



ANA FILIPA LOMBA CORREIA

**BEYOND THE GENDER LENS: RETHINKING HUMAN
RIGHTS DUE DILIGENCE FOR STRUCTURAL EQUALITY**

Dissertation to obtain
a Master's Degree in Law,
in the speciality of
International and European Law

Supervisor:

Claire Bright
Professor of the NOVA School of Law

2024 December

Anti-plagiarism Statement

I hereby declare that the work I present is original and that all my citations are correctly identified.

I am aware that the use of unidentified elements from others constitutes a serious ethical and disciplinary fault.

Declaration of Characters

The body of the dissertation, including spaces and notes, contains 100.772 characters.

Acknowledgements

I extend my appreciation to Professor Claire Bright for all the understanding, patience, guidance and support throughout this journey.

I want to start by acknowledging my family. To my mother, Carminda, and my sisters, Andreia and Catarina, I wish to express my love and appreciation for being my biggest support system. Thank you to my mother for all the sacrifices and for the constant love. To my sisters, for always being a call away and for encouraging me constantly. To my grandfather Avô Manel, for the care and the words of wisdom. To my nephews, Artur and Xavier, thank you for bringing sweetness into my life in its purest form.

To my partner, Filipe, thank you for being there until the last second, quite literally. You were my first witness in this process. Thank you for the encouragement, for the moments of much-needed distraction, and for your support. Even in challenging times, I felt your presence with me.

To my “borrowed” family, Teresa, Eusébio, and Margarida, thank you for your constant support, words of motivation, and for the joy we have shared all this time.

To my best friends, Marta, Mariana, Bia Pereira, Bia Marques and Margarida, there are simply no words to explain the deep love and admiration I feel for you. Thank you for reminding me of my strength, for making me laugh (a lot), and for being alongside me unconditionally.

To Matilde, Sara, Mery and Gonçalo, thank you for all the fun times together. Moments with you were moments of recharging and feeling at home.

To Beta-i, especially my colleagues Gustavo, Tiago, Luma and Diana. Thank you for showing interest in my thesis, for the conversations, and for your “teampathy”. I learn so much from you every day, and for that, I am forever grateful. I am lucky to have such amazing co-workers as you.

To my cat Cajú, my company of every hour. I feel thankful to have in her a burst of beautiful energy and calmness that were essential in the process.

And last, but not least, I want to recognise all the learnings I collected and the growth I experienced writing this thesis. They are a part of me and I will carry great lessons for the future.

Abstract

This thesis investigates the integration of gender considerations within Human Rights Due Diligence (HRDD), focusing on the transition from a "gender lens" approach to gender-responsive practices that actively address systemic inequalities. While HRDD has become a cornerstone of corporate accountability, guided by frameworks like the United Nations Guiding Principles on Business and Human Rights (UNGPs), its application often fails to adequately address the disproportionate impacts of corporate activities on women, particularly in global supply chains. Women frequently face systemic barriers such as exploitation, unequal pay, and gender-based violence, issues that remain insufficiently addressed by current HRDD practices.

Through a critical analysis of international frameworks, including the UNGPs and the EU Corporate Sustainability Due Diligence Directive, and case studies across diverse socio-economic contexts, this research examines the limitations of existing approaches to gender in HRDD. The study highlights how the current focus on a "gender lens" often results in surface-level assessments, reinforcing tokenistic practices that fail to mitigate structural inequalities or generate transformative change. Instead, the thesis advocates for a gender-responsive HRDD framework that embeds gender considerations throughout all stages of corporate activity, from risk identification to remediation.

Such an approach involves concrete actions, including conducting gender-sensitive impact assessments, engaging marginalised groups in decision-making, and implementing accountability mechanisms tailored to address systemic harms. By prioritising intersectionality and substantive equality, gender-responsive HRDD shifts the focus from compliance to transformation, challenging patriarchal, racialised, and neo-colonial structures embedded in global corporate practices. This thesis argues for reimagining HRDD to position businesses as agents of systemic change, ensuring they not only recognise but actively address gendered human rights violations. The proposed framework underscores the importance of integrating structural reform into

corporate accountability, setting a standard for more equitable and inclusive global business practices.

Resumo

Esta tese investiga a integração de considerações de género no âmbito da Diligência Devida em Direitos Humanos (Human Rights Due Dilligence - HRDD), com foco na transição de uma abordagem de “perspetiva de género” para práticas responsivas ao género que abordem ativamente desigualdades sistémicas. Embora a HRDD tenha se tornado um pilar da responsabilidade corporativa, orientada por quadros como os Princípios Orientadores das Nações Unidas sobre Empresas e Direitos Humanos (UNGPs), a sua aplicação tende a falhar em tratar de forma adequada os impactos desproporcionais das atividades empresariais sobre as mulheres. As mulheres enfrentam frequentemente barreiras sistémicas, como exploração, desigualdade salarial e violência baseada no género, questões que permanecem insuficientemente tratadas pelas práticas atuais de HRDD.

Através de uma análise crítica de quadros internacionais, incluindo os UNGPs e a Diretiva da União Europeia sobre Diligência Devida em Sustentabilidade Corporativa, bem como estudos de caso em diversos contextos socioeconómicos, esta investigação examina as limitações das abordagens existentes ao género na HRDD. O estudo destaca como o foco atual numa “perspetiva de género” muitas vezes resulta em avaliações superficiais, reforçando práticas simbólicas que não conseguem mitigar desigualdades estruturais ou promover mudanças transformadoras. Em vez disso, a tese defende um quadro de HRDD responsivo ao género, que integre considerações de género em todas as fases da atividade empresarial, desde a identificação de riscos até à remediação.

Essa abordagem envolve ações concretas, incluindo a realização de avaliações de impacto sensíveis ao género, o envolvimento de grupos marginalizados na tomada de decisões e a implementação de mecanismos de responsabilização adaptados para abordar danos sistémicos. Ao priorizar a interseccionalidade e a igualdade substantiva, a HRDD responsiva ao género desloca o foco do mero cumprimento para a transformação, desafiando estruturas de poder incorporadas nas práticas corporativas globais. Esta tese argumenta pela reimaginação da HRDD para posicionar as empresas

como agentes de mudança sistémica, assegurando que não só reconheçam, mas também abordem ativamente as violações de direitos humanos baseadas no género. O quadro proposto sublinha a importância de integrar reformas estruturais na responsabilização corporativa, estabelecendo um padrão para práticas empresariais globais mais equitativas e inclusivas.

Abbreviations

BHR - Business and Human Rights

CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women

CSDDD - Corporate Sustainability Due Diligence Directive

CSR – Corporate Social Responsibility

EU - European Union

GR-HRDD - Gender-Responsive Human Rights Due Diligence

GSCs - Global Supply Chains

HRDD - Human Rights Due Diligence

IHRL - International Human Rights Law

ILO - International Labour Organization

MNEs - Multinational Enterprises

OECD - Organisation for Economic Co-operation and Development

SDGs - UN Sustainable Development Goals

UDHR - Universal Declaration of Human Rights

UN - United Nations UNHRC – UN Human Rights Council

UNGPs - United Nations Guiding Principles on Business and Human Rights

WHRDs - Women Human Rights Defenders

Index

1. INTRODUCTION	12
1.1. Methodology	17
2. FRAMEWORKS AND DEVELOPMENTS IN BUSINESS AND HUMAN RIGHTS	
2.1. Business and Human Rights in the Realm of International Law	19
2.2. Gender Dimensions in Business and Human Rights	28
2.3. Beyond Mandatory HRDD and Companies as Main Duty Bearers	35
3. GENDER IN HUMAN RIGHTS DUE DILIGENCE	
3.1. A Critical Examination of the "Gender Lens" in HRDD	40
3.2. Uncovering the Role of Gender-Responsive Human Rights Due Diligence	42
4. ANALYSIS OF A GENDER LENS IN HUMAN RIGHTS DUE DILIGENCE IN CONTEXT	
4.1. Indonesia: Navigating Labor Rights Through a Gender Lens in a Developing Economy	47
4.2. Thailand: Community-Driven Approaches to Gender-Responsive HRDD in Marginalised Settings	51
4.3. FIFA: Advancing Gender-Responsive HRDD in Global Sports Governance	56
5. CONCLUSION	61
BIBLIOGRAPHY	64

1. INTRODUCTION

The contemporary landscape of Business and Human Rights (BHR) finds its roots in the post-World War II era, marked by the creation of the United Nations and the development of modern human rights principles¹. It is well accepted that the Universal Declaration of Human Rights (UDHR)² in 1948 represented a groundbreaking moment in the global commitment to human dignity and equality. The UDHR promoted a comprehensive understanding of human rights, encompassing economic, social, and collective rights. However, as the global political and economic climate evolved, so did the interpretation and application of human rights principles. The ambitious vision of the UDHR began to intersect with emerging global power structures, creating new avenues—and tensions—in how human rights would be perceived and practised over the following decades.

