



WOMEN'S HUMAN RIGHTS & BUSINESS

What ASEAN governments and businesses can do to support gender equality and the empowerment of women in the workplace

February 2020

ABOUT THIS BRIEFING PAPER

This Briefing Paper is produced as part of Oxfam's regional programme on Gender Transformative and Responsible Agribusiness Investments in Southeast Asia (GRAISEA). Among its core objectives is to contribute to national and regional policy influencing in order to create an enabling environment for business practice that is inclusive, responsible, and supports climate resilience and women's economic empowerment (WEE).

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ACRONYMS

ACWC	ASEAN Commission on the Promotion and Protection of the Rights of Women and Children
ASEAN	Association of Southeast Asian Nations
AMS	ASEAN Member States
ATWGARD	ASEAN Technical Working Group on Agriculture and Research Development
BDPFA	Beijing Declaration and Platform for Action
BHR	Business and Human Rights
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CSR	Corporate Social Responsibility
FAO	Food and Agriculture Organization
HRDS	Human Rights Defenders
IFC	International Finance Corporation
ILO	International Labour Organization
IMF	International Monetary Fund
LFP	Labour Force Participation
NAPS	National Action Plans on Business and Human Rights
OECD	Organisation for Economic Co-operation and Development
SDG	Sustainable Development Goals
WEE	Women's Economic Empowerment
WEP	Women's Empowerment Principles
UN	United Nations

EXECUTIVE SUMMARY

This Briefing Paper contributes to the global conversation on how States and businesses can use the gender lens to ensure that policies and practices create an enabling environment for gender equality and women's empowerment.

It focuses on six priority issues affecting Association of Southeast Asian Nations (ASEAN) women workers:

1. Sexual harassment and violence against women;
2. Discrimination;
3. Concentration of unpaid care work on women and girls;
4. Absence or invisibility of women in agriculture value chains;
5. Lack or absence of property rights
6. Difficulty in accessing state and non-state remedy mechanisms when their rights are violated.

This Briefing Paper presents recommendations as possible actions for states and businesses to pursue, as follows:

Recommendations for States:

1. **Address sexual harassment and violence against women** in the world of work by **aligning policies with relevant International Labour Organization (ILO) policies** which outline recommendations for protection, prevention, enforcement, remedies, assistance, guidance, training, and awareness-raising in relation to violence and harassment.
2. **Address discrimination** by establishing laws and policies that **ensure zero-tolerance against discrimination and guarantee equal pay for equal work**.
3. **Address unpaid care work** by **legislating or expanding paternity leave benefits**. Additionally, in line with the recommendations of UN Women, States must consider **sustaining public investment in accessible infrastructure and provide basic guarantees** where there is private provision, invest in affordable and quality care services, and explore a menu of policies to encourage shared burdens when it comes to care work.
4. **Address the absence or invisibility of women in agriculture value chains**
 - By **enacting gender-sensitive human rights due diligence policies** which require all stakeholders to identify and put value on the direct and indirect contribution of women; and
 - By **recognizing women as stakeholders** in the formal and informal economy and supporting women in agriculture to become stakeholders in enterprise formations.
5. **Address unequal property and land rights**
 - By **allowing women to own and/or inherit property**;
 - By **enabling women's participation in decision-making processes** that affect their property and natural resources; and
 - By **investing in and supporting women organizing and enterprise formation** in agriculture and the informal economy.
6. **Access to justice: looking at remedies that work and respond to women's needs**
 - States must **address the various barriers women experience when accessing remedies**. Beyond legal measures, States and businesses alike must be sensitive to the interplay of politics, economics, and culture in women's access to justice. In developing remedial solutions, States and businesses may be guided by the following elements outlined by the **Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)'s General Recommendations on Women's Access to Justice**.
 - **States are also urged to adopt a women's access to justice framework.**

- **Guidelines on supporting human rights defenders (HRDs) should acknowledge all genders.** Policy and practices must be designed acknowledging and identifying the specific needs of women HRDs and provide responsive actions such as protection measures, relocation support, psychological care, child care and the like.

Recommendations for Businesses:

1. **Address harassment and violence against women** by establishing a system that allows the company to **assess and address gender gaps** through specific actions as well as systems that **monitor and sustain progress of the mechanisms' ability to address harassment and violence**
2. **Address discrimination**
 - By **supporting women's enrollment in executive and fast track development programmes** to maximise their career growth;
 - By **developing a code of conduct** which includes non-discrimination policies; **by having a gender-inclusive workplace culture supported by a critical mass of women in management and senior leadership roles;** and
 - By aligning Corporate Social Responsibility (CSR) policy and practice with a **commitment to enable small producers to become supply chain stakeholders.**
3. **Addressing unpaid care work**
 - By **granting or extending paid maternity leave** even when there is none provided for by law;
 - By providing for **alternative work arrangements** such as short working days after maternity leave, allowing work from home, or allowing staff to work close to their hometowns when they need to care for their parents;
 - By **training their workers on gender norms and issues** such as equitable division of household work among all family members; and
 - By **using technology to reduce women's time poverty** which allows women more free time for things such as paid work.
4. **Address the absence or invisibility of women in agriculture value chains**
 - By **hiring women for diverse roles** in both farms and head offices, including women in leadership roles and by offering flexible work arrangements;
 - By **undertaking gender-sensitive human rights impact assessments** of their entire value chain to understand and map gender roles and relationships;
 - By **extending financial and other support** to women agriculture producers in their own right, and not simply because they are assisting their husbands and/or male farmers;
 - By **committing and acting to ensure Women's Economic Empowerment (WEE) in the supply chain** and the impacted communities;
 - By **measuring and communicating responsible business outcomes** at the level of the company, its supply chain, and its partner small producers as individual women and men and as organizations; and
 - By **supporting the initiatives of women in agriculture** to meaningfully participate and fully partake of the benefits as stakeholders in agricultural and non-agricultural value chains. This is facilitated through enterprise formation.
5. **Address barriers to land and property rights by sourcing from producer cooperatives that do not use formal land titles as the basis for membership.** This enables women tillers to become members of the cooperative in their own right.

