

Gender justice in global supply chains

Demands on policy-makers and business



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Women and girls are disproportionately affected by the negative effects of global economic activity. People of other gender identities or sexual orientations are similarly discriminated against. However, this paper focuses on women and girls because of their strong presence in numerous supply chains. They experience economic human rights violations in different ways to men. The reasons for this range from discriminatory socio-economic structures and practices to patriarchal and class-based social and cultural norms.

The global COVID-19 crisis and its effects reinforce existing gender inequalities in the economy and make them even more visible. Politics, business and civil society have so far paid too little attention to the special role of women and girls in their initiatives and political debates with a view to preventing economy-related human rights violations. One exception is the guide on the Gender Dimensions of the Guiding Principles on Business and Human Rights published in June 2019 by the United Nations (UN) Working Group on Business and Human Rights.

In order to achieve equality between women and men in all areas of life worldwide, future political measures, whether at international, European or national level, should urgently address structural discrimination against women throughout global supply chains. This also applies to the supply chain law that the governing coalition in Germany has agreed to implement. A non-discriminatory supply chain law is the first step. It requires a perspective that is fundamentally geared towards reducing discrimination based on gender.

States and companies should enact measures that go beyond a “do no harm” approach, i.e. that go beyond the prevention and mitigation of women’s rights violations in global supply chains. They should enact measures that promote fundamental transformation for the actual attainment of women’s rights.

The German supply chain law must ensure that gender-specific aspects are taken into account in all areas of human rights and environmental due diligence:

- » The supply chain law should make it clear that companies must **respect the rights set out in the UN Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)** and commit to them in their **declarations of principles**.
- » The supply chain law should oblige companies to adopt a **gender-specific approach in their risk and impact assessments**. In doing so, they should pay particular attention to the risk of multiple and intersectional discrimination, sexualized and gender-based violence, the particular health challenges facing

women and girls, and the particular risks faced by women and girls within the informal sector and due to the global inequalities in care work.

- » The supply chain law should oblige companies to take **gender-specific measures to prevent negative impacts of their activities and to provide remedies in the event of harm**. Companies should use their trade terms, their investments and the training they provide to ensure that their business partners are able to respect human rights and meet gender justice standards. Among others, the following measures should be imposed on companies:
 - Companies should be obliged to **protect workers from sexualized and gender-based violence in the workplace**. They should provide victims of sexual violence with access to medical, psychological and legal care. Companies should commit all their business partners to a practice of **zero tolerance for harassment and violence in the workplace** and provide awareness training.
 - Companies that produce abroad should be obliged to recognize and take greater account of the **sexual and reproductive health and rights** of their employees **as an aspect of occupational health and safety**.
 - Companies should respect and actively promote **freedom of association** and the right to engage in collective bargaining, **including for women employees in particular**.
 - Companies should be obliged to work towards **family-friendly working conditions, income equality and adequate living wages** at the workplaces of their business partners and to offer participation in social security systems to counteract inequality in care work.
- » The supply chain law should oblige companies to monitor the **effectiveness of their measures on the basis of gender-specific data** collected in consultation with affected women, women's organizations and experts.
- » Companies should be required to develop **safe and accessible complaint mechanisms** that are familiar to all workers. **Gender-specific barriers to accessing these mechanisms** must be taken into account.
 - Companies should be obliged to provide women affected by sexual violence with the necessary **information on their rights**, taking into account gender-specific barriers to access.
 - Victims of gender-based violence should be supported with **legal aid and advice** and, in the case of shared responsibility, the company should be obliged to bear the costs of legal proceedings and to participate in compensation payments for violations of rights.

In addition to adopting a supply chain law, the federal government of Germany should take further measures to promote women's rights in the area of business and human rights worldwide:

- » The **specific obstacles** faced by women in **accessing justice** in the courts must be taken into account and dismantled.
- » The German government should advocate **gender-specific measures to protect human rights defenders** worldwide.
- » The German government should establish **a new post of Commissioner for Business and Human Rights** who will take the issue of **gender justice** in global supply chains into account in her, his or their work.
- » The German government has a responsibility to promote the **moral and financial recognition and fair distribution of care work worldwide**, counteracting structural inequalities through legislation, and promoting fair institutional conditions worldwide.
- » The German government should pursue further **measures against tax avoidance, tax evasion and financial secrecy havens** so that governments of the Global South can access urgently needed resources for the provision of public services, which are essential for combating gender inequalities.