The 1970s are popularly seen as a breakthrough period in the development of human rights, a perception heavily influenced by a Eurocentric "new historiography," which portrays this decade as the definitive period when human rights gained international prominence. This new historiography was a concept brought by Joseph R. Slaughter, defending that Western academic and political narratives treat human rights as if they were newly created or rediscovered in the 1970s. Slaughter highlights that this perspective—the “Western Romance” of human rights—suggests that global human rights, particularly in their modern form, were spread as part of a Western moral mission, neglecting the roles that diverse global actors played in shaping human rights concepts historically³. This "rediscovery" narrative often overlooks the broader international efforts and movements that had long advanced human rights in various forms, from anti-colonial struggles to socioeconomic rights, which were fundamental to many Global South agendas.

¹ Santoro, M. A. (2015). Business and human rights in historical perspective. *Journal of Human Rights*, 14(2), p. 2.

² United Nations. (1948). *Universal Declaration of Human Rights*. Retrieved from https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf

³ Slaughter, J. R. (2018). Hijacking human rights: Neoliberalism, the new historiography, and the end of the Third World. *Human Rights Quarterly*, 40(3), p. 737

It is important not to close our eyes to the fact that neoliberalism was coincidentally on the rise in the 1970s, but it was not a mere consequence. During this period, decolonisation efforts were gaining momentum, yet the narrative around human rights was increasingly reframed to suit a Euro-American neoliberal agenda. Following Slaughter's critique, this appropriation, or reinterpretation of human rights, led to a transition of a human rights direction from a more diverse and expansive perception of human rights - including collective rights to self-determination and social, economic, and cultural rights that aligned with anti-colonial and national liberation efforts - to a narrower scope focused on individual civil and political rights. It stands to reason that the West's repossession of human rights constituted a natural hindering and undermining of the Global South's goals for sovereignty and development⁴.

Human rights became an individual matter, overshadowing the need for a structural and systemic approach and resulting in a reasserted control by Western powers over international norms prioritising Western values and interests. By framing the 1970s as a "rediscovery" of human rights rather than a genuine progression, Slaughter suggests that this view aligns human rights with neoliberal principles, reframing them as individualistic and de-politicized rights separate from national liberation movements⁵. This reframing diluted the collective and structural aspects of human rights, ultimately limiting the potential for human rights to address economic exploitation and systemic inequality, two issues that were and remain central to the Global South.

Bringing Slaughter's critical perspective on the historiography of human rights— even briefly—is essential, not only to trace the origins of Business and Human Rights in a more inclusive and nuanced approach but also to highlight the profound impact of North-South power dynamics on the broader human rights discourse, especially concerning corporate responsibility. Often, business agreements are symbolised by a handshake between parties, and in a similar way, human rights and capitalism have become deeply intertwined. Once these two forces "shook hands", it became increasingly difficult to separate them, as corporate interests began shaping the very

⁴ (Slaughter, 2018, pp. 735–758)

⁵ (Slaughter, 2018, pp. 745–746)

nature of human rights, creating a complex entanglement where the profit motives of corporations could influence interpretations of human rights.

Traditionally, human rights protection has been seen as the sole responsibility of states. However, as the power of multinational corporations grew throughout the latter half of the 20th century, the void created by the lack of adequate human rights enforcement mechanisms by the UDHR became a focus of attention for human rights activists. Operating across diverse jurisdictions with varying legal standards, these corporations—wielding vast influence over economic, social, and environmental landscapes—began to be recognised as pivotal actors capable of affecting both positive and negative human rights outcomes⁶. Given their potential to affect local communities, labour rights, and environmental standards worldwide, they became both targets and stakeholders in the human rights ecosystem.

Corporations became prime targets for advocacy campaigns because, unlike sovereign states, they were more vulnerable to public pressure, reputational risk, and the influence of consumer behaviour⁷. The shift in focus from state to corporate accountability gave rise to the field of BHR, where businesses were not merely seen as economic entities but as participants in the global human rights ecosystem⁸. This paradigm shift reflects an emerging recognition that businesses, due to their transnational reach and significant economic influence, are uniquely positioned to contribute to (or detract from) global human rights efforts.

As we navigate this complex landscape, it becomes crucial to interrogate the power dynamics inherent in the relationship between business and human rights. Understanding this relationship requires acknowledging that the partnership between neoliberalism and human rights has profoundly shaped corporate involvement in the human rights domain. BHR emerges not only as a response to gaps left by states but

⁶ Deva, S. (2012). *Regulating corporate human rights violations: Humanizing business*. London: Routledge, p. 233.

⁷ (Deva, 2012, p. 230)

⁸ (Santoro, 2015, p. 3)

also as a product of historical shifts that have allowed corporate interests to co-opt and redefine human rights⁹.

While corporations had long been expected to comply with national laws, the transnational nature of their operations often allowed them to evade full responsibility, especially in countries with weaker legal frameworks. This accountability gap underscored the need for a more robust, standardised approach to corporate responsibility, transcending national boundaries. International organisations and civil society advocated for new standards holding corporations responsible for respecting human rights across their global operations.¹⁰ This advocacy culminated in the development of international frameworks like the United Nations Guiding Principles on Business and Human Rights (UNGPs)¹¹ in 2011, which became the cornerstone of corporate responsibility in the BHR field. The UNGPs marked a pivotal moment by formalising a set of universally accepted principles that corporations, regardless of jurisdiction, were expected to follow—an aspect that this thesis will further analyse.

At the heart of the UNGPs lies the concept of Human Rights Due Diligence (HRDD), a process that requires companies to proactively identify, prevent, mitigate, and account for their adverse human rights impacts¹². HRDD represents a shift from mere legal compliance toward a more comprehensive approach where businesses are expected to assess and address human rights risks throughout their operations and supply chains. In practice, this shift signifies a fundamental redefinition of corporate roles and responsibilities globally, urging businesses to consider their influence as economic entities and actors with significant impacts on human rights¹³. This process is critical because it aligns with the broader ambition of transforming the traditional role of businesses, positioning them not just as private economic actors but as key participants in protecting and promoting human rights.

⁹ (Santoro, 2015, p. 3-4)

¹⁰ (Santoro, 2015, p. 4)

¹¹United Nations. (2011). *Guiding principles on business and human rights*. Retrieved from https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf

¹² (UNGPs, Principle 15.b)

¹³ Bourke-Martignoni, J., & Umlas, E. (2018). *Gender-responsive due diligence for business actors: Human rights-based approaches*. Geneva Academy of International Humanitarian Law and Human Rights, p. 12.

However, despite the progress made through frameworks like the UNGPs, significant gaps remain in the application of HRDD, particularly when it comes to vulnerable groups such as women¹⁴. The gendered impacts of corporate activities are often overlooked or inadequately addressed, although women frequently bear the brunt of human rights violations in business contexts. From labor exploitation and gender pay gaps to environmental harms that disproportionately affect women, the need to apply a gender perspective to HRDD has become increasingly apparent¹⁵.

