

*Gender and Development Network*  
***Women's Economic Justice Group Submission***

---

**Joint Committee on Human Rights**

**Inquiry into human rights and business**

**July 2016**

## 1. Introduction

- 1.1 The Gender and Development Network (GaDN) is a membership network made up of leading UK-based non-governmental organisations' staff, practitioners, consultants and academics working on gender, development and women's rights issues. We envision a world where social justice and gender equality prevail and where all women and girls are able to realise their rights free from discrimination. It is our mission to relieve poverty and promote wellbeing by ensuring that international development policy and practice promotes gender equality and women and girls' rights. The Women's Economic Justice working group is a working group of GaDN. We aim to develop and promote policy recommendations towards the achievement of *women's economic rights and justice*.
- 1.2 We welcome the opportunity to provide written evidence to the Joint Committee on Human Rights' inquiry into human rights and business, and warmly welcome the committee's interest in this area. The current evidence follows on from our July 2015 submission, '[Why the UK National Action Plan on Business and Human Rights must integrate and prioritise gender equality and women's human rights](#)' endorsed by the Corporate Responsibility (CORE) coalition, to the UK government's consultation on the review of the National Action Plan on Business and Human Rights.
- 1.3 In line with our mission and vision, we have focussed our remarks to the Committee's inquiry on the questions we feel are particularly pertinent to assessing progress, gaps and challenges in relation to prioritising women's rights and gender equality within the UK National Action Plan and the wider business and human rights agenda, as well as the apparent lack of policy coherence across these issues. This is critical given the increasing emphasis that is being placed on the private sector in delivering development outcomes, including for women, through trade, investment, job creation, and the financing of public private partnerships and multilateral funding mechanisms.
- 1.4 We are happy to provide further evidence on any of the subjects covered in this submission via Marie-Luise Schueller, Governance Policy and Advocacy Officer, Progressio, malou@progressio.org.uk Tel.: 0207 326 2002.

### Summary of recommendations to the UK Government

- Integrate a gender/women's rights perspective into the UK's National Action Plan (NAP) on Business and Human Rights.
- Make it a mandatory requirement for UK companies operating overseas to undertake gender sensitive human rights due diligence of their supply chains.
- This includes companies in receipt of UK Aid, in order to comply with the 2014 Gender Equality Act. DfID should agree on gender-specific targets as a precondition for funding and monitor these closely. A clear oversight mechanism should also be put in place by DfID when working with private firms that considers who bears which of the economic, social and environmental costs, risks and benefits of projects.
- Companies should be encouraged to engage in sector-wide approaches to help secure women's access to a living wage, protect collective bargaining rights, and to revise current purchasing models that drive down wages and conditions along with the informalisation of the sector.
- The UK Government should provide coherent, clear regulatory frameworks and guidelines to businesses on their responsibility to respect women's rights, including benchmarks and indicators regarding the steps they need to take to ensure this.

## 2. National Action Plan

The GaDN Women's Economic Justice Group makes the following points:

- 2.1 GaDN welcomed the 2016 review of the UK National NAP on Business and Human rights,<sup>1</sup> considering this an important opportunity to strengthen the 2013 NAP<sup>2</sup> by acknowledging the gender-differentiated human rights impacts of business enterprises on women's rights. We felt the review offered an important opportunity to ensure greater policy coherence between the UK Government's notable efforts to promote gender equality around the world on the one hand, and its role in promoting trade, investment and job creation overseas on the other.
- 2.2 Violations of women's and girls' human rights caused by entrenched gender-based discrimination occur in every country in the world, cutting across economic, social, environmental, political and cultural spheres, from local to global levels. As such, business activities and operations, as well as the trade, investment and tax policies that facilitate them, create heightened risks to women's rights and impact upon women in gender-specific ways, whether as workers, community members or human rights defenders.
- 2.3 Women living in poverty in developing countries are particularly at risk of adverse impacts of business activities. Violations of their rights can be particularly severe in the extractives, large-scale agricultural and export manufacturing industries, including textiles. The impacts of these three sectors on women's human rights are analysed in detail in the [GaDN submission](#) to the NAP review.<sup>3</sup> The UN Guiding Principles on Business and Human Rights (UNGPs) oblige the government to protect individuals against human rights abuses by all actors in society, including businesses. The UK Government has also committed to ending discrimination against women and to promote gender equality, as set out in the International Bill of Rights, the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and, most recently, in the Sustainable Development Goals (SDGs).
- 2.4 However, both the UK Government's 2013 NAP and the 2016 update lack a strong gender analysis of the specific human rights risks and impacts for women arising from UK business activities. They also overlook the particular challenges women can face in accessing remedy.
- 2.5 Much of the 2016 update is identical to the 2013 NAP, and there has been no progress on addressing the gender-specific impacts of business on women's rights compared to the previous version. One of the few sections that specifically mentions women has simply been restated, i.e. that business should '*consult people who may potentially be affected at all stages of project design and implementation, in a manner that ensures free and informed participation and takes into account language and other potential barriers to effective engagement, paying particular attention to indigenous peoples and other groups, **including women and girls***' (emphasis added).
- 2.6 It seems that none of GaDN's recommendations have been taken on board in the updated NAP. Furthermore, commitments to promote women's rights seem to have weakened, as evidenced by the change in wording from: '**Promote** new project activity on raising awareness and tackling the negative impacts of business activity, including on the human rights of groups like indigenous peoples, **women** [...]'; to '**consider**' in the 2016 version<sup>4</sup> (emphasis added).