Background and Context

This Briefing Paper contributes to the global conversation on how States and businesses can use the gender lens to ensure policies and practices create an enabling environment for gender equality and women's empowerment.

For governments, this involves the integration of relevant policies in its National Action Plans on Business and Human Rights (referred here as "NAPS"), its laws, and other instruments. For businesses, this includes embedding measures to empower women into operational plans and expressing publicly available stand-alone human rights and/or sustainability policies.

States and businesses are urged to:

»Recognize priority issues for women workers, especially those in agricultural value chains. This Briefing Paper focuses on the following priority issues affecting women workers:

- Sexual harassment and violence against women;
- Discrimination;
- Concentration of unpaid care work on women and girls;
- Absence or invisibility of women in agriculture value chains;
- Lack or absence of property rights; and
- Difficulty in accessing state and non-state remedy mechanisms when their rights are violated.

»Consider our recommendations and examples of good practices when formulating their policies for the empowerment of women workers, which are guided by the recently released *"Gender dimensions of the Guiding Principles on Business and Human Rights"* report (referred here as "Gender Guidance") of the UN Working Group on Business and Human Rights (UN Working Group) in the issue of human rights and transnational corporations and other business enterprises.

Women play a significant role in the workplace which must not be ignored; the Association of Southeast Asian Nations (ASEAN) Member-States (AMS) have made significant contributions throughout the years. All AMS have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Some AMS have embedded the non-discrimination and equality principles in their constitutions.¹ The ASEAN has also adopted the *"Action Agenda on Mainstreaming Women's Economic Empowerment (WEE) in ASEAN"*. Various events and dialogues have been held in the region to discuss how businesses can integrate human rights, especially women's human rights, into the core of their operations.

Businesses in the ASEAN have also taken significant steps to promote and protect women's human rights in the workplace.

¹ ASEAN Commission on the Promotion and Protection of the Rights of Women and Children, [Progress Report on Women's Rights and Gender Equality, October 2016](#) (last accessed on 06 February 2020).

EXAMPLES		
Indonesia	Malaysia	Cambodia
Palm oil companies launched a pilot project establishing gender committees in palm oil estates which, other than being a grievance mechanism, ensure female representation and strengthen women's talent and leadership in the sector. ²	Maybank became the first bank to offer an extended maternity leave of up to 365 days for eligible female employees. This is on top of the other benefits offered to its female employees including the Flexi Work Arrangement policy, family-friendly benefits, Maybank Tiger Child Care Centre, lactation rooms, gymnasium for women, and various other health and wellness programs. ³	Levi Strauss & Co. launched the "Female Leadership Program", which specifically addresses the conditions of young women in manufacturing regions, as part of its efforts to support and empower the women working across its supply chain. Their terms of Engagement for its suppliers also contains zero-tolerance policies on sexual harassment and abuse in the workplace. ⁴

These positive developments help improve the rights of women workers in ASEAN. However, many challenges remain for women and men workers in AMS. In the ASEAN, the informal economy employs more women than men with 57.9% of them in the sector compared to 50.9% of men. There are fewer safeguards in the informal economy (i.e. lack of oversight, protection and regulations) leaving both women and men exposed to greater risks.⁵

Women workers in the ASEAN remain vulnerable to discrimination, violence, and non-recognition of economic rights (e.g. right to property and difficulty in accessing legal remedies when their rights are violated).⁶

The situation of women in the ASEAN frames the need for all stakeholders, including States and businesses, to advocate for gender equality and WEE in all business-related activities. This must permeate across national governments and ASEAN pillars, expanding beyond the role of institutional bodies dealing with the rights of women and children.

The UN Working Group notes that *"neither States nor business enterprises have paid adequate attention to gender equality in discharging their respective obligations and responsibilities under the Guiding Principles"*.⁷

² [Zafirah Zein, Eco-Business, Palm oil giants unite to tackle human rights challenges in Indonesia](#), 21 June 2019.

³ [New Straits Times, Maybank offers female staff up to one-year maternity leave](#), 8 March 2017.

⁴ [Levi Strauss & Co., Gender Equity at Factories: Cambodia's Female Leadership Program](#), 2 April 2019.

⁵ Id. page 71.

⁶ Id. at Challenges and Ways Forward, page 277.

⁷ United Nations Development Programme. Gender Dimensions of the Guiding Principles on Business and Human Rights, 2019, page 47.

The result is a “*limited integration of a gender perspective in existing national action plans on business and human rights*”.⁸ According to ACWC, unless targeted interventions are undertaken, the wide disparities in women’s labour force participation (LFP) will inhibit them from taking advantage of the opportunities created by the ASEAN Economic Community. Because of this, ASEAN economies will lose the opportunity to maximize women’s productive contribution to the ASEAN economic integration.⁹

In providing recommendations, we invite States and businesses to refer to the UN Working Group’s *Gender Guidance* (2019) document. The *Gender Guidance* followed existing standards on gender equality and responsible business conduct, such as the CEDAW, Beijing Declaration and Platform for Action (BDPfA), Women Empowerment Principles, Sustainable Development Goals (SDGs), Organisation for Economic Co-operation and Development (OECD) Due Diligence Guidance for Responsible Business Conduct, and International Labour Organization (ILO) Standards. Some principles from the *Gender Guidance* are discussed in this briefing paper in relation to the six priority issues that we have chosen as the focus of our recommendations.

