensure that the economic activities conducted by women are available after mining begins and the communities have been relocated. Discussions during the site visit also addressed the likely increase in social and health problems as a result of the mine and influx of a large male workforce. Potential risks raised included increased alcohol consumption, teenage pregnancies, domestic violence, HIV/AIDS and prostitution. The company is currently working with community members to address the challenges outlined and has recently completed a capacity building programme for the female tribal representatives on mining law and their rights in relation to compensation³⁷.

Dean's Beans, an organic coffee company based in the US, involved some of its male coffee farmers in Rwanda in a training seminar on addressing gender violence. The company CEO wrote an article describing why the company supported the seminar, underlining the need for a conversation on gender violence and healing in a post-conflict society. The programme was run by Men's Resources International.³⁸

The **MAS Holdings** 'Go Beyond' programme is often cited as an example of good practice in the area of women's empowerment. The programme began in 2003 at MAS factories in Sri Lanka, India and Vietnam and was designed primarily to offer career development opportunities, health and lifestyle education, and community development programmes for the majority female employees. Efforts were also made to raise the profile of the programme by electing each year an "Empowered Woman of the Year" and setting out her story. A Global Compact case study on the subject notes that the programme was of assistance to the business in its efforts to respect client pressures to meet ethical standards and distinguish the company from its competitors³⁹.

CONCLUSION

³⁷ <http://www.newmont.com/africa/akyem-ghana>

³⁸ <http://www.csrwire.com/News/13413.html>

³⁹ http://www.unglobalcompact.org/data/ungc_case_story_resources/doc/B6738518-A43D-4CBB-8D13-8F8DA7B8C4E1.pdf

In summary, although existing corporate responsibility initiatives on gender and the private sector and initiatives by companies in their own right sometimes do make clear references to human rights, it is argued that they would benefit from systematic efforts to apply a broader human rights lens to the situation being addressed.

The final section of this paper looks at the evolving business and human rights agenda and assesses approaches to date with regard to incorporating gender considerations.

PART THREE : INCORPORATING GENDER INTO BUSINESS AND HUMAN RIGHTS

The business and human rights agenda has evolved significantly in recent years in terms of conceptual clarity and focus. However, as has been noted, a gender perspective has not been applied in a visible way to ongoing discussions on the human rights responsibilities of companies or concerning the obligations of governments to protect against corporate related human rights abuses. At the same time, initiatives designed to address gender within the private sector have not systematically considered relevant issues through a broader human rights lens. The brief exploration of the *Women's Principles* discussed in Part Two highlights how applying the full spectrum of human rights points out the relevance of examining and addressing a wider set of issues and challenges in order to demonstrate full commitment to gender equity and respect for human rights.

In order to achieve this objective, it seems evident that more dialogue and joint action is needed among human rights, gender and corporate responsibility experts. Greater involvement of civil society organisations focused on women's rights as part of the developing business and human rights movement is also a key step. If a missing element in current business and human rights strategies and approaches is a gender perspective then there is certainly a risk that the policies, practices and processes businesses implement will be failing women or men in certain contexts, countries and sectors without the input of such expertise.

BUSINESS AND HUMAN RIGHTS AT THE UN: A BRIEF OVERVIEW

Efforts focused on improving the private sector impact on human rights have been growing significantly within the UN system over the past decade. This can be seen starting with the creation of the UN Global Compact in 2000. Another key milestone was the 2003 "Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights" adopted by the Sub-Commission of the then UN Commission on Human Rights.

Although the Sub-Commission's work was not carried forward by the Commission, it is worthwhile noting for the purposes of this paper that in the Commentary to the Norms document, women were specifically mentioned in relation to equal opportunities, conditions of work and environmental protection and impact assessments. It is also worth highlighting that the Women's Environment and Development Organisation (WEDO) produced a short piece entitled "Engendering the UN Norms for Business"⁴⁰. It stated:

"Women often bear the brunt of corporate malfeasance. While both men and women both suffer from corporate misbehaviour, women sometimes experience a gendered impact as well. Corporate foreign investment in the global

⁴⁰ http://www.choike.org/documentos/normas_onu_ddheng.pdf

South directly affects an often invisible, feminized underclass workforce vulnerable to gender-based physical, environmental and economic abuses. The militarization that sometimes accompanies foreign investment projects subjects women to gender-based violations in addition to those experienced by men. To the extent they exist, the local consultations undertaken by governments and corporations prior to and during a 'development' project are typically bereft of female participants."

The WEDO statement went on to recognise that there was a need for the Norms to integrate gender throughout the document.