A gender lens in HRDD refers to examining how corporate actions impact men and women differently, acknowledging that women are often more vulnerable to certain risks due to entrenched systemic inequalities. Applying this gender lens goes beyond simply recognising differences; it involves ensuring that human rights protections account for and actively mitigate gender-specific risks. Yet, many existing HRDD practices that superficially acknowledge gender differences fail to result in tangible improvements, as they often lack the depth needed to address underlying structural and systemic gender biases effectively¹⁶. This thesis argues that it is insufficient to merely view HRDD through a gendered perspective; businesses must adopt gender-responsive HRDD, which requires specific and actionable measures to prevent and remedy the distinct harms women face. Gender-responsive HRDD would involve, for instance, targeted policies for protecting women in supply chains, conducting gender-sensitive impact assessments, and establishing accountability mechanisms that genuinely reflect women's lived experiences.

This context lays the floor for the research at hand and seeks to address the question: "Does applying a gender lens to human rights due diligence allow for the effective addressing of the disproportionate impacts resulting from corporate activities felt by women?" By exploring gender integration into HRDD frameworks, this thesis aims to challenge current HRDD frameworks by evaluating whether they truly capture and

¹⁴ While the primary focus is on women's rights, it is important to acknowledge the unique and disproportionate challenges faced by lesbian, gay, bisexual, trans, queer, questioning, intersex, asexual, and other LGBTQIA+ identities in business contexts. This thesis focuses on a more inclusive and fluid understanding of gender.

¹⁵ Zhao, K. (2023). Human rights due diligence law for gender equality in multinational enterprises. *Highlights in Business, Economics and Management*, 16, pp. 363–365.

¹⁶ Bourke-Martignoni, J., & Umlas, E. (2018). *Gender-responsive due diligence for business actors: Human rights-based approaches*. Geneva Academy of International Humanitarian Law and Human Rights, p. 19.

address the unique risks women face or merely include superficial gender considerations. This thesis will shed light on the limitations of current practices and compare solutions for more robust, gender-responsive approaches that ensure corporate accountability for women's human rights. Ultimately, this thesis advocates for a transformative HRDD approach that does not merely acknowledge gender-based harms but actively works to prevent, mitigate, and address them, setting a standard for corporate accountability that is both comprehensive and equitable.

1.1. Methodology

This thesis employs an exhaustive literature review and case study analysis, supported by content analysis and comparative analysis, to address the research question: “Does applying a gender lens to HRDD allow for the effective addressing of the disproportionate impacts of corporate activities felt by women?”. This approach enables a comprehensive exploration of both the theoretical underpinnings and practical applications of gender-responsive HRDD across diverse contexts and scenarios.

The literature review serves as the foundation for understanding the theoretical dimensions of HRDD and its integration of gender considerations. It draws on key international frameworks, scholarly articles, and reports from organisations such as the United Nations and OECD to trace the evolution of HRDD, critique the gender lens, and examine guidelines for implementing gender-responsive practices. This theoretical groundwork is complemented by a detailed case study analysis that bridges the gap between abstract concepts and real-world practices. Three cases were selected to reflect diverse geographical, socio-economic, and institutional contexts: labour rights in Indonesia, community-driven approaches in Thailand, and the application of a gender lens in governance by FIFA. Indonesia represents a developing economy grappling with labour rights issues, Thailand emphasises community-driven initiatives in marginalised settings, and FIFA exemplifies a global organisation addressing gender equality in sports governance. These cases were chosen based on their capacity to illustrate the application of gender-responsive HRDD in varying cultural, economic,

and organisational environments, ensuring a broad and inclusive representation of the challenges and opportunities in implementing these practices.

Content analysis was applied to the literature and case studies to identify recurring themes, patterns, and gaps in the conceptualisation and implementation of gender-responsive HRDD. The analysis focused on examining gender-specific risks, the effectiveness of measures aimed at addressing systemic inequalities, and the alignment of corporate practices with international standards. This was complemented by comparative analysis, which enabled a critical evaluation of common challenges and context-specific factors influencing the success or limitations of HRDD measures, offering insights into best practices and areas for improvement.

This methodology, which integrates literature review, case study analysis, content analysis, and comparative analysis, ensures a comprehensive and well-rounded examination of gender-responsive HRDD. By bridging the gap between theory and practice, the research critically evaluates existing HRDD frameworks and highlights pathways for future advancements. It offers a nuanced perspective on the complexities of applying a gender lens and advocates for transformative, systemic approaches to corporate accountability.

2. FRAMEWORKS AND DEVELOPMENTS IN BUSINESS AND HUMAN RIGHTS

2.1. Business and Human Rights in the Realm of International Law

Over time, the interplay between business activities and human rights has been increasingly recognized as a critical domain of regulation and governance. The gradual integration of binding and non-binding instruments, ranging from the UN Guiding Principles on Business and Human Rights to the recently approved Corporate Sustainability Due Diligence Directive (CSDDD)¹⁷ in the European Union, represents a significant evolution in addressing corporate accountability. While diverse in scope and enforcement mechanisms, these frameworks collectively highlight a broader commitment to embedding human rights considerations into corporate practices.

This significant gain of attention regarding regulating business activities and their impact on human rights has been reflected on an international, regional and domestic level. The progressive alignment between legal instruments on these levels reflects an intentional effort to leverage the strengths of voluntary guidelines while addressing their inherent limitations when it comes to legal enforceability. This multifaceted approach - combining binding and non-binding instruments, soft law principles, and emerging regulations - not only reinforces the responsibilities of businesses in upholding human rights but also seeks to harmonise contrasting regulatory regimes, ensuring greater coherence in the global business and human rights landscape.

This chapter explores some of the key legal instruments governing BHR, focusing on their development and interaction, such as the UNGPs, the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises for Responsible Business Conduct¹⁸, the International Labour Organization (ILO) Tripartite Declaration of Principles Concerning Multinational

¹⁷European Parliament and Council of the European Union. (2024). Directive (EU) 2024/1760 of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859. *Official Journal of the European Union*, L 1760, 5 July. Retrieved from <https://eur-lex.europa.eu/eli/dir/2024/1760/oj>

¹⁸OECD. (2023). *OECD guidelines for multinational enterprises on responsible business conduct*. Paris: OECD Publishing. <https://doi.org/10.1787/81f92357-en>

Enterprises and Social Policy¹⁹ and the above mentioned CSDDD. These instruments do not operate closed in their respective vacuums. Quite the contrary - they complement each other, which justifies a broader analysis of what each instrument stands for and what links them, providing a wider policy context.

UN Guiding Principles on Business and Human Rights

The UN Guiding Principles on Business and Human Rights were established in 2011 and unanimously endorsed by the United Nations Human Rights Council²⁰. Developed under the leadership of John Ruggie, the then United Nations (UN) Special Representative on Business and Human Rights, the UNGPs represent a significant milestone in clarifying the responsibilities of states and businesses concerning human rights due to its establishment of the "Protect, Respect and Remedy" framework. This framework starts by holding states responsible for safeguarding individuals from human rights abuses by third parties, including businesses, through the implementation and enforcement of suitable policies, laws, and regulations. Businesses, on their part, are independently accountable for respecting human rights - which involves taking proactive measures to prevent infringements within their operations or through their business relationships and addressing any harm that may arise. Lastly, when human rights are violated, individuals must have access to effective remedies, with both states and businesses playing a pivotal role in ensuring these remedies are accessible and effective²¹. In short, the UNGPs are built on three interrelated pillars: (1) the state duty to protect; (2) the corporate responsibility to respect; and (3) access to remedy.