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1. BACKGROUND

Women and girls are disproportionately affected by the negative effects of global economic activity. They experience economic human rights violations in different ways to men. The reasons for this range from discriminatory socio-economic structures and practices to patriarchal and class-based social and cultural norms.

The global COVID-19 crisis and its effects reinforce existing gender inequalities in the economy and make them even more visible.¹ The International Labour Organization (ILO) estimates that this crisis could cost more than 25 million jobs. This will affect women in particular, as they are disproportionately represented at the source of many global supply chains and thus in the informal and low-wage sector. This sector is characterized by precarious employment relationships, inadequate social security systems and inadequate labour standards.² For example, more than one million textile workers in Bangladesh have already been dismissed due to cancelled orders by transnational companies.³ A lack of social security is now bringing these women to the outer limits of subsistence.

The political establishment, business and civil society have so far paid too little attention to the special role of women and girls in their initiatives and political debates with a view to preventing economy-related human rights violations. One exception is the guide on Gender Dimensions of the Guiding Principles on Business and Human Rights published in June 2019 by the UN Working Group on Business and Human Rights.⁴ It notes that measures that ignore gender justice run the risk of exacerbating gender inequalities.

In order to achieve equality between women and men in all areas of life worldwide, future policy measures, whether at international, European or national level, should urgently address the structural discrimination against women working in global supply chains.

This also applies to the supply chain law that the governing coalition in Germany has agreed to implement in the event that voluntary commitments on the part of business prove insufficient.

A supply chain law framed with an eye to gender justice is the first step. It requires a perspective that is fundamentally geared to reducing discrimination. A supply chain law must contribute to the realization of the rights of all people—regardless of their gender, sexuality, skin colour, caste, migration status, disability, social background and level of education. It must also encourage companies to respect these rights.

In addition, there are further measures that the German government should pursue and—in cooperation with other states—establish internationally.

1.1 German government failure to consider gender justice

So far, the German government's measures to promote gender justice in the area of business and human rights have been insufficient. The German National Action Plan for Business and Human Rights (NAP)⁵, for example, fails to take gender justice issues sufficiently into account. With regard to the situation within Germany, the NAP does not go beyond mentioning the Law for the Equal Participation of Women and Men in Leadership Positions in the Private Sector and the Public Sector (2015) and the fight against wage inequality (gender pay gap). The targets set by the German government through these projects, including the German Sustainability Strategy, are unambitious: the proportion of women on executive boards of listed companies is set to increase from 28.4 to only 30 per cent by 2030 and the gender pay gap is merely to be halved.⁶ Discrimination and sexualized violence against women in the workplace, the sometimes enormous inequalities in unpaid care work (gender care gap), in old age provision (gender pension gap)

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1. United Nations (2020). 2. International Labour Organization (2020). 3. Human Rights Watch (2020). 4. United Nations Human Rights Council (2019), Paragraph 3. 5. Auswärtiges Amt (2017). 6. See also Birkenkötter, Hannah/Köhler, Gabriele/Obenland, Wolfgang/Stock, Anke (2019).

and the use of time for paid and unpaid work (gender time gap) are not addressed, although they, too, are very relevant for the everyday working life of women in Germany.⁷

In view of Germany's international responsibility and the measures Germany intends to take in the context of development cooperation, the NAP mentions the project to support partners in developing countries in overcoming discrimination and violence against women and other cultural, social, economic and legal barriers to the economic participation of women. By the year ²⁰³⁰, one third more women and girls should have received vocational training.

What is completely neglected, however, is the consideration of gender justice issues in the activities of German business beyond national borders. How can the negative effects of German business, especially on the rights of girls and women abroad, be reduced and prevented in the future? How can awareness of these effects and injustices be raised and the economic independence of women worldwide be strengthened? In the NAP, the German government states that it actively promotes the Women's Empowerment Principles (WEPs) and advocates their signing by as many companies as possible. The principles were formulated jointly by UN Women and UN Global Compact in 2010 and provide companies with guidelines on how to promote gender justice in the workplace and in society. Yet a recent evaluation has shown that, ten years on, the signing of the voluntary principles has been followed by very little action.⁸ As with other human rights issues, there is a wide gap between businesses' declared voluntary commitment to comply with the principles and actual corporate practice.⁹

1.2 References to international treaties

While on the one hand the gender dimension is neglected in the debates on business and human

rights, on the other hand there is a large number of international treaties and guidelines that specifically call for gender justice to be taken into account. They also show how this demand can and should be met by the state and by companies.¹⁰

A key reference for the international legal representation of gender justice in the economy is the right to decent work (Article 23 of the United Nations Universal Declaration of Human Rights). By employing the term "everyone", Article 23 emphasizes the equality of its addressees concerning gender and minority protection. The phrase 'without any discrimination' offers double emphasis with regard to the right to equal pay for equal work.