- 2.7 We welcome the fact that the UK Government makes reference to new global commitments in the 2016 update, such as the SDGs; and specifically SDG 8.8. *‘to protect labour rights, promote safe and secure working environments for all workers... in particular **women** migrants, and those in precarious employment’*; given that women are over-represented in such vulnerable and precarious roles. We also welcome the revised NAP’s reference to the 2015 G7 Leaders’ Declaration to *‘enhance supply chain transparency and accountability, by encouraging enterprises active or headquartered in our countries to implement **due diligence** procedures regarding their supply chains’*<sup>5</sup> (emphasis added).
- 2.8 Under CEDAW, states are responsible not only for any direct violation of women’s rights, but they are also under a **positive obligation** to take all appropriate measures to eliminate direct and indirect discrimination against women by non-state actors, including private sector enterprises. This positive obligation is rooted in the notion of “due diligence” which requires states to take active measures to prevent, investigate, punish and redress human rights abuses that take place in domestic business operations. Similarly, the due diligence obligation is a cornerstone of the UNGPs, and it places a duty on states to enact and enforce laws that require business to respect human rights.
- 2.9 However, the NAP falls short of suggesting specific strategies or indicators regarding how any of the above mentioned areas could be realised in relation to the supply chains of UK registered companies operating overseas. Nor is there any content on how the UK Government is addressing gender-specific human rights risks and impacts in laws and policies, and how companies should seek to tackle them as part of the process of human rights due diligence throughout supply chains.
- 2.10 For example, one way of addressing the above shortcomings would be a mandatory requirement for UK businesses to undertake gender-sensitive human rights due diligence on global supply chains and to take steps to identify, prevent and mitigate rights violations affecting women, including access to remedy.
- 2.11 Part of this requirement should be for businesses to seek and then report on the process of obtaining the free, prior and informed consent of women in communities, as well as men, particularly in cases of resettlement and land loss resulting from land-intensive investments. They should also report on the development outcomes of meaningful participation of women at all stages and fair, gender equitable compensation, include gender disaggregated data, and outline the steps they are taking to mitigate and redress rights infringements.
- 2.12 Gender sensitive human rights due diligence should also take into account the recent CEDAW General Recommendation No. 34 on the Rights of Rural Women (March 2016)<sup>6</sup> which firmly recognises, for the first time under a binding treaty, the right of rural women to Free, Prior and Informed Consent before development projects are carried out on their lands. State parties are now required to ensure that rural development projects are implemented only after participatory gender and environmental impact assessments have been conducted with full participation of rural women, and after obtaining their Free, Prior and Informed Consent.
- 2.13 In addition, companies should be encouraged to support sector-wide initiatives on the payment of living wages in global supply chains, upholding respect for collective bargaining rights, and revising purchasing models to reduce pressure on wages and reverse the trend towards informalisation of supply chains. Such an approach would be a means to increase collective corporate leverage in mitigating and redressing rights infringements in these areas.

2.14 In order to ensure that UK companies operating and sourcing from overseas, as well as the wider trade, tax and investment environment, go beyond 'do no harm' to actively contribute towards the fulfilment of women's human rights requires strong regulatory frameworks, combined with gender sensitive human rights due diligence, and steps to ensure the increased barriers women face in accessing justice are addressed.