The state's duty to protect is the first pillar of the "Protect, Respect and Remedy" framework. It emphasises that states must act as guardians of human rights by preventing abuses by businesses. This responsibility is a standard of conduct rather

¹⁹ International Labour Organization. (2003). The tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration). Geneva: ILO. Retrieved from https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_emp/@emp_ent/@multi/documents/publication/wcms_094386.pdf

²⁰ Ruggie, J. G. (2017). *The social construction of the UN guiding principles on business and human rights* (Corporate Responsibility Initiative, Working Paper No. 67, p. 1). Cambridge, MA: Harvard Kennedy School of Government.

²¹ (Ruggie, 2017, p.1)

than a guarantee of outcomes. In this regard, states must adopt appropriate measures to create an environment where human rights are respected and protected within their jurisdiction. These measures include establishing effective policies and legislation that ensure businesses operate in a way that respects human rights and does not exacerbate existing vulnerabilities²². States are expected to uphold the rule of law in this process, ensuring equal treatment, legal transparency, accountability, and fairness. Inaction or gaps in enforcement can lead to state liability under international human rights law (IHRL). It is essential not to leave aside the state duty to protect, which requires states to respond to violations and be proactive in identifying risks and assuring preventive measures to any potential harm²³.

Concerning the corporate responsibility to respect human rights, it emphasises that businesses must actively avoid transgressing human rights and need to address any adverse impact linked to their activities, including their supply chains and business relationships. The universality of this responsibility makes it possible to apply it to all businesses, regardless of their size, sector, location, ownership or structure. Businesses are expected to uphold respect for human rights even if states fail in their duty to protect human rights. On an operational level to account for this responsibility, businesses are expected to adopt a human rights policy and implement processes within their structure to integrate human rights considerations into their operations²⁴. The critical component of this process is human rights due diligence - a proactive process in identifying, preventing, mitigating, and accounting for adverse human rights impacts²⁵. Due diligence requires businesses to assess actual and potential human rights risks in their direct activities and relationships with suppliers, contractors, and other partners. When applying due diligence, companies need to be aware of their specific context, particularly to vulnerable or marginalised groups who might be disproportionately affected. The findings of the due diligence process must be integrated into the companies' internal processes as should be in the origin of

²²Human Rights Council. (2011). *Guiding principles on business and human rights: Implementing the United Nations "Protect, Respect and Remedy" framework* (A/HRC/17/31, p. 7). March.

²³ (Human Rights Council, 2011, p. 7)

²⁴ (Human Rights Council, 2011, p. 13)

²⁵ United Nations. (2011). *Guiding principles on business and human rights: Implementing the United Nations "Protect, Respect and Remedy" framework* (Commentary to UNGP 12, p. 14)

concrete actions to address identified risks and continuously monitor the effectiveness of their responses²⁶.

The third pillar of the “Protect, Respect and Remedy” framework is access to remedy, ensuring effective avenues for individuals and communities to seek redress when business activities adversely impact their rights. The certainty of adverse impacts happening, even when there is a robust preventive set of measures by both states and businesses, creates the necessity for victims to have access to appropriate channels for redress. This pillar builds on the foundational idea that remediation is integral to ensuring accountability, restoring rights, and preventing future harm²⁷. Access to remedy encompasses state-based mechanisms (judicial and non-judicial) and non-state-based mechanisms, including operational-level grievance systems within businesses. The UNGPs emphasise that the state has the primary duty to ensure that such mechanisms are in place and function effectively²⁸. Simultaneously, businesses must actively engage in remediation where they have caused or contributed to the harm, ensuring that individuals and communities can seek redress directly through processes designed to resolve disputes fairly and effectively. One of the key tools businesses can use to fulfil their remediation responsibilities is the establishment of operational-level grievance mechanisms. These mechanisms are designed to allow individuals or communities directly impacted by a company’s activities to raise concerns and seek resolution without needing to resort to external legal or administrative processes. Operational-level mechanisms provide an early and direct opportunity to address grievances before they escalate into larger disputes or systemic issues²⁹. In transnational contexts, victims often encounter additional challenges, such as jurisdictional hurdles, high costs, and lack of representation when trying to bring claims against multinational corporations headquartered in other countries. States are expected to address these gaps by creating mechanisms allowing extraterritorial claims or providing mutual legal assistance in cross-border cases. The emphasis is on

²⁶ (Human Rights Council, 2011, pp. 16–18)

²⁷ (Human Rights Council, 2011, p. 22)

²⁸ (Human Rights Council, 2011, p. 22)

²⁹ (Human Rights Council, 2011, pp. 24–26)

ensuring that victims are not left without options due to the complexity of corporate structures or jurisdictional issues³⁰.

In essence, the three pillars of the Protect, Respect, and Remedy framework are inherently interdependent, each addressing essential functions that must be continuously improved. Together, they seek to engage public, civil, and corporate governance systems, both separately and collaboratively. Instead of proposing a comprehensive treaty to cover the complex and varied challenges of business and human rights, this framework was delivered by Ruggie to emphasise the use of specific, well-designed legal instruments to reinforce its adaptable and dynamic approach³¹.

OECD Guidelines for Multinational Enterprises for Responsible Business Conduct

The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct represent a cornerstone of the legal and policy framework for Business and Human Rights.

The guidelines are government recommendations to multinational enterprises (MNEs) to foster sustainable development and minimise adverse impacts from business operations on people, the environment, and society. They are part of the OECD Declaration on International Investment and Multinational Enterprises and underscore the central role of responsible business conduct in promoting ethical trade and investment practices.

The OECD Guidelines for Multinational Enterprises are deeply connected to the concept of HRDD, providing a framework for businesses to address human rights impacts throughout their operations and supply chains. The Guidelines emphasize that enterprises must respect human rights, which entails avoiding infringing on the rights of others and addressing any adverse impacts to which they contribute. This

³⁰ (Human Rights Council, 2011, pp. 23–24)

³¹ Ruggie, J. G. (2007). Business and human rights: The evolving international agenda. *The American Journal of International Law*, 101(4), p. 819.

expectation is aligned with the UNGPs and places HRDD at the core of responsible business conduct³². HRDD is integrated into the Guidelines as part of a broader approach to risk-based due diligence. Enterprises are required to identify, prevent, mitigate, and account for adverse human rights impacts. This process involves embedding HRDD into their policies and management systems, ensuring that risks are assessed not only in terms of potential harm to the business but, crucially, in terms of risks to the rights of individuals affected by their activities: workers, local communities, and other stakeholders impacted by business operations and supply chains³³.

Under the MNE Guidelines, stakeholder engagement is a central element of HRDD. Enterprises are expected to meaningfully engage with those most affected by their activities, particularly vulnerable or marginalised groups such as women, Indigenous peoples, and minorities. This engagement helps businesses understand these groups' specific contexts and needs, enabling them to address potential adverse impacts more effectively.

The scope of HRDD under the Guidelines extends beyond a company's direct operations to include adverse impacts linked to its products, services, and business relationships. This reflects the interconnected nature of modern supply chains and highlights the responsibility of businesses to influence their partners to respect human rights³⁴.

In short, the OECD Guidelines operationalise HRDD by providing detailed recommendations for its implementation within the broader framework of responsible business conduct. They serve as a practical tool for enterprises to navigate complex legal, social, and ethical challenges while ensuring respect for human rights is a core part of their business strategy.

ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy

³² (OECD, 2023, pp. 25–27)

³³ (OECD, 2023, pp. 14–19)

³⁴ (OECD, 2023, p. 15)

The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), issued by the ILO, plays a vital role in setting global standards for responsible business conduct and advancing the BHR legal framework.

The Governing Body of the International Labour Office approved the MNE Declaration in 1977. It has since undergone several amendments, with the most recent update adopted in 2022. These updates reflect new international standards and developments, including the incorporation of the ILO Declaration on Social Justice for a Fair Globalization and the UN Guiding Principles on Business and Human Rights³⁵.