‘Everyone, without any
discrimination, has the right to
equal pay for equal work.’

Decent working conditions worldwide are essential for the promotion of gender justice in global supply chains. Decent work means more than mere compliance with ILO core labour standards. The human right to decent work includes:

- the opportunity for productive work and a fair income;
- security in the workplace;
- social security for families;
- better prospects for personal development;
- freedom to express concerns in the workplace and to organize in trade unions;
- participation in decision-making processes;
- equal opportunities for men and women in the world of work, including equal pay for equal work and work of equal value and the care responsibilities of companies.

Germany made a binding commitment to these principles by ratifying the International Covenant on Economic, Social and Cultural Rights.

⁷. Bundesministerium für Familie, Senioren, Frauen und Jugend (2017). ⁸. UN Global Compact/BSR (2020). ⁹. Mohapatra/Gula (2020). ¹⁰. A more detailed overview of the individual General Comments of the CEDAW Committee and ILO Conventions relating to gender justice in business is provided in the guide produced by the UN Working Group on Business and Human Rights: Gender Dimension of the UN Guiding Principles on Business and Human Rights (2019).

The UN Working Group on Business and Human Rights has provided the most comprehensive guidance to date for states and companies on how to take gender aspects into account with the publication of its report in 2019, in which it presents the gender dimension in each of the 31 Guiding Principles on Business and Human Rights and the measures required to address them.¹¹

The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979, obliges signatory states to take appropriate measures not only to not violate the principle of equality themselves, but also to prevent third parties—that is, all persons, organizations or companies—from discriminating against women in any area of life.¹² Over the years, the UN Committee of Experts monitoring the implementation of the Convention has made several general recommendations relating to gender inequality and discrimination in employment.

In 2017, the CEDAW Committee criticized Germany for not sufficiently fulfilling its extra-territorial state obligations. In its commentary on Germany's combined seventh and eighth periodic state report on the implementation of CEDAW, the Committee expressed concern. Among other things, it criticized the negative effects of German transnational corporations, especially textile and large agricultural corporations; the failure of the NAP on Business and Human Rights to consider gender; the limited access to legal redress for women whose human rights have been violated by German companies; and the lack of impact assessments that explicitly take women's rights into account prior to the start of negotiations on international trade and investment agreements.¹³

Over the years, the ILO has also developed several standards on gender justice, the most recent of which is ILO Convention 190 against violence and sexual harassment in the workplace, which

entered into force in June 2019. This Convention is thus the first international treaty to establish the right of all people to a working environment free of violence and harassment and to point out ways to achieve this. The German government has pledged to ratify the Convention in the near future. ILO Convention 177 on Home Work has been in existence since 1996 and sets out the requirements for working conditions and rights in outsourced production processes. Germany has not yet ratified it.

Other standards to which the international community has committed itself are the Beijing Declaration and Platform for Action at the conclusion of the Fourth World Conference on Women in 1995¹⁴ and the United Nations Agenda 2030 for Sustainable Development with its 17 Sustainable Development Goals (SDGs), in particular SDG5, SDG8, SDG10.¹⁵ In terms of climate and environmental policy, SDG13 and the Paris Convention on Climate Change are also relevant to decent working conditions.

In addition to the Women's Empowerment Principles, other voluntary guidelines and directives such as the OECD Due Diligence Guidance for Responsible Business Conduct¹⁶ and the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector¹⁷ show how companies can integrate gender issues into their human rights practices.