Following the decision by governments not to proceed with the Norms, a new mandate was established to move forward the debates on business and human rights. In July 2005, Professor John Ruggie was appointed UN Special Representative on business and human rights by then UN Secretary-General Kofi Annan. Professor Ruggie has played a critical role in expanding knowledge in the field and moving inter-governmental discussions around corporate responsibility forward in a constructive manner. The next section looks in more detail at the Special Representative's ongoing efforts.

THE WORK OF THE UN SPECIAL REPRESENTATIVE ON BUSINESS AND HUMAN RIGHTS

Professor John Ruggie was appointed to respond to a mandate that included identifying and clarifying standards of corporate responsibility and accountability with regard to human rights. The first three years of the mandate, which was completed in 2008 and renewed for a further three years by the UN Human Rights Council, were dedicated to identifying key issues, mapping existing laws, policies and practices and seeking to moving forward what had become a polarised debate.

It should be noted that during the first three years of the mandate, there was no outside submission calling attention to the need to integrate gender into the work of the Special Representative. A 2007 open letter which was signed by 198 non-governmental advocacy organisations (including four organisations that work exclusively on women's issues) did not mention the need for a gender perspective to be integrated. This again underlines the need for a greater cross over between human rights, gender and CSR experts.

In 2008, the Special Representative's proposed "Protect, Respect, Remedy" policy framework on business and human rights was unanimously approved by the Human Rights Council. The Council's new three-year mandate called on the Special Representative to expand upon and demonstrate how the framework could be implemented in practice.

Of particular interest here is that the Special Representative was specifically requested by the Human Rights Council to "*integrate a gender perspective throughout his work*". To date there has been little public response to this addition from gender experts and women's rights NGOs. It is worth noting that in 2002 the UN Human Rights Commission requested all Special Procedures mandate holders to take a gender perspective into account in the implementation of their mandates. All mandate-holders should therefore be taking steps to incorporate gender into the scope of their work⁴¹.

The policy framework on business and human rights approved by the Human Rights Council sets forth three pillars:

- The state duty to protect individuals from human rights abuses by corporations;
- The corporate responsibility to respect human rights; and
- The need for access to remedies in instances of human rights abuse involving companies

⁴¹ <http://www2.ohchr.org/english/bodies/chr/special/gender.htm>

Some initial ideas on how a gender perspective may be incorporated within the three pillars of the policy framework are set out below.

State duty to protect

Due attention should be given here to the detailed analysis carried out on behalf of Professor John Ruggie of the work of the Committee on the Elimination of Discrimination Against Women⁴². This study examined evidence from the Committee as to the obligation of states with respect to their duty to protect individuals from abuse by corporate actors in the context of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

For instance, the Committee asks states to report on how private health care providers ensure equal access to services and address violence against women; how media and advertising agencies respect and promote respect for women; how the tourism industry might be regulated to protect against exploitation of prostitution and how companies affecting land rights might benefit from regulation with regards to assessments of development projects and ensuring access to land and water resources for women without discrimination.

Each of these issues merits further consideration for the purpose of developing practical actions which could be taken up by different state actors. Further detailed guidance by the CEDAW committee would be useful.

Responsibility to respect

A deeper human rights analysis of the *Women's Principles* discussed in Part Two of this paper would be one important contribution to developing work of the Special Representative aimed at clarifying the scope of the corporate responsibility to respect human rights. Such an analysis could, for example, seek to determine the scope of the human rights content of the *Women's Principles* and how this might inform guiding principles for business on the responsibility to respect which the Special Representative has indicated he will develop as part of this phase of his mandate. Additionally, the various initiatives and actions on corporate responsibility mentioned above and in the accompanying annex to this paper could be drawn upon in the development of this work.

Furthermore, given that a key part of the corporate responsibility to respect involves human rights due diligence by companies, it is essential that the various components of any such process have a clear gender dimension. This might include a stronger gender focus in recommendations around human rights impact assessments, inclusion of gender impacts in guidance on human rights policy development or indeed better corporate reporting on gender issues as is being addressed by the joint GRI/IFC project explored above.

Access to remedies

The Special Representative's most recent report to the Human Rights Council notes that he continues to explore "options for institutional innovations where they hold promise of quantitative and qualitative improvements in access to effective remedy, with a view to future recommendations."⁴³ As the Special Representative pilots the company grievance mechanism principles he has already developed, special attention should be paid to issues such as the challenges women might face in certain cultural or country contexts to seek redress in the workplace. This might also apply to difficulties women face in obtaining judgments in formal court structures.