By incorporating key elements of the UNGPs, such as the “Protect, Respect, and Remedy” framework, the MNE Declaration highlights that multinational enterprises must avoid causing or contributing to adverse human rights impacts and must address any such impacts if they occur. It emphasises the importance of conducting due diligence to identify, prevent, mitigate, and account for these impacts, as well as the need for meaningful consultation with affected stakeholders to address concerns effectively³⁶. Additionally, the Declaration builds on the OECD Guidelines for Multinational Enterprises, since both provide frameworks that stress the importance of respecting national laws and international standards, promoting sustainable development, and ensuring that corporate actions align with social and labour goals. The Declaration explicitly references the OECD Guidelines, acknowledging their significance in shaping a cohesive approach to multinational enterprise governance³⁷.

Within the BHR international legal framework, the MNE Declaration holds a central position by operationalizing the concept of decent work, a goal articulated in the 2030 Agenda for Sustainable Development³⁸. It offers actionable principles on employment, training, and industrial relations to guide the behaviour of governments, employers, and workers in their engagement with multinational enterprises. The Declaration’s

³⁵ International Labour Organization. (2022). *Tripartite declaration of principles concerning multinational enterprises and social policy* (6th ed., p. 7). Geneva: ILO. Retrieved from <https://www.ilo.org/mnedeclaration>

³⁶ (International Labour Organization, 2022, p. 10)

³⁷ (International Labour Organization, 2022, pp. 7, 10)

³⁸ (International Labour Organization, 2022, pp. 5-8)

tripartite structure, which incorporates the perspectives of governments, employers, and workers, lends it unique legitimacy and ensures its recommendations are balanced and inclusive³⁹.

The MNE Declaration explicitly incorporates HRDD as a core responsibility for multinational enterprises. It highlights the importance of meaningful consultation with potentially affected groups, including workers' organisations, to ensure the effectiveness of HRDD efforts. This approach aligns with social dialogue and collective bargaining principles while highlighting that HRDD practices should be context-sensitive, considering the enterprise's operational environment, size, and nature.

In addition to the elements mentioned above, the MNE Declaration clearly emphasises fundamental labour rights, such as freedom of association and collective bargaining, when addressing HRDD, positioning them as integral to respecting and promoting human rights. These elements ensure the relevance of the MNE Declaration in addressing human rights-related risks and enhancing businesses' accountability in global supply chains.

Corporate Sustainability Due Diligence Directive

The Corporate Sustainability Due Diligence Directive (CSDDD), adopted by the European Parliament and the Council of the European Union, forms part of the international framework on BHR. The directive entered into force on 25 July 2024⁴⁰, aiming to strengthen corporate responsibility regarding human rights and environmental impacts across their operations and value chains.

The development of the CSDDD reflects the EU's commitment to promoting sustainable and responsible business conduct. It builds upon the UNGPs, the OECD MNE Guidelines, and the ILO MNE Declaration, mandating companies to implement due diligence processes to identify, prevent, mitigate, and remedy adverse human

³⁹ (International Labour Organization, 2022, p. 7)

⁴⁰ European Commission. (2024). *Corporate sustainability due diligence*. Retrieved from https://commission.europa.eu/business-economy-euro/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en

rights and environmental impacts. This process encompasses their operations, those of subsidiaries, and their value chains, including direct and indirect business relationships⁴¹. This process reflects the six steps outlined in the OECD Due Diligence Guidance for Responsible Business Conduct⁴², adapted to address human rights and environmental concerns⁴³. The CSDDD expands the MNE Guidelines, which traditionally address voluntary measures, by imposing mandatory obligations to companies within and outside the EU.

The CSDDD applies to companies established in the EU and third-country companies with significant operations in the EU market, following Article 2, which outlines the directive's scope. For EU-based companies, the directive covers those with more than 1,000 employees and a net worldwide turnover exceeding €450 million in the last financial year. It also includes medium-sized companies with a net worldwide turnover above €150 million, specifically in high-risk sectors such as textiles, minerals, and agriculture. For non-EU companies, the directive applies if they generate substantial turnover within the EU. Companies with a net turnover above €150 million in the EU and those in high-risk sectors generating a net turnover above €40 million in the EU are covered. The thresholds ensure that companies with significant economic influence and risk exposure are subject to due diligence requirements.

Including non-EU companies reflects the EU's intention to address global value chains comprehensively and ensure a level playing field for businesses operating in the EU market. By using turnover as the determining factor, the directive ties its application to the economic impact of companies within the EU, thereby creating a territorial connection justified under international law⁴⁴.

The CSDDD's influence on the BHR framework is multifaceted. It harmonises due diligence requirements across EU member states, reducing fragmentation and

⁴¹ (European Parliament and Council of the European Union, 2024, Recitals 5 and 6)

⁴² Organisation for Economic Co-operation and Development (OECD). (2018). *OECD due diligence guidance for responsible business conduct*. Paris: OECD Publishing. Retrieved from <https://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm>

⁴³ (European Parliament and Council of the European Union, 2024, Recital 20)

⁴⁴ (European Parliament and Council of the European Union, 2024, Recital 30)

providing more precise expectations for businesses operating within the EU. This harmonisation is expected to drive significant changes in corporate behaviour. The directive represents a transformative step in the evolution of BHR by codifying mandatory human rights and environmental due diligence. It strengthens corporate accountability and marks a step towards closing gaps left by voluntary standards such as the UNGPs, the OECD MNE Guidelines, and the ILO MNE Declaration.

2.2. Gender Dimensions in Business and Human Rights

The interpretation and application of gender under international law have undergone significant transformations over the decades, revealing persistent inadequacies. Historically, international human rights law adopted a binary and biological understanding of sex, equating it with male and female categories⁴⁵, as seen in foundational instruments like the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights⁴⁶ and the International Covenant on Economic, Social and Cultural Rights⁴⁷. In the words of Götzmann, “international human rights and economic institutions and businesses tend to use biological sex as a proxy for gender and gender as a proxy for women”⁴⁸. However, with the evolution of the concept of gender, mainly through feminist scholarship and activism, the limitations of this binary framework became evident as they promoted the invisibility of gendered inequalities⁴⁹.

⁴⁵Yahyaoui Krivenko, E. (2024). Sex and gender in international human rights law through the prism of the ‘women’ category in recent case law. *Human Rights Law Review*, 24(2), p. 3.

⁴⁶United Nations General Assembly. (1966). *International Covenant on Civil and Political Rights*. Retrieved from

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

⁴⁷United Nations General Assembly. (1966). *International Covenant on Economic, Social and Cultural Rights*. Retrieved from

<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

⁴⁸Götzmann, N., Bourke Martignoni, J., Meyersfeld, B., & Kaur, H. (2022). From formalism to feminism: Gender, business, and human rights. *Business and Human Rights Journal*, 7, p. 3

⁴⁹ Meyersfeld, B. (2013). Business, human rights and gender: A legal approach to external and internal considerations. In S. Deva & D. Bilchitz (Eds.), *Human rights obligations of business: Beyond the corporate responsibility to respect* (p. 193). Cambridge: Cambridge University Press.; Charlesworth, H., Chinkin, C., & Wright, S. (1991). Feminist approaches to international law. *The American Journal of International Law*, 85(4), p. 613.

One of the main limitations stems from the historical tendency of human rights frameworks to adopt a "gender-neutral" approach, which assumes that risks and harms affect all individuals equally, regardless of their gender⁵⁰. Another limitation pertains to the fact that this binary framework creates an artificial separation of sex as biological (male/female) and gender as social (men/women), further enhancing a reductive interpretation of gender, as it excludes non-binary, intersex and transgender identities⁵¹. Some steps have been taken to introduce a more fluid approach to gender, especially in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)⁵². The IHRL initially concentrated on addressing violence against women⁵³, putting gender under the "woman" category⁵⁴ and overshadowing a more comprehensive examination of the underlying gendered dynamics contributing to such violence. However, CEDAW's General Recommendation No. 35⁵⁵ marked a shift by bringing attention to the structural and systemic causes of gender-based violence. By adopting the term "gender-based violence against women," the Committee implicitly highlighted not only the relevance of this term for precision but also its acknowledgement that other gender identities, including men and non-binary individuals, can also be subjected to gender-based violence⁵⁶.