1.3 Measures beyond “do no harm”

States and companies should enact measures that go beyond a “do no harm” approach, i.e. that go beyond the prevention and mitigation of women's rights violations in global supply chains. They should enact measures that promote fundamental transformation for the actual attainment of women's rights. This requires measures that change the underlying discriminatory power structures to create an

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11. UNDP/UN Working Group on Business and Human Rights (2019). 12. United Nations General Assembly (1979), esp. Article 2(e) and Article 11. 13. Committee on the Elimination of Discrimination against Women (2017), Paragraph 15. 14. United Nations (1995). 15. United Nations (2015). 16. OECD (2018). 17. OECD (2017).

environment in which women have access to all opportunities on an equal basis and can achieve economic independence. This includes, for example, decent working conditions and living wages for women, support for women in gaining access to management positions in companies, the promotion of equal pay, adequate facilities for personal hygiene, measures to respect the right to sexual and reproductive health and self-determination, protection against violence, climate and environmental protection, and the avoidance of gender stereotypes in the sale and marketing of products.



2. TAKING GENDER JUSTICE INTO ACCOUNT IN DRAFTING A SUPPLY CHAIN LAW

The supply chain law should compel companies to comply with human rights and environmental due diligence obligations. According to the UN Guiding Principles on Business and Human Rights¹⁸ this includes:

- a declaration of principles on respect for human rights;
- a human rights risk and impact assessment;
- taking counter-measures to prevent, terminate, mitigate and remedy any adverse effects;
- reporting on identified risks and measures taken;
- the establishment of complaint mechanisms that affected parties can use.

The supply chain law must ensure that gender aspects are addressed in each of these areas. Although the implementation of women's rights is primarily the responsibility of states, for various reasons they often fail to do so adequately. Companies must ensure that their activities do not contribute to existing rights violations and, if they do occur, take appropriate measures to counter them.

2.1 Declaration of principles

The supply chain law should make it clear that in line with internationally recognized human rights conventions and ILO core labour standards, companies must respect the rights set out in the UN Convention on the Rights of Women and commit to them in their declarations of principles. Companies should integrate the attainment of gender justice as a core task in all corporate policies, processes and strategies.¹⁹

2.2 Gender analysis

The supply chain law should oblige companies to adopt a gender-specific approach in their risk and impact assessments. To this end,

they should consult with potentially affected women, women's organizations, trade unions, and particularly with women trade unionists and human rights defenders, to identify actual or potential negative impacts on women's rights along the relevant supply chain. This must also include women working in the informal sector. It must also take into account the fact that companies may unintentionally reinforce existing gender inequalities through their activities, particularly in relation to women who are subject to multiple discrimination.

In their analysis, companies should consider, inter alia, the following risks and aspects:

2.2.1 Multiple and intersectional discrimination

Looking at global supply chains in a gender-equitable way means acknowledging discriminatory realities. It is not only women—i.e. people who have been socialized as women and/or identify themselves as such—who are particularly affected by the negative consequences of entrepreneurial practices. People who identify themselves as lesbian, gay, bi, trans, queer or intersex (LGBTQI+) often suffer high levels of harm as well. Poorly considered entrepreneurial activity can exacerbate existing structures of exclusion and exploitation. In addition, discrimination mechanisms often overlap and intensify. For example, a person may simultaneously be affected by sexism and discrimination based on her, his or their social background or socio-economic position (so-called 'classism'). One example of such multiple discrimination is the labour camp system in Tamil Nadu in southern India, where girls and young women from underprivileged, low-income families are literally enslaved in yarn spinning mills.²¹ Racism, too, is reflected in supply chains: many companies deliberately move their production to countries with low wages and social standards. Often these are countries in the Global South. Issues related to labour law can thereby be outsourced from the company's own responsibilities. This is part

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18. UN (2011). 19. UNDP/UN Working Group on Business and Human Rights (2019), Principles 15 and 16. 20. Feminists for a Binding Treaty (2018). 21. Ferus-Cornelo (2016)

of a globalized and—in the meantime perceived as ‘normal’ and ‘market-driven’—system of racist discrimination in which workers in the Global South are not granted the same conditions of decent work that apply in Germany.²²

2.2.2 Risk of sexualized and gender-based violence in the workplace

Sexualized and gender-specific violence is one of the most frequent human rights violations worldwide and undermines the dignity,

autonomy and independence of those affected. It is mainly directed against women, children and LGBTQI+ people. The perpetrators are mostly men. Sexualized and gender-specific violence is an expression of unequal power relations between the sexes. Around 35 percent of all girls and women over 15 years of age worldwide—818 million women—suffer from physical and/or sexual violence.²³ Between 40 and 50 percent of them are exposed to unwanted sexual advances, unwanted physical contact or other forms of sexual harassment at work.