In summary, it is recognised that a full-scale gender analysis of the three pillars of the "Protect, Respect, Remedy" framework and the associated workstreams would be welcomed. This would assist in recognising priorities for the

⁴² <http://www.business-humanrights.org/Documents/Ruggie-report-CEDAW-Sep-2007.pdf> a recently published addendum to the Special Representative's latest report to the Human Rights Council reiterates the role of the Committee <http://www.reports-and-materials.org/Ruggie-addendum1-15-May-2009.pdf>

⁴³ Para 114

Special Representative's mandate and potentially key sectoral or geographic priorities taken by other actors in the time ahead.

Furthermore, the developing business and human rights agenda would also benefit from a more proactive inclusion of gender issues. This applies as much to the organisations working in this area as to the business entities interested in developing responses to human rights challenges. Ultimately there is a need to draw together the two issues of gender in the private sector and human rights in the private sector which to date have been progressing in parallel.

CONCLUSION AND RECOMMENDATIONS

This scoping exercise has begun to map out some of the relevant initiatives which link the private sector with gender and human rights concerns. Ultimately, it has demonstrated that further research into particular areas of both debates would be helpful to fully appreciate the potentials for cross-over and the key lessons from work concluded thus far.

It has also become clear that there has been insufficient attention paid to gender issues within the business and human rights field. Business and human rights as a policy and practice agenda is still relatively young and as the frameworks and institutions are being created it is essential to ensure that gender issues are not afterthoughts but instead built into processes and actions taken by all relevant actors.

Capturing good practice examples that companies are taking to ensure gender equality would be a useful place to start. Additionally, there is room for debate and analysis as to what gender means within the mandates of the various UN Special Procedures whose work has some relevance to the private sector. This of course concerns the Special Representative on business and human rights but also the Special Rapporteurs on issues such as food, health and housing where their work interconnects with the private sector. A key role could be played by the Special Rapporteur on Violence against Women, Ms Yakin Ertürk, who has previously made reference to the role companies sometimes play in exacerbating situations of violence against women. There is a further need to assess gender issues within existing multi-stakeholder initiatives aimed at the private sector, and to explore what the subject means for campaigning human rights organisations. An annex of some of the existing efforts in this area is included with this paper.

Nevertheless, the greatest impact might well come from business leaders taking a second look at how gender issues are dealt with across their organisations and developing their efforts on human rights to include a wider approach to gender. This would be a welcome development.

ANNEX

PRIVATE SECTOR INITIATIVES AND CODES

There are a number of multi-stakeholder initiatives, sector-specific initiatives and codes that include references to gender issues in their work on human rights with the private sector.

A selection of these are summarised below.

Community Development Toolkit

<http://www.icmm.com/page/629/community-development-toolkit->

This tool is produced by the International Council on Mining and Metals, an industry body representing key mining companies, and is due to be revised over the coming months. Gender is cited at the outset as a relevant issue throughout:

“Typically mining development has a gender bias whereby most of the benefits (employment, income, royalties, and infrastructure projects) tend to accrue to men, and the negative impacts (cultural disruption, social stress, environmental harm, and domestic violence) affect women and children...Each stakeholder group (government, companies, communities, and civil society groups) should examine their own activities through a gender prism to see how well women are represented and how much their views and concerns are taken into account.”

One of the recommended tools is a “gender calendar” which employs time-use analysis and is used to provoke conversations on men and women’s production and the varying domestic responsibilities.

Ethical Trading Initiative

<http://www.ethicaltrade.org/>

The ETI is one of the few initiatives in this area where women’s NGOs have been active. They have produced interesting work on homeworkers and on particular industries with a large proportion of female workers such as the flower industry and the garment industry. The ETI base code mentions gender in the context of non-discrimination only.

Fair Labor Association

<http://www.fairlabor.org/>

The Fair Labor Association’s compliance benchmarks include four indicators that are gender-specific or relate to women only. They stipulate that all security practices “shall be gender-appropriate and non-intrusive, so that the dignity of the worker concerned is protected when a search is undertaken”. They also require companies to prevent unsafe exposure of pregnant women and minors to hazardous chemicals, to ensure that pregnant women and new mothers are protected within the workplace through such measures as prohibiting night work, allowing for adjustments to working hours during and after pregnancy, etc. Finally, companies are required to ensure that “women are not engaged in work that constitutes a substantial risk to their reproductive health”.