There is also the question of intersectionality. The concept was popularised by Kimberlé Crenshaw back in 1989, in which intersectionality circumscribes the several interactions between gender and race to illustrate the experiences of Black women⁵⁷.

⁵⁰ (Götzmann et al., 2022, p. 2)

⁵¹ (Yahyaoui Krivenko, 2024, pp. 8-11)

⁵² United Nations General Assembly. (1979). *Convention on the Elimination of All Forms of Discrimination Against Women*. Retrieved from

<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

⁵³ CEDAW. (1990). *General Recommendation No. 19: Violence against women (A/47/38). Declaration on the Elimination of Violence Against Women*. UN GA Res 48/104, 20 December; United Nations General Assembly. (1993). *Declaration on the Elimination of Violence Against Women (UN GA Res 48/104)*. December 20.

⁵⁴ CEDAW. (2017). *General Recommendation No. 35 on gender-based violence against women updating General Recommendation No. 19*. Retrieved from

<https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-35-2017-gender-based>

⁵⁵ CEDAW. (2017). *General Recommendation No. 35 on gender-based violence against women updating General Recommendation No. 19 (CEDAW/C/GC/35, para. 9)*. 26 July.

⁵⁶ (Yahyaoui Krivenko, 2024, p. 12)

⁵⁷ Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory, and antiracist politics. *University of Chicago Legal Forum*, 1989(1), pp. 139–167; Crenshaw, K. W. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 43(6), pp. 1241–1299.

However, the current understanding of intersectionality goes a bit further, investigating “how intersecting power relations influence social relations across diverse societies as well as individual experiences in everyday life”⁵⁸, examining how categories like race, gender, class, sexuality, nationality, ability, ethnicity, age, among others, are interconnected and influence one another in shaping experiences and social dynamics. Without an intersectional approach, gender-related human rights violations risk being addressed in a one-dimensional manner that overlooks the compounded forms of discrimination individuals may face.

The current BHR framework is profoundly entangled and influenced by this context of a somewhat gender-blind approach. Even though the BHR field was born out of the need to reveal and respond to the unequal power structure, the neutrality towards gender created deficiencies in applying the “Protect, Respect and Remedy” framework, especially in how businesses handle human rights due diligence. The gender-blind approach within foundational BHR instruments has led to the replication of systemic inequalities: this includes patriarchal, racialised, and neo-colonial structures, which are often overlooked but continue to marginalise women and other gender identities, particularly in the Global South. These structures are embedded in corporate models and supply chains, sustaining discriminatory practices⁵⁹. There is a tendency for businesses to instrumentalise gender equality by framing it as a business opportunity rather than addressing the root causes of discrimination. Initiatives such as “women’s empowerment” projects tend to view women as economic assets rather than as agents of change, reinforcing stereotypes and failing to challenge the broader systems that drive exploitation⁶⁰.

A great example is global supply chains (GSCs), where the devaluation of women’s labour emerges as a systemic issue deeply embedded in the very structure of these industries. Women, particularly in the Global South, often occupy roles characterised by informality and precarity. These positions lack legal protections, fair compensation,

⁵⁸ Collins, P. H., & Bilge, S. (2016). *Intersectionality* (p. 10). Cambridge: Polity Press.

⁵⁹ (Götzmann et al., 2022, p. 5)

⁶⁰ Simons, P., & Handl, M. (2019). Relations of ruling: A feminist critique of the United Nations guiding principles on business and human rights and violence against women in the context of resource extraction. *Canadian Journal of Women and the Law*, 31(1), pp. 113–147

and access to social security, rendering women disproportionately vulnerable to exploitation⁶¹. Under the guise of “employing women” and “empowering women by paying them”, structural inequalities are being perpetuated in this dynamic, with industries strategically relying on women’s unpaid or underpaid labour to sustain profitability. This dependence not only reinforces cycles of poverty but also entrenches gender-based discrimination across value chains⁶².

Sexual harassment and gender-based violence are pervasive in GSCs⁶³, often institutionalised through hierarchical employment relations and male-dominated leadership structures. For instance, industries where women make up the majority of the workforce, such as agriculture or manufacturing, frequently fail to establish or enforce sexual harassment policies⁶⁴. This systemic failure allows exploitative practices to persist unchecked, further marginalising women within these labour contexts.

Given this conjuncture, the gender dimensions of BHR instruments, such as the UNGPs and the CSDDD, warrant critical analysis. By interrogating the gender dimensions of these instruments, this analysis seeks to uncover their limitations and potential to advance a transformative agenda when it comes to gender. Such an agenda would move beyond superficial measures, embedding gender equality as a fundamental pillar of human rights due diligence and corporate accountability. In doing so, it would challenge the patriarchal, racialised, and neo-colonial structures that underpin global business practices, paving the way for a more inclusive and equitable BHR framework.

BHR scholars and activists criticised the UNGPs for lacking a robust and explicit gender perspective within their framework. One primary concern is the limited

⁶¹ (Götzmann et al., 2022, p. 3)

⁶² Barrientos, S. (2019). *Women workers in global value chains: Rights and voice* (Briefing Paper). University of Manchester

⁶³ Bourke-Martignoni, J., & Umlas, E. (2018). *Gender-responsive due diligence for business actors: Human rights-based approaches* (p. 16). Geneva Academy of International Humanitarian Law and Human Rights.

⁶⁴ Jacobs, S., Brahic, B., & Olaiya, M. M. (2015). Sexual harassment in an East African agribusiness supply chain. *The Economic and Labour Relations Review*, 26(3), pp. 393–410.; Khosla, N. (2009). The ready-made garments industry in Bangladesh: A means to reducing gender-based social exclusion of women? *Journal of International Women's Studies*, 11(1), pp. 289–303

recognition of the gendered impacts of business activities. The framework did not explicitly address how women face unique challenges, such as gender-based violence, unequal access to resources, or workplace discrimination.

Recognising the disproportionate impacts faced by women due to intersecting forms of discrimination, the UN Working Group on Business and Human Rights launched the “gender lens to the UNGPs” project in 2017, emphasising the need to have a gender perspective when implementing the Principles by offering gender guidance for the UNGPs⁶⁵. Later in 2019, this project resulted in two key outcomes, explained in the booklet “Gender Dimensions of the Guiding Principles on Business and Human Rights”: an identification of challenges and standards for gender equality and a three-step framework that encompasses a “gender-responsive assessment, gender transformative measures and gender transformative remedies” that can be used by states, businesses and other relevant stakeholders to incorporate gender equality in their processes⁶⁶.

According to the booklet, the gender-responsive assessment involves recognising and addressing barriers to equality; the gender-transformative measures focus on systemic change to eliminate discrimination; the gender-transformative remedies provide solutions that address underlying gendered power imbalances⁶⁷. The booklet identifies several challenges that underscore the necessity of a gender perspective, such as economic disparities, workplace discrimination and barriers to remedies. Women disproportionately lack access to financial resources and face systemic undervaluation of their monetary contributions, such as unpaid domestic work. These economic barriers are compounded by unequal wages and overrepresentation in precarious, informal, or part-time work⁶⁸. There are also persistent gender pay gaps and underrepresentation of women in leadership roles, as well as the issue of gender-based violence in the workplace⁶⁹. Regarding the barriers to remedies, the booklet

⁶⁵ United Nations Development Programme (UNDP). (2019). *Gender dimensions of the guiding principles on business and human rights*, p. 6.