CASE STUDY

Sexualized violence in the Indian textile industry

India is the world’s second largest exporter of textiles and clothing. The textile industry employs 45 million Indian people. 70 percent of these employees are women.²⁴ They work in cotton fields, in spinning mills and sewing factories under inhumane conditions and for very low wages. The workload is high: in every factory the pressure to produce more and more with ever shorter turnaround times has increased. The minimum wages set by the state are not enough to survive, so women work a lot of overtime to feed their families. Sick days are rarely paid.²⁵

Female employees, however, are not only confronted with these unfair conditions, but as women they are already affected by



multiple forms of discrimination and power inequality. Patriarchal social structures are also evident in the factories, which is why women as employees are particularly at risk of becoming victims of attacks by male superiors and supervisors. The risk of beatings, sexual harassment, verbal abuse and threats is particularly high for women compared to men.²⁶

Gender plays an enormous role in the experience of inequality and discrimination

22. Tsing (2009). 23. World Health Organization/Department of Reproductive Health and Research/London School of Hygiene and Tropical Medicine/South African Medical Research Council (2013). 24. FEMNET (2020a). 25. Ibid. 26. FEMNET (2020b).

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in the workplace. Gender-sensitive risk and impact assessments would help to identify and counteract discriminatory practices. Zero tolerance of harassment and violence in the workplace, awareness training and improved access to medical, psychological and legal care for those affected by sexualized violence are urgently needed to protect women workers effectively.

2.2.3 Health aspects and their impact on women and girls

Many of the jobs in sectors with a high proportion of women, such as textiles and clothing, electronics and food²⁷, are particularly harmful to workers' health. Working with pesticides on flower plantations, tanning or dyeing leather or fabrics or soldering microchips have immediate impacts on health. Factory halls are often full of dust particles, without ventilation and often without toilets. In some plants even the most minimal safety precautions are missing. Psychological damage can result from the enormous time pressure and excessive working hours, often 60-70 hours a week, and frequently with forced overtime. The right to health care or access to medical care during working hours is often non-existent, forcing women to neglect their health.



CASE STUDY

Working conditions on wine and citrus farms in South Africa²⁸

The production of wine and the cultivation of citrus fruits are among the most important export branches of South African agriculture. Germany and the EU in particular are important target markets. The working and living conditions of workers in these sectors are still deeply influenced by the racist and patriarchal labour regime of the apartheid era. During apartheid, families from Coloured communities often lived as workers in shelters on the farms of white landowners. The white farmers regarded not only the male workers, but the families as a whole as available units of labour.³⁰

This division of labour between the sexes still leads to massive forms of discrimination in the workplace, which violate both South African labour law and the voluntary sustainability standards under which export farms are certified. On several citrus farms in the Eastern Cape, women workers report that they are denied paid motherhood protection. They take unpaid time off for the period of pregnancy and birth until the child is six months old. After that they resume work, but are not given permanent employment. On most of the citrus farms investigated there are no toilets for the workers. They have to relieve themselves in the open field, which is perceived as extremely degrading.

A further dimension of the massive discrimination between the sexes was evident on several vineyards in the Western Cape, which also produce wine for the German market. A number of highly dangerous

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²⁷. Bamber/Staritz (2016). ²⁸. The following case studies will be documented in more detail in forthcoming studies commissioned by the Rosa-Luxemburg-Stiftung. ²⁹. In South Africa, a distinction is generally made between the Coloured population (descendants of the Khoi) and the Black population. ³⁰. Visser (2016).

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pesticides are used on the farms, such as the non-selective, or 'total' herbicide paraquat, which is classified as acutely toxic by the World Health Organization and is banned in the EU. In addition, workers are not given adequate protective clothing, according to unanimously corroborated statements. There is therefore a recurring conflict between management and workers over the question of how much time should safely elapse before the workers return to the fields after the use of pesticides. While the permanent male workers refuse to re-enter the fields for several hours after pesticides are applied, the female workers, who are mainly temporarily employed, do not dare to disobey management directives.

ance provision for illness, accidents, maternity and breastfeeding, unemployment and old-age provision are either lacking or they are not observed. There is no protection against sexualized and gender-specific violence. It is almost impossible for these women organize into trade unions and they are often subjected to arbitrariness on the part of clients and customers. For example, many home workers in the textile industry are paid according to the number of pieces delivered.³⁴ However, there is no entitlement to either payment or work if orders are cancelled or the client does not pay for the delivery, as is often the case in the current COVID-19 crisis.