Six Priority Issues Affecting ASEAN women workers: a snapshot of the problems

This Briefing Paper focuses on six priority issues affecting ASEAN women workers, which are the following:

1. Sexual harassment and violence against women;
2. Discrimination;
3. Concentration of unpaid care work on women and girls;
4. Absence or invisibility of women in agriculture value chains;
5. Lack or absence of property rights; and
6. Difficulty in accessing state and non-state remedy mechanisms when their rights are violated.

This Briefing Note uses the *Gender Guidance*, among other instruments, as the foundation of our recommendations and analysis. The numbers in parentheses () correspond to the numbers as they appear in the Annex to the *Gender Guidance* document. For a more detailed discussion and reproduction of the text of the Principles, please see Annex A of this Briefing Paper.

A. Sexual Harassment and violence against women. As early as 2008, the International Trade Union Confederation found that between 30-40% of women workers in the Asia-Pacific region reported some form of harassment.¹⁰ According to the International Monetary Fund (IMF), at present 59 countries do not have laws of any kind against sexual harassment at work.¹¹

⁸ Ibid. See Vaswani, Karishma, BBC, The costs of sexual harassment in the Asian workplace, 13 December 2017.

⁹ ACWC, Progress Report on Women’s Rights and Gender Equality, 2016, page 286.

¹⁰ [Vaswani, Karishma, BBC, The costs of sexual harassment in the Asian workplace, 13 December 2017.](#)

¹¹ [Thomas, Jason, THE ASEAN POST, The immense potential of ASEAN’s Women, 08 March 2019.](#)



In June 2019, the ILO adopted the Convention and Recommendation on Violence and Harassment in the World of Work, which requires governments to take measures to protect workers, especially women workers, from violence and harassment. The ILO acknowledged that gender-based violence and harassment disproportionately affects women and girls. An inclusive, integrated and gender-responsive approach, which tackles underlying causes and risk factors (e.g. gender stereotypes, multiple and intersecting forms of discrimination, and unequal gender-based power relations), is essential in ending violence and harassment in the world of work. For businesses, sexual harassment and violence in the workplace leads to higher employee turnover, lower employee productivity, increased absenteeism, and increased sick leave costs.¹² It can also mean exorbitant legal fees when the woman worker sues the company.

Please refer to the following Gender Guidance principles, for States (1) and (7), and for Businesses (2), (13), (14), (16), (17) and (21).

B. Discrimination. Women face more structural discrimination compared to men even when women are part of the formal economy. Women in the formal economy face discrimination in all stages of employment from hiring, working environment, and even termination. The gender pay gap between men and women is also apparent with women in Southeast Asia earning between 30-40% less than men. This gap widens in professional and management positions where men on average earn up to 45% more than women.¹³ Aside from the challenges of equal pay for equal work, women are constantly relegated to roles that are lower than those occupied by men (e.g. women are limited to the assembly line with no chances of occupying managerial and other leadership positions). Discrimination also occurs when membership in community-based cooperatives and organisations are limited to heads of households, which are often identified as the father or husband. When

¹² Shiu-Yik Au, [The real cost of workplace sexual harassment to business, The Conversation](#), 03 September 2019. Prof. Au co-wrote the paper, [MeToo: Does Workplace Sexual Harassment Hurt Firm Value?](#)

¹³ FRIEDRICH NAUMANN STIFTUNG, [GenderGaps in Southeast and East Asia That Still Need to be Addressed](#), 04 April 2017.

“By addressing unpaid care work, businesses benefit in the form of: talent acquisition and retention; increased productivity because of reduced distraction, fatigue, and absenteeism; supply chain resilience and diversity, revenue and business growth; and customer acquisition and loyalty”

membership to these organisations allows them to access credit facilities and other economic benefits, the women are left out and are unable to develop themselves and their livelihoods.

Please refer to the following Gender Guidance principles, for States (1) and (3), and for Businesses (11), (14), (15), (16), (17), (21), and (23).

C. Concentration of unpaid care work on women and girls.

In Asia and the Pacific, women perform 76.2% of total hours of unpaid care work, which is on average more than 3 times as much as men¹⁴ and can go up to 5 times as much in rural poor areas.¹⁵ This is the primary barrier preventing women from getting into, remaining, and progressing, in the labour force.¹⁶ The time spent by women on unpaid care work results in chronic time deficits that prevent women from equally enjoying professional and economic opportunities available to men. This reduces their earning power and their influence in family decision-making as a result of their economic dependence.¹⁷ When women sacrifice care work to pursue paid work, other parties in the household suffer. Oftentimes these are the girl-children who take over the responsibility of running the house. In the business context, women’s ability to thrive in the workplace is hindered due to care and housework responsibilities especially without institutional and policy support from States and businesses. It also furthers silent discrimination against women who have children and deprives them of opportunities to take on more responsibilities.

By addressing unpaid care work, businesses benefit in the form of: talent acquisition and retention of both men and women; increased productivity because of reduced distraction, fatigue, and absenteeism; supply chain resilience and diversity, revenue and business growth (e.g. when companies produce labour-saving devices to address unequal care work); and customer acquisition and loyalty.¹⁸

There are no principles in the *Gender Guidance* that directly relates to the concentration of unpaid care work on women and girls.

D. Absence or invisibility of women in agriculture value chains.

The ASEAN Technical Working Group on Agriculture and Research Development (ATWGARD) points out that women are often invisible or overlooked despite value chain efficiency being highly dependent on strong linkages and positive collaboration.¹⁹ More women than

¹⁴ [International Labor Organization, Care Work and Care Jobs for the Future of Decent Work, 2019.](#)

¹⁵ [Karimli, Leyla, et.al. for Oxfam, Factors and norms influencing unpaid care work, November 2016.](#)

¹⁶ [Addati, Laura, et.al., INTERNATIONAL LABOUR ORGANIZATION, Care work and care jobs for the future of decent work, 28 June 2018.](#)

¹⁷ [Unilever & Oxfam, Business Briefing on Unpaid Care and Domestic Work, 2019.](#)

¹⁸ Ibid.