⁶⁶ (UNDP, 2019, p. 7)

⁶⁷ (UNDP, 2019, p. 8)

⁶⁸ (UNDP, 2019, pp. 50-51)

⁶⁹ (UNDP, 2019, p. 52)

acknowledges that patriarchal norms and gender-neutral remedial mechanisms frequently obstruct women's ability to access justice. This challenge is particularly significant in cases of gender-based violence or discrimination, where structural biases in legal and institutional frameworks further aggravate the problem⁷⁰.

The UN Working Group's Gender Guidance is a transformative tool for addressing gender bias in implementing the UNGPs and challenging the prior gender blindness associated with the "Protect, Respect, and Remedy" framework. The Guidance effectively highlights, for example, that sexual and gender-based violence is a critical issue across all industries, regions, and facets of business and human rights (BHR), challenging the common misconception that such issues are confined to conflict zones. This perspective aligns closely with the adoption of ILO Convention 190 on Violence and Harassment⁷¹. Released concurrently with the Gender Guidance, the ILO Convention further amplifies the call for businesses to adopt comprehensive measures addressing violence and harassment. Together, these two instruments underscore the necessity of corporate accountability in promoting gender equity⁷².

A particularly valuable aspect of the Gender Guidance is its actionable insights, which provide practical examples for integrating gender considerations into the three pillars of the UNGP⁷³s. It emphasises the need for gender impact assessments as a core human rights due diligence component. It offers clear pathways for businesses to operationalise gender-sensitive practices - ensuring that gender considerations are embedded into due diligence tools and strategies, creating a foundation for systemic change.

Additionally, the Gender Guidance is robust in advancing substantive gender equality. It advocates for proactive measures, such as leveraging influence and implementing special measures to promote equality⁷⁴. This goes beyond a limited focus on non-discrimination as formal equality, broadening the scope to include meaningful,

⁷⁰ (UNDP, 2019, pp. 53-54)

⁷¹ International Labour Organization (ILO). (2019). *Violence and Harassment Convention, 2019 (No. 190)*

⁷² Danish Institute for Human Rights. (2021). *Addressing the gender dimensions of business and human rights*, p. 20

⁷³ (UNDP, 2019, Principles 3, 17, 19, 25 and 31)

⁷⁴ (UNDP, 2019, Principles 13)

outcome-oriented approaches. The Guidance thus positions gender equity as an essential element of BHR implementation, reframing it as integral rather than supplemental to the UNGPs framework.

Despite its strengths, several challenges limit the widespread impact of the Gender Guidance. Its visibility needs to improve, as organisations often default to broader frameworks like the UNGPs or Sustainable Development Goals (SDGs), which frequently lack specificity to address gender-related issues. This reflects a broader divide between gender studies and BHR, where integration remains inconsistent and insufficient.

While the concept of intersectionality is included in the Gender Guidance, it also presents challenges in practical application. The nuanced understanding required to address overlapping and interconnected forms of discrimination is still underdeveloped in many corporate and policy contexts. This gap limits stakeholders' ability to comprehensively address the unique impacts experienced by diverse groups of women and other marginalised identities⁷⁵.

Operationally, there are systemic barriers to embedding gender considerations into business practices. For example, collecting data on diversity while respecting privacy remains a significant hurdle for companies. States, in turn, frequently lack coherence in their approaches to gender, with progressive foreign policies on gender equality often not mirrored in domestic accountability frameworks for businesses operating overseas⁷⁶.

Gender considerations in BHR processes, such as treaty negotiations, remain siloed in documents such as the Gender Guidance of the UN Working Group rather than integrated into broader discussions. This fragmented approach limits the mainstreaming of gender perspectives and risks marginalising gender issues as peripheral concerns.

⁷⁵ (Danish Institute for Human Rights, 2021, p. 21)

⁷⁶ (Danish Institute for Human Rights, 2021, p. 21)

The voluntary basis of the Guidelines precedes the non-binding nature of the UNGPs, which means that although it makes their adoption easier for diverse stakeholders, the lack of enforcement mechanisms reduces the urgency for businesses and states to adopt the recommendations, as well as uneven implementation - since the relying on goodwill and voluntary adoption leads to inconsistent implementation across countries and industries⁷⁷.

In contrast, binding frameworks, such as the Corporate Sustainability Due Diligence Directive, have the potential to offer an opportunity to address these limitations by embedding enforceable obligations that integrate gender considerations into corporate due diligence processes. During the process of negotiation, the CSDDD gender dimension. However, the Directive only mentions the concept of gender once⁷⁸. This results in a superficial approach that resonates much with the traditional way of approaching gender in BHR instruments, rather than offering standards, strategies and guidance on systemic changes to be imposed on the target stakeholders of the Directive - that, in fact, address adverse impacts on women. In this regard, the CSDDD ends up failing the opportunity of taking a first step to make gender a binding priority to businesses in their due diligence processes and make companies accountable for their role in adverse human rights impacts on women affected by their activity.

2.3. Beyond Mandatory HRDD and Companies as Main Duty Bearers

The shift towards mandatory human rights due diligence frameworks marks a critical juncture in bridging the gaps left by voluntary initiatives, particularly in addressing the gendered impacts of corporate activities. While instruments like the UNGPs and the Gender Guidance have provided significant insights and direction, their non-binding nature limits their practical implications. The CSDDD, by introducing enforceable obligations, presents an opportunity to institutionalise accountability

⁷⁷ Augenstein, D. (2018). Negotiating the hard/soft law divide in business and human rights: The implementation of the UNGPs in the European Union. *Global Policy*, pp. 8–9

⁷⁸ European Parliament and Council of the European Union. (2024). Directive (EU) 2024/1760 of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859. *Official Journal of the European Union*, L 1760, 5 July, Recital 33

mechanisms for businesses. However, as noted earlier, the CSDDD's limited engagement with gender concerns signals a broader challenge in mainstreaming substantive gender equality within binding regulatory frameworks. This inadequacy raises pressing questions about the role of companies as duty-bearers in recognising and addressing the disproportionate risks and harms faced by women and marginalised gender identities. Corporate activities, particularly in global supply chains, not only perpetuate systemic gender-based inequalities but also actively contribute to exploitative dynamics.

Drawing insights from existing critiques and the broader context of international human rights law, this section explores if mandatory HRDD frameworks can serve as a transformative tool to address gendered impacts effectively. In particular, it examines how businesses can move beyond a tokenistic engagement with gender issues⁷⁹ and adopt a structural, intersectional approach that challenges patriarchal, racialised, and neo-colonial systems within their operations⁸⁰. This analysis underscores the expectations set for businesses under their responsibility to respect human rights, offering a pathway towards substantive equality and accountability in corporate human rights practices.

Mandatory HRDD frameworks have emerged as pivotal mechanisms for promoting corporate accountability, yet their capacity to address the deeply rooted structural inequalities inherent in global economic systems remains contested. Marianna Leite and David Jason Karp provide detailed critiques that unpack the limitations of HRDD frameworks and offer contrasting yet complementary perspectives on how they might evolve to foster substantive change.

Leite critiques HRDD as a "buzzword," arguing that its reliance on compliance mechanisms often serves to uphold neoliberal market logic rather than dismantle systemic inequalities⁸¹. She highlights how HRDD, while ostensibly aimed at addressing corporate harm, risks becoming a superficial tool that allows companies to

⁷⁹ Leite, M. (2023). Beyond buzzwords: Mandatory human rights due diligence and a rights-based approach to business models. *Business and Human Rights Journal*, 8, p. 198.

⁸⁰ (Leite, 2023, pp. 203-205)

⁸¹ (Leite, 2023, pp. 198-199)

appear compliant with human rights norms without making substantive changes to their business models⁸². This is particularly concerning in the context of global supply chains, where corporate activities disproportionately harm women and marginalised gender identities. Leite's analysis draws attention to the exploitative dynamics perpetuated by corporate structures, which are often deeply embedded in patriarchal, racialised, and neo-colonial systems.