The precarious employment conditions in the informal sector—whether on plantations, in mines, or in the home—even encompass modern forms of slavery and forced labour. Of the estimated 25 million people affected by forced labour worldwide, more than 57 percent are women and girls.³⁵

2.2.4 Women and girls in the informal sector

Two billion people worldwide—61 percent of the workforce—are employed in the informal sector, of whom 740 million are women.³¹ However, this global ratio masks important inequalities and is distorted by figures from large countries such as China and Russia. Estimates suggest that the proportion of women in informal employment is higher than the proportion of men in informal employment, especially in the Global South.³² In some African countries, up to 90 percent of working women are employed in the informal sector, whether in agriculture, trade or as small-scale entrepreneurs. In the Asia-Pacific region, the proportion is two-thirds, mainly made up of home workers in the garment industry.³³

In addition to low incomes, the informal sector is characterized by the fact that usually neither safety at work nor working time arrangements are guaranteed. Basic standards such as insur-

2.2.5 Role of care work

Worldwide, women spend on average three times more hours per day on unpaid care work than men.³⁶ The amount of time spent can vary from two to ten times more, depending on the region. Care work includes both housework and the work of looking after other human beings.

On the one hand, this means that women have less time for paid work, education and leisure time, which exacerbates gender-specific socio-economic disadvantages. On the other hand, it also means that women often (have to) do paid work on top of their unpaid care work. This creates a double burden for women.³⁷

Globally, women earn on average 23 percent less than men.³⁸ Inequality in care work is a major cause of extreme wage inequality.³⁹ Among other things, caring obligations mean that women are more likely to work part-time or in some form of marginal employment and are less likely to reach

31. International Labour Office (2018) und United Nations (2020). 32. WIEGO (n.d.). See also Chen (2020). 33. International Labour Office (2018). 34. WIEGO (2020). 35. International Labour Organization and Walk Free Foundation (2017), Figure 2, 23. 36. Secretary General, United Nations Economic and Social Council (2019). 37. Bundesministerium für Familie, Senioren, Frauen und Jugend (2020). 38. UN Women (2018), 109. 39. Studies show that the unequal distribution of care work is responsible for 30 percent of wage inequality. See Malghan/Swaminathan (2016).

managerial positions. Even with the same job, women are often paid less than men.

Among the reasons for the 'gender care gap' are a lack of social security and lack of access to public infrastructure for childcare, schools, care facilities and health care, as well as a lack of regulations on maternity leave, parental leave, family-friendly working conditions, equal pay for work of equal value and living wages.

The climate crisis will mean that women and girls in the Global South in particular will be forced to devote even more time to caring for their children, since, for example, reduced water resources will lengthen the distances for fetching water.⁴⁰

The way in which society, business and political establishments deal with issues of care work has an impact on the achievement of gender justice. Either women's and men's choices can be expanded, for example, or women can be restricted to traditional roles and strategically disadvantaged.⁴¹ The unequal distribution of unpaid care work between women and men slows down the economic emancipation and well-being of women worldwide.

2.3 Gender-specific prevention and remedial action

On its own, the implementation of gender-specific risk and impact assessments is not sufficient for taking into account either the special role of women and girls in global supply chains or the structural disadvantage they face.

Prevention and remedial measures must be implemented by companies. The findings from risk and impact assessments need to be integrated into all relevant corporate processes. The supply chain law should oblige companies to take gender-specific measures to prevent negative impacts. This includes, for example, modifying

an ongoing project to prevent adverse impacts on women, or providing effective remedies when adverse impacts have already occurred. The responsibility for risk and impact assessments, as well as for the measures taken, should rest with company management.

Companies should use their trade terms, their investments and the training they provide to ensure that their business partners are able to ensure that human rights are not violated and that they meet gender justice standards.

CASE STUDY

Women and girls in the extractive industry

Due to existing patriarchal structures, it is only to a limited extent that women enjoy the benefits offered by the extractive industries in terms of jobs and income. On top of this, they are disproportionately affected by the many negative political, ecological, social and economic impacts that threaten their livelihood.