¹⁹ [AMAF’s Approach to Gender Mainstreaming in the Food, Agriculture and Forestry Sectors, 11 October 2018.](#)

men work in temporary and informal positions that contain little or no protection in existing laws. The ILO estimates that about 2 billion workers, representing 61.2% of the world's employed population, are in informal employment.²⁰

In Southeast Asia and the Pacific, more women than men are in the informal economy (75.4% versus 75.2%)²¹ and women remain invisible especially in agriculture value chains.

In agriculture, women contribute in *"acquiring capital for farming (usually through credit), carrying out planting activities, marketing the primary crop and backyard produce, and providing for their household's daily survival needs. They spend from one to six hours daily for domestic work, which includes activities like preparing farm tools and food for farm labourers, fetching water, gardening, foraging, wood gathering, raising poultry and livestock, and other livelihood activities"*.²² However, they often remain as unclassified workers; the only ones identified and classified as "farmers" are men. The Food and Agriculture Organization (FAO) found that *"though women are the sustaining aspect in agriculture, they get the least benefit from farm labour income, food systems and day-to-day farming subsistence"*.²³

Women's invisibility in the workforce, especially in the agriculture value chain, underlines the neglect of women's contribution to production. There is insufficient disaggregated data at every level of the production chain. This is especially true with women in the agriculture and fishery sectors, whose identity as farmers and fishers is dependent on their husbands instead of their direct contribution to production (i.e., a woman farmer is called as such because she is the wife of a farmer, and not because she does farm work). The same thing holds true for women fishers.

Please refer to the following Gender Guidance principles, for States (9) and (15), and for Businesses (14), (15), (16), (17), and (23).

E. Property and land rights, Ownership of Production Tools & Participation in consultations and agreement-making in relation to these lands. Even in countries where women do more than 75% of agriculture work, they are still denied the right to own the land that they till.²⁴

Giving women land and property rights often leads to the end of economic uncertainty and vulnerability. When women become economically independent, they have more power over household decisions, enhanced food security, and lower risk of experiencing domestic violence. In the business context, women owning land and property gives them voice to participate in consultations for the use of these properties (e.g. deciding how to utilize properties that benefit them and their communities). However, many States and businesses still lack the framework to support the claim of these rights. They continue to exclude

²⁰ [International Labour Organization, Women and men in the informal economy: a statistical picture \(3rd edition\), 2018.](#)

²¹ *Id.*

²² [PAMBANSANG KOALISYON NG KABABAIHAN SA KANAYUNAN, Rural Women and Breaking the "Invisibility Cloak" of Women Farmers in the Philippines](#), 27 March 2017.

²³ *Ibid.* See footnote 25.

²⁴ [UN WOMEN, Women's Land and Property Rights.](#)



women in property-related decisions solely on the basis of their inability to present title over these properties.

Please refer to the following Gender Guidance principles, for States (1), (3), and (9), and for Businesses (14), (15), (16), (17), (20) and (23).

F. Access to state and non-state remedies. State and non-state based grievance mechanisms generally lack gender sensitivity.²⁵ The Working Group notes that “States should take appropriate affirmative action to provide access to remedies to marginalized or vulnerable groups”, specifically women– an assertion based on the recognition that women experience the impacts of business-related human rights abuses differently.²⁶

Please refer to the following Gender Guidance principles, for States (25), (26), (27), (28) and (31), and for Businesses (13), (15), (18), (19), (20), (21), (22), (24), (29) and (30).

With these priority issues in mind, we now look at what States and Business can do to respond to the root of the problems described in this section.

WHAT CAN STATES and BUSINESSES DO

Recommendations for States

Addressing sexual harassment and violence against women

- States should align their policies with the relevant ILO instruments²⁷ that outline recommendations for protection, prevention, enforcement, remedies, assistance, guidance, training, and awareness-raising in relation to violence and harassment in the world of work. The Recommendation reminds States to “*ensure that provisions on violence and harassment in national laws, regulations, and policies take into account the equality and non-discrimination instruments of the ILO.*”²⁸

Addressing discrimination

- Establish laws and policies to ensure zero tolerance against discrimination. The Equal Opportunity Act of **Victoria, Australia** protects employees from discrimination at all stages of employment: from recruitment to termination.²⁹

²⁵ [GENDER & DEVELOPMENT NETWORK, CORE., Why National Action Plans on Business and Human Rights Must Integrate Equality and Women’s Human Rights, 2015.](#)

²⁶ *Id.*

²⁷ ILO, R206- Violence and Harassment Recommendation, 2019. Access the convention [here](#) and the Recommendations [here](#).

²⁸ These include the Equal Remuneration Convention (No. 100) and Recommendation (No. 90) 1951 and the Discrimination (Employment and Occupation) Convention (No. 111) and Recommendation (No. 111), 1958, and other relevant instruments.