### 3. Government Engagement with Business and Human Rights

- 3.1 While the 2015-16 NAP review presented an excellent opportunity to strengthen policy coherence between the UK government's commitments on women's rights, its business and human rights obligations and expanding focus on promoting the role of the private sector in development, GaDN believes this opportunity was lost.
- 3.2 This is particularly pertinent given the strong focus on gender equality in the SDGs<sup>7</sup> and the increasing focus on the private sector as a key actor for delivering the Goals (Goal 17). This is mirrored by the UK government's 'Beyond Aid' agenda and DfID's emphasis on increasing the role of the private sector, including UK-based businesses, in order to foster 'responsible investment' and generate 'quality jobs' as a means to tackle poverty and promote 'inclusive growth' that benefits girls and women.
- 3.3 The UK government has also shown increasing commitment to women's rights, as demonstrated by the High-Level Panel on Women's Economic Empowerment, initiated by the UK Secretary of State for International Development and launched in March 2016.
- 3.4 The UK 2014 International Development (Gender Equality) Act (hereafter referred to as the Gender Equality Act) states that development assistance should aim to 'contribute to reducing poverty in a way which is likely to contribute to **reducing inequality between persons of different gender**' (emphasis added). This statement is significant given how much UK aid is now being channelled through the private sector, including through loans, equity investments, and partnerships with multinational companies.<sup>8</sup>
- 3.5 Therefore, when public funds are used to leverage private sector investment, this should follow the requirements of Gender Equality Act.
- 3.6 But implementation has proved challenging. For example, the Independent Commission for Aid Impact (ICAI) in a recent [report](#) criticised DfID's collaboration with the private sector for lacking strategic oversight of its business engagement activities. It also emphasised the need for concrete targets and goals, in order to ensure that DfID-funded private sector projects fulfil the mandate of the Gender Equality Act and translate into practical actions to benefit the poor.<sup>9</sup>
- 3.7 In order to overcome the competing priorities between DfID's poverty reduction targets and the private sector's profit-making imperative, GaDN believes it is necessary for DfID to agree on achievable gender-specific targets as a precondition for funding and to monitor these closely. In addition, DfID needs to ensure that a clear oversight mechanism is in place when working with private firms that considers who bears which of the economic, social and environmental costs, risks and benefits of projects.
- 3.8 The International Development Select Committee,<sup>10</sup> in its recent inquiry into the Implementation of the SDGs, also emphasised the need for the Government to ensure that its work to encourage private sector investment, through the Commonwealth Development Corporation, the Prosperity Fund and other initiatives, must only take forward investments that align with progress towards the achievement of the SDGs.
- 3.9 In order to comply with the requirements of the UNGPs and the Gender Equality Act, and to meet the SDGs, GaDN recommends that businesses in receipt of public funds<sup>11</sup>

should be required to undertake gender-sensitive human rights due diligence and to demonstrate how they will positively contribute to the fulfilment of women's human rights, including the creation of decent jobs for women, and, where relevant, restitution of livelihoods and income lost as a result of company activities in land intensive sectors, as a pre-condition for any state investment or support. A key component of this should be an analysis of a company's potential and actual impacts on women's rights, which should be included in social and environmental impact studies and reported on under the human rights section of the Companies Act.