Women often do not have a say at the political level and are therefore barely involved in the decision-making processes of governments and local leaders, for example on new projects in the mining of raw materials. Women are often the main breadwinners for their families. In several respects, therefore, land seizures by the extractive industries and their negative environmental impacts affect women differently and more seriously. If environmental pollution occurs, women have to spend more time and effort on providing their families with water and food.⁴² In cases of illness and injury, the social burden increases

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40. Oxfam International (2020). 41. OECD (2014). 42. Women's Rights and Mining (n/a).

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because women usually take on the task of providing care.⁴³ Women working in extractive industry contexts are often exposed to sexual harassment, violence, exploitation and discrimination.⁴⁴

An incident in the Nchanga copper mines in Zambia illustrates gender-specific impacts in this sector. Residents of the village of Chingola have accused the company Konkola Copper Mines, a subsidiary of the British raw materials group Vedanta Resources PLC, of severely damaging their livelihoods due to ongoing environmental pollution caused by the company.⁴⁵

Women and girls especially are most affected by the impacts, as the contamination in the river Kafue has forced them to seek an alternative water source for their daily housework needs. Some owners of contaminated vegetable gardens have been granted compensation, but the women of the village complain that they were not fairly involved in the negotiations.⁴⁶

Due to the high degree of control and management exercised by the British parent company Vedanta over the Zambian subsidiary, the complainants are accusing Vedanta of negligence and a breach of duty to respect health, safety and environmental standards.⁴⁷ Residents of several towns involved brought their claim for damages before the British High Court. In April 2019 following an appeal by Vedanta, the Supreme Court issued a landmark order giving villagers the right to sue Vedanta in the UK.⁴⁸

If the British raw materials company Vedanta had carried out an appropriate risk and impact assessment along its

supply chain, and if it had involved women in the consultation processes and risk assessment in advance, the damage and negative impacts on women in particular could have been identified and prevented. As part of a gender-specific corporate duty of care with corresponding gender-specific mechanisms, women should also have been taken into account in the negotiations regarding compensation payments, even though there may not be any formal legal claims on the land.⁴⁹

2.3.1 Zero tolerance of sexualized and gender-based violence

In accordance with ILO Convention 190 on Violence and Harassment, companies are obliged to ensure that female workers are protected from sexualized and gender-based violence in the workplace and that they have access to medical, psychological and legal care if they become victims of sexualized and gender-based violence.

Companies should commit all their business partners to a strict policy of zero tolerance of harassment and violence in the workplace and provide awareness training. They should guarantee victims of sexual violence access to medical, psychological and legal care.

2.3.2 Recognition of sexual and reproductive health and rights as part of occupational health and safety

Companies that produce abroad should be obliged to recognize and give more consideration to the sexual and reproductive health and rights of their employees as a part of occupational health and safety. This includes rules covering work during pregnancy, maternity leave and breastfeeding during working hours in accord-

43. Seitz, Karolin (2019). 44. Action Aid Zambia (2015). 45. Supreme Court UK (2019). 46. SDG Watch Europe (2019). 47. Supreme Court UK (2019). 48. Sambo, Pamela Towela (2019). 49. The Danish Institute for Human Rights (2019).

ance with ILO Convention No 183, as well as the provision of sanitary facilities that guarantee privacy and meet the needs of female workers during menstruation. It also includes the provision of sexual and reproductive health information and services. Such information, together with access to modern, safe and effective contraceptive methods and protection against sexually transmitted diseases, promotes not only health but also equality for all workers.

2.3.3 Freedom of association and the right to collective bargaining

Companies should respect and actively promote freedom of association and the right to collective bargaining. This includes ensuring that employees who are trade union members and/or employee representatives are not subject to discrimination or pressure. Companies should ensure that women and their concerns are adequately heard.

2.3.4 Measures against the gender care gap

Companies should be obliged to work towards family-friendly working conditions at the workplaces of their business partners and offer social security systems in order to counteract the 'gender care gap'. This includes, among other things, equal pay and adequate living wages, regulations on pregnancy leave and parental leave, family-compatible working hours, childcare at the workplace and special leave for the care of sick family members.

2.4 Reporting using gender-disaggregated data

The supply chain law should oblige companies to monitor the effectiveness of their measures, based on gender-specific data (e.g. gender pay gap) collected in consultation with affected women, women's organizations and experts, and

to make this data available to those affected in an accessible form. Depending on the context, the data should also be broken down according to other factors such as age, caste, religion, disability, migration background, sexual orientation or membership of other minorities. Companies should also ensure that their business partners collect and publish gender-specific data.