²⁹ [VICTORIA, AUSTRALIA, Equal Opportunity Act 2010.](#)

- Legislate equal pay for equal work- e.g. the US Equal Pay Act of 1963 and its amendments.
- **Norway's** 2002 Gender and Equality Act requires all employers to report on women's representation on staff and in management positions.³⁰
- The **Welsh** government in 2016 released a strategic equality plan which imposes an obligation on the government to identify and reduce the cause of inequalities in employment, skills, and pay related to, among other issues, gender.³¹

Addressing unpaid care work

- Legislate or expand paternity leave benefits. In ASEAN, **Myanmar** grants employed fathers 15 days of paternity leave, **Vietnam** and the **Philippines** grant up to 14 days of paid leave.³²
- **UN Women**³³ proposes that States should consider the following when thinking about unpaid care work:
 - Sustain public investment in accessible infrastructure, especially water and sanitation, and provide basic guarantees where there is private provision, as a priority for low-income countries;
 - Create "high road" strategies in the care sector through appropriate government regulations, adequate public funding, and strategies that build on the common interests of care workers and care users; without such deliberate measures, paid forms of care are prone to low pay, high labour turnover and low quality outcomes;
 - Invest in affordable and quality care services;
 - Explore a menu of policies to encourage shared burdens when it comes to care work (e.g. through regulated work hours, decent wages, paid leave, child and family allowances, and care credits in pensions)

Addressing the absence or invisibility of women in agriculture value chains

- **Namibia's** 1995 National Agricultural Policy mandates that women participating in agricultural development should be acknowledged as farmers in their own right.³⁴
- Enact gender-sensitive human rights due diligence policies which require all stakeholders to identify and put value on the direct and indirect contribution of women whether they are formally or informally integrated into the business operations, or are being impacted by the operations.³⁵
- Recognise women as stakeholders in the economy, and support women in agriculture and the informal economy to become stakeholders of social enterprises, cooperatives, and other relevant enterprise formations.

³⁰ [THE DANISH INSTITUTE FOR HUMAN RIGHTS, Women in Business and Human Rights: A Mapping of Topics for State Attention in United Nations Guiding Principles on Business and Human Rights Implementation Processes, 2018.](#)

³¹ Id.

³² [Marian Baird, Elizabeth Hill, and Lisa Gulesserian, THE DIPLOMAT, The State of Paternity Leave in Southeast Asia, 15 June 2019.](#)

³³ [UN Women, Redistributing Unpaid Care and Sustaining Quality Services: A Prerequisite for Gender Equality \(Policy Brief No. 5\), page 4.](#)

³⁴ [MINISTER OF AGRICULTURE, WATER, AND RURAL DEVELOPMENT, National Agricultural Policy, 1995.](#)

³⁵ [UN WORKING GROUP ON BUSINESS AND HUMAN RIGHTS, Gender-sensitive human rights due diligence, 7th UN Forum on Business and Human Rights.](#)

Addressing unequal property and land rights; including participation in consultations and decision-making processes

- In the **Philippines**, women are allowed to own and/or inherit property and land, including the right to receive support services and participate in consultations for initiatives affecting these lands and properties.³⁶
- Through its *Building Extractive Sector Governance* project in Colombia, Canada is supporting Colombia's government in order to implement consultation processes with women, indigenous peoples and other vulnerable populations affected by natural resource sector activities to have a stronger voice in key dialogue forums at local levels, which was one of **Canada's development programmes**.³⁷
- Invest in and support women in agriculture and the informal economy as stakeholders of women's organizations, community/social enterprises, cooperatives or any other relevant formations towards enabling their meaningful engagement with government and the private sector.

Access to justice: looking at remedies that work and respond to women's needs

- Women's experience when accessing remedies to address violations of women's rights involves various practical and extra legal barriers that often fall into the cracks of laws established to extend redress. Beyond legal measures, States and businesses must be sensitive to the interplay of politics, economics, and culture in women's access to justice.³⁸ In developing remedial solutions, States and businesses may be guided by the elements outlined by the **CEDAW**:³⁹
 - **Justiciability** requires the unhindered access by women to justice. Women need to have the ability and power to claim their rights;
 - **Availability** requires the establishment of judicial (courts), quasi-judicial, or other bodies across the State in both urban, rural and remote areas, as well as their maintenance and funding;
 - **Accessibility** requires that all justice systems, both formal (judicial) and quasi-judicial systems, are secure, affordable and physically accessible to women, and are adapted and appropriate to the needs of women including those who face intersectional or compounded forms of discrimination;
 - **Good quality of justice systems** requires that all components of the system **adhere to international standards** of competence, efficiency, independence and impartiality and provide, in a timely fashion, appropriate and effective remedies that are enforced and that lead to sustainable gender-sensitive

³⁶ [Republic Act 6657 as amended by Republic Act 9700](#) and related ministry issuances.

³⁷ [Canada's Response: Questionnaire from the UN Chair-Rapporteur of the Working Group on the Issue of Human Rights and Transnational Corporations and other Business Enterprises, 2019.](#)

³⁸ WOMEN'S LEGAL AND HUMAN RIGHTS BUREAU, INC., Providing a Gender Lens to the UNGP on Business and Human Rights, 2019.

³⁹ [COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, General recommendation on women's access to justice](#), CEDAW/C/GC/33, 23 July 2015.



- dispute resolution for all women. Justice systems must be contextualized, dynamic, participatory, open to innovative practical measures, gender-sensitive, and consider the increasing demands for justice by women;
 - **Provision of remedies** requires the ability of women to receive **viable protection and meaningful redress** from justice systems for any harm that they may suffer; and
 - **Accountability** of justice systems is ensured through monitoring their functioning so that they are in accordance with the principles of justiciability, availability, accessibility, good quality and provision of remedies. This also refers to the monitoring of the justice system professionals' actions and of their legal responsibility in cases in which they violate the law.
- States are also urged to adopt a women's access to justice framework – when a woman's participation in the decision-making process regarding her cases is one of the primary considerations of the state.⁴⁰ A remedy solution should be arrived at where the following levels of inquiry can be pursued: 1) whether she is aware of her rights; 2) whether the remedy provided gives active, meaningful, and visible participation on the women in the pursuit of her case, and 3) whether the process as a whole provides empowerment to a woman in the pursuit of her case.⁴¹
- Guidelines on supporting HRDs should acknowledge all genders. In Canada, policy and practices are designed for women HRDs, the specific needs of women HRDs are identified and responsive actions are provided (e.g.s protection measures, relocation support, psychological care, child care and the like).⁴²