#### 4. Monitoring transparency and compliance

- 4.1 At present there appear to be no mechanisms in place to monitor compliance with the UNGPs, using the NAP as a tool, specifically when it comes to gender-specific impacts.
- 4.2 What is required is a gender-sensitive, time-bound monitoring framework for the implementation of the UK's NAP. Progress towards set outcomes should be regularly assessed by the cross-departmental steering group (FCO, DfID, the Department for Business & Skills, and the Ministry of Justice), ensuring gender issues are addressed.
- 4.3 In addition, all FCO-funded programming to support the implementation of UNGPs should take a gendered approach and addresses women's rights. This should include applying and reporting against the OECD Gender Equality Policy Marker<sup>12</sup> and forthcoming OECD DAC (Development Assistance Committee) Violence against Women and Girls (VAWG) code.<sup>13</sup>
- 4.4 Ultimately, to ensure compliance, any voluntary approach needs to be underpinned by regulatory frameworks that are aligned with the UK government's international legal obligations to protect women's human rights, including from the harmful activities of corporations.
- 4.5 What is therefore required, in GaDN's view, are specific, coherent and clear regulatory frameworks and guidelines from the UK Government to businesses on their corporate responsibility to respect women's rights and specific benchmarks and indicators regarding the steps they need to take to ensure this happens. Many responsible businesses would welcome these to ensure a more level playing field.
- 4.6 This is fully supported by the UN Committee on Economic, Social and Cultural Rights'<sup>14</sup> recent [recommendations](#)<sup>15</sup> to the UK on Business and Human Rights: while welcoming the adoption of the UK National Action Plan on Business and Human Rights, the Committee expressed concern about the lack of a regulatory framework and recommended that the UK '*adopt appropriate legislative and administrative measures to ensure **legal liability** of companies domiciled under the State party's jurisdiction, regarding violations of economic, social and cultural rights in their projects abroad, committed directly by these companies or resulting from the activities of their subsidiaries*' (emphasis added).

## Endnotes

---

<sup>1</sup> HM Government (May 2016), *Good Business: Implementing the UN Guiding Principles on Business and Human Rights Updated May 2016*

<sup>2</sup> HM Government (2013), *Good Business: Implementing the Guiding Principles on Business and Human Rights* [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/236901/BHR\\_Action\\_Plan\\_-\\_final\\_online\\_version\\_1\\_.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/236901/BHR_Action_Plan_-_final_online_version_1_.pdf)

<sup>3</sup> Gender and Development Network (2015), *'Why the UK National Action Plan on Business and Human Rights must integrate and prioritise gender equality and women's human rights'*, see specifically, pages 6-10

<sup>4</sup> HM Government (May 2016), *Good Business: Implementing the UN Guiding Principles on Business and Human Rights Updated May 2016*, Government Commitments (vi)

<sup>5</sup> 2016 NAP, Introduction, point 3

<sup>6</sup> Available at

[http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/INT\\_CEDAW\\_GEC\\_7933\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_7933_E.pdf) .

<sup>7</sup> Goal 5, Goal 8 as well as specific targets under other goals, see

<http://www.un.org/sustainabledevelopment/sustainable-development-goals/>

<sup>8</sup> For example, the Independent Commission for Aid Impact estimate that, between 2012-13 and 2014-15, DfID committed £494 million to its work with business in development, while DfID's spending on loans, equity investments and guarantees has grown from £68 million in 2012-13 to a forecast £580 million in 2015-16. See <http://icai.independent.gov.uk/wp-content/uploads/ICAI-Business-in-Development-FINAL.pdf>, p.2 and p.5.

<sup>9</sup> Independent Commission for Aid Impact, May 2015, *Business in Development*

<http://icai.independent.gov.uk/report/business-in-development/>

<sup>10</sup> House of Commons International Development Committee (18 May 2016), *UK Implementation of the Sustainable Development Goals, First Report of Session 2016-17*

<sup>11</sup> These include financing and investment facilities supported by DfID and export credit agencies, banks and pension funds or those involved in government procurement.

<sup>12</sup> The OECD DAC Gender Equality Marker (GEM) is intended to measure the extent to which program budgets contribute to advance [gender equality](#) and women's empowerment or reduce discrimination and inequalities based on sex. In order to receive a "principal" or "significant" rating, gender equality must be explicitly promoted in activity documentation through specific measures which:

a) Reduce social, economic or political power inequalities between women and men, girls and boys, ensure that women benefit equally with men from the activity, or compensate for past discrimination; or b) Develop or strengthen gender equality or anti-discrimination policies, legislation or institutions, see

<http://www.oecd.org/investment/stats/37461060.pdf> for more information.

<sup>13</sup> See Creditor Reporting System (CRS) Code 15180, pages 1 & 9, stating that a new VAWG code will be introduced from 2016.

<http://www.oecd.org/dac/stats/documentupload/Creditor%20Reporting%20System%20CRS%20Aid%20Activities%20database%202017%20reporting%20on%202016%20flows.pdf>

<sup>14</sup> It was examining the UK's compliance with the International Covenant on ESCR.

<sup>15</sup> Committee on Economic, Social and Cultural Rights (24 June 2016) *Concluding observations on the sixth periodic report of the United Kingdom of Great Britain and Northern Ireland*, E/C.12/GBR/CO/6