2.5 Complaints mechanisms and legal assistance

Companies should be obliged to develop safe and accessible complaint mechanisms that are familiar to all workers. Women often face specific obstacles such as language, literacy, access to information and digital technology, mobility issues and lack of time due to unpaid care work. Complaints mechanisms must take these factors into account and be designed in such a way that women have straightforward access to them.

Furthermore, companies should be obliged to provide women affected by sexual violence with the necessary information on their rights, taking into account access to information, languages and literacy levels. This should include information on gender discrimination and national and international legislation.

Victims of gender-based violence should be supported with legal aid and advice and, in cases of shared responsibility, the company should be obliged to bear the costs of legal proceedings and to contribute to compensation payments in the event of infringements.

3. FURTHER MEASURES

Besides adopting a supply chain law, the German government should take further measures to promote women's rights in the area of business and human rights worldwide. In accordance with international human rights treaties, the German government has a duty to respect, protect and guarantee human rights beyond national borders and to contribute through international cooperation to the actual attainment of human rights worldwide.⁵⁰

3.1 Access to justice

The specific obstacles (as mentioned above) that women also experience in accessing justice in German courts must be taken into account and dismantled.

3.2 Protection of women human rights defenders

Women human rights defenders are exposed to particular gender-specific risks,⁵¹ not least because their work challenges discriminatory gender roles. They are often affected by gender-specific threats and acts of violence such as sexual violence, harassment of their children and discrimination in their communities. The German government should therefore advocate for gender-specific measures as formulated, inter alia, by the UN Special Rapporteur on the Situation of Human Rights Defenders in 2019, with a view to protecting human rights defenders worldwide.⁵²

3.3 Commissioner for Business and Human Rights

The German government should establish the new post of Commissioner for Business and Human Rights who will address the issue of gender justice in global supply chains in her, his or their work.

3.4 Promoting fair conditions for care work worldwide

The German government has a responsibility to promote the moral and financial recognition and fair distribution of care work worldwide, for counteracting structural inequalities by means of legislation and for promoting fair institutional conditions worldwide. The Equal Care Manifesto outlines measures to this end.⁵⁴ The promotion of access to public services (child care, schools, care facilities, health care systems), infrastructure (water, energy, transport), living wages, social security systems (including pregnancy leave, parental leave, retirement pensions) and shared household responsibilities are also relevant for the achievement of equal participation of women and men in the world of work.⁵⁵ The German government should work to ensure that international support programmes, for example by the World Bank or the International Monetary Fund, give countries in the Global South the necessary financial leeway to make important public investments in areas such as care facilities, health and education, social security, infrastructure and climate protection.⁵⁶

3.5 Combating tax evasion and avoidance

Tax evasion and corporate tax avoidance is estimated to deprive governments worldwide of more than 500 billion US dollars annually.⁵⁷ Countries of the Global South lose more than 200 billion US dollars a year in this way.⁵⁸ These tax practices deprive governments of much-needed resources to fund public services such as the administration of justice, public health and education systems, social security systems and care facilities, which are essential to the realization of women's rights and the fight against gender inequality.⁵⁹ In order to fulfil its contractual obligations to protect human rights, the German government should urgently pursue further measures against tax avoidance, tax

⁵⁰. See especially Articles 55 and 56 of the Charter of the United Nations, Article 22 of the Universal Declaration of Human Rights and Article 2(1) of the International Covenant on Economic, Social and Cultural Rights. ⁵¹. United Nations Office of the High Commissioner on Human Rights (2018). ⁵². UN Special Rapporteur on the situation of human rights defenders (2019). ⁵³. See also United Nations (2020), 15 ff. ⁵⁴. Equal Care Manifesto 2020: <https://equalcareday.de/manifest/>. ⁵⁵. OECD (2020). ⁵⁶. Oxfam Germany (2020). ⁵⁷. Tax Justice Network (2017). ⁵⁸. International Monetary Fund (2015). ⁵⁹. United Nations Human Rights Council (2014) und United Nations Human Rights Council (2016).

evasion and financial secrecy jurisdictions or havens, and should work to upgrade the UN Committee of Experts on International Cooperation in Tax Matters.



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Page 10: © Fairtrade Germany / Christoph Köstlin. Fairtrade is establishing complaint mechanisms and regular training for the employees in certified production facilities in India.

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