Recommendations for Businesses

Illustrative examples/initiatives

Addressing harassment and violence against women

- Establish a system that allows the company to assess and address gender gaps through specific actions. Further, to establish systems that monitor and sustain progress of the mechanisms' ability to address harassment and violence, based on the **International Finance Corporation (IFC) recommendation for companies**.⁴³
- Strawberry companies in **Morocco** are working with **Oxfam** and civil society partners to train women workers and improve their literacy on their rights. These initiatives enable them to assert and claim labour rights, call for adequate health and safety measures, and address harassment.⁴⁴

⁴⁰ WOMEN'S LEGAL AND HUMAN RIGHTS BUREAU, INC., Providing a Gender Lens to the UNGP on Business and Human Rights, 2019.

⁴¹ Id.

⁴² Government of Canada, Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders.

⁴³ [INTERNATIONAL FINANCE CORPORATION, INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT, & UMBRELLA FACILITY FOR GENDER EQUALITY, Unlocking Opportunities for Women and Business: A Toolkit of Actions and Strategies for Oil, Gas, and Mining Companies: Address Gender-Based Violence in the Workplace, May 2018.](#)

⁴⁴ [OXFAM GRAISEA, Input to the "Gender Lens in the UNGP", 2018.](#)



Addressing discrimination

- The **Foreign Trade Association** has developed a code of conduct for its members that includes policies on non-discrimination and must be implemented by its members through their supply chains. It has a quarterly monitoring system and a follow-up mechanism for members with poor performance. Female auditors perform assessment tasks.⁴⁵
- A gender-inclusive culture requires a critical mass of women in management, senior leadership and on boards of directors, of at least 30%.⁴⁶ However, gender balance alone is not enough, there must also be a change in workplace culture. In 2009, **Unilever** committed to having a gender-balanced organisation by 2020 by having 50% women in management positions. It achieved 49% by 2018. This gender balance is complemented by a *Women's Leadership Development Programme* and a code of business principles and policies that promotes diversity and equal opportunity.
- Align Corporate Social Responsibility (CSR) policy and practice with a commitment to enable small producers to become stakeholders in the supply chain.
- Ensure synergy of CSR initiatives and business processes in building strategic partnerships with cooperative and social enterprises of small producers and their enablers to achieve mutually beneficial objectives.

Addressing unpaid care work

- Businesses are urged to provide for paid maternity leave even when there is no law providing for it.⁴⁷ Budapest Bank in Hungary allows work from home.⁴⁸ **Aviva** in the UK offers 12 months of parental leave including 26 weeks at full pay.⁴⁹
- **Intercontinental Hotels Group (IHG)** in China launched their Best Offers from Home Programme so that staff can find positions in IHG hotels in or close to their hometowns when they need to care for their parents.⁵⁰
- **Walmart/Walmart Foundation** has the *Women in Factories Program* which trains its workers on gender norms and tackles issues such

⁴⁵ Cited in [WORKING GROUP ON BUSINESS & HUMAN RIGHTS, Summary of the Multistakeholder Consultation on the Gender Lens to the UN Guiding Principles on Business and Human Rights, 30 November 2018.](#)

⁴⁶ [INTERNATIONAL LABOUR ORGANIZATION, Women in Business and Management The business case for change, 2019.](#)

⁴⁷ [INTERNATIONAL LABOUR ORGANIZATION, Gender diversity journey: company good practices, 2017.](#) Page 17.

⁴⁸ *Id.* Pages 32 - 33. Also allowed at Fox Williams, United Kingdom on pages 48 - 49.

⁴⁹ [Unilever & Oxfam, Business Briefing on Unpaid Care and Domestic Work, 2019. Page 15.](#)

⁵⁰ *Ibid.*

as the need to divide household work fairly among family members.⁵¹ In South Asia, they have found out that the training programme caused a significant increase in men's belief that other family members should help with housework.

- **Unilever** is addressing unpaid care work even in the way they produce products. For example, it introduced a new technology called SmartFoam, which cuts the number of rinses needed to wash away foam from detergents by up to half the original output. This saves time and allows women to have more time for things such as paid work.⁵²

Absence or invisibility of women in agriculture value chains

- **ACG Fruit (Tesco)** hires women to pick, grade, and pack fruit on farms as well as take on administrative and managerial roles in its head office. It supports women by offering, among other things, flexible work arrangements such as staggered start times, to support its women workers.⁵³
- Businesses should undertake gender-sensitive human rights impact assessments of their entire value chain to understand and map gender roles and relationships.
- Financial and other support should be extended to women agriculture producers in their own right, and not simply because they are assisting their husbands and/or male farmers.
- Businesses must commit and act to ensure WEE in the company's supply chain and the communities impacted by their businesses.
- Measure and communicate responsible business outcomes at the level of the company, its supply chain, and its partner small producers as individual women and men and as organizations.
- Encourage companies to support initiatives of women in agriculture and the informal economy to meaningfully participate and fully partake of the benefits as stakeholders in agricultural and non-agricultural value chains. This is facilitated through social enterprises, cooperatives, and other relevant enterprise formations.

Addressing barriers to land and property rights

- **Finlay's** company sources from tea-growing cooperatives that admit both women and men who have land that they themselves till. Membership is not based on formal land titles. Quotas were established to ensure women participation in various management levels responsible for decision-making.⁵⁴

⁵¹ Id. Page 17.

⁵² Id. Page 18.