Gender and Security Sector Reform Toolkit

<http://www.dcaf.ch/gender-security-sector-reform/>

Launched in February 2008, this initiative focuses on gender implications for private military and security companies (PMSCs). This is part of a Gender and Security Sector Reform Toolkit developed by the Democratic Control of Armed Forces, the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe and the United Nations International Research and Training Institute for the Advancement of Women. The toolkit has 12 chapters which address all aspects of the security sector. The chapter on the PMSCs calls for the

integration of gender into all aspects of their operations and includes an overview of particular PMSC and gender issues in post-conflict, transitional, developing and developed country contexts.

Ghana Business Code

<http://www.ghanabusinesscode.com/>

Launched in October 2006, the Ghana business code is a voluntary code of conduct open to business operating in Ghana from a variety of sectors. It is based on the 10 principles of the UN Global Compact but with a heavy grounding in human rights. The project is run by the three main business associations in Ghana, funded by Danida and involves the participation of 140 company signatories.

Of particular interest here is that the Secretariat, in cooperation with participating business has developed four key themes to be analysed within the context of this programme – one of which is gender. Within this, a potential focus addresses the implications of implementing the code as well as a gender assessment of the code content itself.

Voluntary principles on security and human rights

<http://www.voluntaryprinciples.org/>

[http://www.international-alert.org/pdf/Voluntary Principles on Security and Human Rights.pdf](http://www.international-alert.org/pdf/Voluntary_Principles_on_Security_and_Human_Rights.pdf)

The actual text of the Voluntary Principles on Security and Human Rights contains no mention of gender or women. However, a recent report from International Alert, a UK-based NGO focused on peace-building and conflict resolution, produced a report setting out key performance indicators under the principles. Within this report Indicator 9 requiring evidence of monitoring mechanisms calls for information on the gender composition of security forces, stating that this is important “since women may be able to provide different levels of attention to specific vulnerable groups and may also help avoid gender-based violence by their presence”. Additionally, Indicator 11 on Evidence of reporting human rights abuses calls for information on the violation of the right to life and liberty through gender-based violence including rape.

Other initiatives

Other initiatives examined include the Electronics Industry Code of Conduct <http://www.eicc.info/> and the new Global Network Initiative aimed at the Internet Service Providers <http://www.globalnetworkinitiative.org/>. These programmes either mention gender solely in the context of non-discrimination or not at all.

NON-GOVERNMENTAL ORGANISATIONS

Although there are now many NGOs that work with the private sector or campaign for changes in policies to improve people’s human rights, there are few that make reference to gender issues in their work. This seems to be an area worthy of further research and attention from both the wider business and human rights community and from gender experts.

Below is a selection of NGOs where gender has intersected with work on corporate accountability. This is a non-exhaustive list and is designed to spotlight some examples.

Amnesty International takes a gender focus particularly in issues involving resettlement as a result of company projects and the resultant effects on the community. <http://www.amnesty.org/en/business-and-human-rights>

The International Network for Economic, Social and Cultural Rights (ESCR-Net) has a working group on both corporate accountability and on Women and ESCR, this organisation is very active in promoting the importance of economic, social and cultural rights. <http://www.escr-net.org/>

Just Associates is a global community of justice activists, scholars and popular educators in 25 countries worldwide. JASS is committed to strengthening women's voice, visibility, and collective organising power to create a just and sustainable world for all. They focus on women's rights and empowerment and economic rights in particular. They also develop their strategies based on an intersectional perspective on power to integrate race, class, sexuality, etc. <http://www.justassociates.org/>

Pact has been working in the Democratic Republic of the Congo for a number of years to improve the human rights impact of mining companies on the local communities. They are currently interested in working with a group of companies in the Katanga Province with a focus on the steps companies can take to improve the situation of women in the community with regard to sexual and gender based violence. The Voluntary Principles on Security and Human Rights are referred to as a framework for this work. http://www.pactworld.org/cs/africa/democratic_republic_of_congo

Rights and Democracy have developed a Human Rights Impact Assessment tool to be used by members of the community. A number of case studies have been published based on this tool and the second version of the tool is now available as a CD-Rom. Gender issues are mentioned at various points in the documentation and were a factor in the selection of the original company case studies. <http://www.dd-rd.ca/>

Women's Aid has produced resources for companies on ways to address the issue of domestic violence where employees may be at risk. <http://www.womensaid.org.uk/>

Women in Informal Employment: Globalizing and Organizing (WEIGO) has carried out comprehensive work with a focus on the informal economy. This organisation has developed statistics to paint a picture of the informal economy throughout the world and present findings on a country, sector and gender basis. <http://www.wiego.org/>

There are of course a large number of campaigning NGOs working at the level of workers' rights globally which might take a specific focus on the rights of women or men making up the majority of the workforce.