⁵³ Id. Page 16.

⁵⁴ [OXFAM GRAISEA, Input to the "Gender Lens in the UNGP", 2018.](#)



CLOSING NOTES

ASEAN States and businesses must build on progress they have already achieved in the area of women economic empowerment and gender equality. Providing practical applications to the *Action Agenda on Mainstreaming WEE in ASEAN* benefits all stakeholders. The *Action Agenda* encourages the adoption of concrete and measurable actions to address the barriers that impede maximizing women's full economic potential. It also calls for measures that address, among other things, the gender pay gap and other systemic problems that impede the realization of gender equality in the workplace.

This Briefing Paper's recommendations are presented as contributions to possible actions for States and businesses to pursue.



ANNEX A: GENDER GUIDANCE'S GENERAL PRINCIPLES VIS-À-VIS PRIORITY ISSUES

This section looks at the *Gender Guidance* principles established in relation to the issues of focus discussed above.

The guidance is reproduced often with its full text and indicates the corresponding number of the principle after the statement. The numbers in parentheses () correspond to the numbers as they appear in the Annex to the *Gender Guidance* document.

These principles should be taken alongside other existing international standards as the Working Group did. These include CEDAW, BDPfA, Women's Empowerment Principles (WEP), 2030 Agenda for Sustainable Development, OECD Due Diligence Guidance for Responsible Business Conduct, and similar instruments.

EMPLOYMENT and LABOUR RIGHTS

The principles reproduced below are from the *Gender Guidance* document by the Working Group and are included here to guide States and businesses when they formulate policies towards gender equality and women empowerment in the workplace. It must be emphasized that there are no principles in the *Gender Guidance* that directly relates to the concentration of unpaid care work on women and girls. However, the succeeding section of this Briefing Paper will present illustrative examples on how States and businesses are addressing this problem.

Harassment and violence against women

States must:

- Implement policies, legislation, regulations, and adjudicatory rules to prevent, investigate, punish, and redress all forms of discrimination, harassment, and violence against women (1)
- Take additional measures to protect against abuse of women's human rights, including sexual harassment and gender-based violence, by business enterprises in conflict-affected areas. They should also promote women's participation in peacebuilding and transitional justice processes. These measures should be taken, individually and collectively, by both host and home States (7)

Businesses must:

- Take appropriate steps in line with the Guiding Principles to respect the human rights of women, including those working in the informal economy (14)
- Integrate the gender framework and guidance in all policies and processes put in place to implement all aspects of their responsibility to respect human rights under the Guiding Principles, namely, making a policy commitment, conducting human rights due diligence and remediating any adverse human rights impacts caused or contributed to (15)
- Embed their commitment to respect women's human rights and to contribute to achieving substantive gender equality in a gender equality policy that is developed from the bottom up in a participatory manner but adopted at the highest level. Such a policy may be a stand-alone document or integrated in an enterprises' generic human rights policy (16)
- Explicitly integrate a gender perspective in carrying out all steps of human rights due diligence. The ongoing human rights due diligence should cover both actual and potential adverse impacts on women's human rights that a business enterprise may cause or contribute to, or that they may be directly linked to its operations, products or services by its business relationships (17)
- Communicate adequate and easily accessible information to the affected stakeholders regularly. Both the information and the means of communication should be responsive to gender discrimination and the differentiated impacts experienced by women (21)
- Respect women's human rights throughout their operations, including in supply chains (2)
- Not cause or contribute to adverse women's impacts when they occur. They should also take adequate measures to prevent or mitigate adverse impacts on women's human rights that are directly linked to their operations, products or services by their business relationships (13)

Discrimination at the workplace

States must:

- Implement policies, legislation, regulations, and adjudicatory rules to prevent, investigate, punish, and redress all forms of discrimination, harassment, and violence against women (1)
- Assess and address the direct and indirect discriminatory effects of existing laws and policies on women's human rights. They should take account of the gender framework and guidance for the Guiding Principles in providing guidance to business enterprises on how to respect human rights throughout their operations (3)

Businesses must:

- Avoid infringing women's human rights and to address adverse human rights impacts (11)
- Contribute to achieving substantive gender equality and avoid exacerbating or reproducing existing discrimination against women through their operations (11)
- Take appropriate steps in line with the Guiding Principles to respect the human rights of women, including those working in the informal economy (14)
- Integrate the gender framework and guidance in all policies and processes put in

place to implement all aspects of their responsibility to respect human rights under the Guiding Principles, namely, making a policy commitment, conducting human rights due diligence and remediating any adverse human rights impacts caused or contributed to (15)

- Embed their commitment to respect women's human rights and to contribute to achieving substantive gender equality in a gender equality policy that is developed from the bottom up in a participatory manner but adopted at the highest level. Such a policy may be a stand-alone document or integrated in an enterprises' generic human rights policy (16)
- Explicitly integrate a gender perspective in carrying out all steps of human rights due diligence. The ongoing human rights due diligence should cover both actual and potential adverse impacts on women's human rights that a business enterprise may cause or contribute to, or that they may be directly linked to its operations, products or services by its business relationships (17)
- Communicate adequate and easily accessible information to the affected stakeholders regularly. Both the information and the means of communication should be responsive to gender discrimination and the differentiated impacts experienced by women (21)
- In all contexts, respect all relevant national laws, as well as regional and international standards concerning women's human rights, and contribute to achieving substantive gender equality (23)

Absence or invisibility of women in agriculture value chains

States must:

- Conduct periodic ex ante and ex post gender-responsive impact assessments of their trade and investment agreements (9)
- Include a binding obligation of investors to respect women's human rights under national and international law (9)
- Integrate gender framework and use the WEP Gender Gap Analysis Toolkit (15)

Businesses must:

- Take appropriate steps in line with the Guiding Principles to respect the human rights of women, including those working in the informal economy (14)
- Integrate the gender framework and guidance in all policies and processes put in place to implement all aspects of their responsibility to respect human rights under the Guiding Principles, namely, making a policy commitment, conducting human rights due diligence and remediating any adverse human rights impacts caused or contributed to (15)
- Embed their commitment to respect women's human rights and to contribute to achieving substantive gender equality in a gender equality policy that is developed from the bottom up in a participatory manner but adopted at the highest level. Such a policy may be a stand-alone document or integrated in an enterprises' generic human rights policy (16)
- Explicitly integrate a gender perspective in carrying out all steps of human rights due diligence. The ongoing human rights due diligence should cover both actual and potential adverse impacts on women's human rights that a business enterprise may cause or contribute to, or that they may be directly linked to its operations, products or services by its business relationships (17)
- In all contexts, respect all relevant national laws, as well as regional and international standards concerning women's human rights, and contribute to achieving substantive gender equality (23)

LAND and NATURAL RESOURCES RIGHTS

Property and land rights, including participation in consultations and agreement-making

States must:

- Implement policies, legislation, regulations, and adjudicatory rules to prevent, investigate, punish, and redress all forms of discrimination, harassment, and violence against women (1)
- Assess and address the direct and indirect discriminatory effects of existing laws and policies on women's human rights. They should take account of the gender framework and guidance for the Guiding Principles in providing guidance to business enterprises on how to respect human rights throughout their operations (3)
- Conduct periodic ex-ante and ex-post gender-responsive impact assessments of their trade and investment agreements (9)
- Include a binding obligation of investors to respect women's human rights under national and international law (9)

Businesses must:

- Take appropriate steps in line with the Guiding Principles to respect the human rights of women, including those working in the informal economy (14)
- Integrate the gender framework and guidance in all policies and processes put in place to implement all aspects of their responsibility to respect human rights under the Guiding Principles, namely, making a policy commitment, conducting human rights due diligence and remediating any adverse human rights impacts caused or contributed to (15)
- Embed their commitment to respect women's human rights and to contribute to achieving substantive gender equality in a gender equality policy that is developed from the bottom up in a participatory manner but adopted at the highest level. Such a policy may be a stand-alone document or integrated in an enterprises' generic human rights policy (16)
- Explicitly integrate a gender perspective in carrying out all steps of human rights due diligence. The ongoing human rights due diligence should cover both actual and potential adverse impacts on women's human rights that a business enterprise may cause or contribute to, or that they may be directly linked to its operations, products or services by its business relationships (17)
- Track the effectiveness of their responses by using sex-disaggregated data, collected in line with a human rights-based approach, and outcome indicators developed in consultation with affected women, women's organisations, and gender experts (20)
- Should, in all contexts, respect all relevant national laws, as well as regional and international standards concerning women's human rights, and contribute to achieving substantive gender equality (23)

ACCESS TO EFFECTIVE REMEDIES

States must:

- Ensure that all necessary judicial, administrative, legislative or other steps that they take to provide affected persons with access to effective remedies for business-related human rights abuses are gender-transformative (25)
- Pay attention to the additional barriers faced by women in seeking effective remedies (26)
- Confer an explicit mandate on non-judicial grievance mechanisms, and provide them with adequate powers and resources, to deal with business-related human rights abuses, including gender-discrimination and sexual harassment complaints against business enterprises (27)
- Ensure that all non-state grievance mechanisms dealing with business-related human rights abuses apply the gender framework and guidance for the Guiding Principles (28)
- Ensure that all effectiveness criteria for non-judicial grievance mechanisms are interpreted in a gender-responsive manner, considering especially the intersectional nature of discrimination faced by women in accessing such mechanisms and in enforcing effective remedies against business enterprises (31)

Businesses must:

- Not cause or contribute to adverse impacts on women's human rights and should address such impacts when they occur. They should also take adequate measures to prevent or mitigate adverse impacts on women's human rights that are directly linked to their operations, products or services by their business relationships (13)
- Should integrate the gender framework and guidance in all policies and processes put in place to implement all aspects of their responsibility to respect human rights under the Guiding Principles, namely, making a policy commitment, conducting human rights due diligence and remediating any adverse human rights impacts caused or contributed to (15)
- Adopt a gender-responsive approach, draw on gender experts, and conduct meaningful consultations with potentially affected women, women's organisations (including grass-roots organisations) and women Human Rights Defenders (HRDs) in identifying and assessing any actual or potential adverse human rights impacts (18)
- Integrate the findings from their impact assessments in all relevant processes and take a range of gender-transformative measures to prevent and mitigate adverse impacts in line with the Guiding Principles (19)
- Track the effectiveness of their responses by using sex-disaggregated data, collected in line with a human rights-based approach, and outcome indicators developed in consultation with affected women, women's organisations, and gender experts (20)
- Communicate adequate and easily accessible information to the affected stakeholders regularly. Both the information and the means of communication should be responsive to gender discrimination and the differentiated impacts experienced by women (21)
- Provide for, or cooperate in the provision of, gender-transformative remedies where they identify that they have caused or contributed to adverse human rights impacts (22)
- Recognize that in prioritizing action to address adverse human rights impacts that are most severe or irremediable, those involving gender discrimination, sexual harassment, and gender-based violence have severe and irremediable impacts (24)
- Develop grievance mechanisms in a gender-responsive manner and should be able to provide gender-responsive remedies. This can be done through human rights-related standards of industry associations, multi-stakeholder bodies or other collaborative initiatives (30)
- Ensure that operational-level grievance mechanisms integrate a gender perspective in accordance with the gender framework and guidance for the Guiding Principles (29)