Leite argues that HRDD frameworks must move beyond their current focus on risk management and embrace a truly intersectional approach that explicitly addresses these structural inequities. She advocates for mandatory gender impact assessments and inclusive stakeholder consultations as necessary tools to expose and rectify the unequal power dynamics within corporate operations⁸³. Furthermore, the author points out the critical role of states in complementing corporate accountability measures through transformative macroeconomic policies. By creating enabling environments for rights-based economies, states can help integrate human rights principles into the fabric of economic systems, ensuring that HRDD frameworks do not operate in isolation but as part of a broader effort to achieve systemic change⁸⁴.

On the other hand, Karp situates his critique within the normative and structural underpinnings of HRDD frameworks, particularly as articulated in the UNGPs. He argues that the separation of the "state duty to protect" from the "corporate responsibility to respect" reinforces a public/private divide characteristic of neoliberalism, which makes systemic harms caused by corporate actions invisible⁸⁵. This divide limits the capacity of HRDD to address broader societal inequalities and restricts the scope of corporate accountability to avoid direct harm. Karp introduces the concept of a "missing fourth pillar" within the UNGPs, proposing a collective political responsibility that integrates businesses, states, and other actors in dismantling the systems of power that perpetuate harm⁸⁶. This approach challenges the

⁸² (Leite, 2023, pp. 200-201)

⁸³ (Leite, 2023, pp. 203-205)

⁸⁴ (Leite, 2023, pp. 200-202)

⁸⁵ Karp, D. J. (2023). Business and human rights in a changing world order: Beyond the ethics of disembodied liberalism. *Business and Human Rights Journal*, 8, pp. 137–139

⁸⁶ (Karp, 2023, pp. 141-143)

neoliberal framing of HRDD and stresses the need for businesses to operate as agents of systemic change, addressing the root causes of inequality.

Karp critiques the UNGPs' reliance on the harm principle, which frames corporate responsibility primarily in avoiding direct harm rather than addressing structural inequalities⁸⁷. He proposes a more expansive understanding of corporate responsibility, a "missing fourth pillar" of the UNGPs. This concept highlights collective political responsibility, urging businesses, states, and civil society to collaboratively challenge and transform the systems of power that sustain inequality. Karp's analysis calls for fundamentally rethinking corporate roles, moving away from the neoliberal framing of businesses as isolated private actors and toward their recognition as integral components of global socio-political structures⁸⁸.

While Leite and Karp approach HRDD frameworks from different angles, their critiques converge on the need for these mechanisms to integrate structural reform and intersectionality as core principles. Both authors highlight that the current neoliberal framing of HRDD needs to be revised to address the complex, systemic challenges of global economic and social inequalities.

Leite's focus on macroeconomic policies and gendered impacts complements Karp's call for a normative redefinition of corporate and state roles. Together, they argue that HRDD frameworks must transcend their current limitations by embedding intersectionality into corporate accountability practices and reimagining the structural dynamics that underpin human rights abuses. Mandatory gender assessments, intersectional consultations, and state-driven economic reforms are critical components of this reimagined framework⁸⁹.

To achieve a mandatory and efficient gender assessment, HRDD frameworks must be reimagined as instruments of structural change rather than mere regulatory measures. This involves embedding gender-focused and intersectional analyses into corporate practices, mandating transparency and accountability in addressing systemic

⁸⁷ (Karp, 2023, pp. 141-142)

⁸⁸ (Karp, 2023, pp. 137-139)

⁸⁹ (Leite, 2023 pp. 202-204; Karp, 2023 pp. 141-143)

inequities, and reconfiguring state and corporate roles to create a more just global economic order. These reforms would empower HRDD frameworks to transcend tokenistic compliance and foster substantive equality - making them tools for risk mitigation and drivers of transformative justice.

Leite and Karp's combined critiques and proposals underscore the urgency of rethinking HRDD frameworks to address the systemic roots of inequality and human rights abuses. By embedding structural reform, intersectionality, and collective responsibility at the heart of HRDD, these frameworks can move beyond their current constraints and contribute meaningfully to a more equitable and accountable global order. These ideas challenge existing paradigms and call for a fundamental shift in how corporate responsibility is conceived and operationalised.

3. GENDER IN HUMAN RIGHTS DUE DILIGENCE

3.1. A Critical Examination of the "Gender Lens" in HRDD

The integration of gender considerations into human rights due diligence represents an important step toward addressing the disproportionate and systemic impacts of corporate activities on women. Building on the critiques of gender-blindness in BHR frameworks discussed in the previous chapter, this chapter focuses on how gender can be meaningfully incorporated into HRDD processes. The evolution of HRDD, particularly with the advent of mandatory frameworks like the CSDDD, has opened avenues for embedding gender considerations into corporate accountability. However, as observed, these frameworks often stop short of delivering substantive gender equality, instead perpetuating a tokenistic or surface-level engagement with gender issues.

In navigating this ground, it is crucial to distinguish between two key approaches: the application of a "gender lens" and the adoption of "gender-responsive HRDD". While the former centres on identifying gender-specific issues⁹⁰, more depth and proactive measures are often needed to address and remediate them. That is where a gender-responsive HRDD is relevant since its approach stands for actionable measures that recognise and rectify the power imbalances and systemic inequalities inherent in corporate operations and the current neoliberal world order⁹¹. These approaches are not merely semantic distinctions but reflect differing levels of commitment and impact in achieving gender equity within HRDD practices.

The concept of a "gender lens" in HRDD refers to incorporating gender-specific considerations into identifying, preventing, and mitigating human rights risks associated with corporate activities⁹². It seeks to address how women and other

⁹⁰ Organisation for Economic Co-operation and Development (OECD). (2023). *Applying a human rights and gender equality lens to the OECD evaluation criteria* (Final draft launch edition, p. 8). Development Co-operation Directorate

⁹¹ Bourke-Martignoni, J., & Umlas, E. (2018). *Gender-responsive due diligence for business actors: Human rights-based approaches* (p. 6). Geneva Academy of International Humanitarian Law and Human Rights.

⁹² Wagner, C. Z., & Stafford, N. K. (2022). Developing standards for gender-responsive human rights due diligence. In C. Lewis & C. Z. Wagner (Eds.), *A guide to human rights due diligence for lawyers* (p. 4). Saint Louis University - School of Law.

marginalised genders disproportionately experience the impacts of business operations due to systemic inequalities embedded in global economic and social structures⁹³.

However, the "gender lens" is often critiqued for its limited scope. Joanna Bourke Marignoni and Elizabeth Umlas point out that the term metaphorically suggests a filter through which HRDD processes are viewed rather than a structural integration of gender-responsive principles throughout the process⁹⁴. This conceptual framing risks marginalising gender as a secondary concern instead of embedding it as a fundamental element of corporate accountability.

One of the main limitations of the gender lens is its frequent focus on observation rather than actionable outcomes. While tools like gender-disaggregated data collection and stakeholder consultations are commonly promoted, they are often not accompanied by concrete strategies to address the systemic causes of gendered harms. This creates what Marignoni and Umlas describe as a "checklist mentality," where companies may recognise gender-specific risks without committing to meaningful action to resolve them⁹⁵.

The question of intersectionality still arises. The gender lens approach often isolates gender as a singular category of analysis, failing to consider intersecting factors like race, ethnicity, or socioeconomic status that shape the experiences of women and marginalised genders. For instance, in global supply chains, women disproportionately occupy precarious, low-paying roles and face risks of harassment and unpaid labour. However, the gender lens rarely advocates for comprehensive solutions to address these systemic inequities, such as labour protections or leadership opportunities for women⁹⁶.

⁹³Bourke-Martignoni, J., & Umlas, E. (2018). *Gender-responsive due diligence for business actors: Human rights-based approaches* (pp. 6, 14). Geneva Academy of International Humanitarian Law and Human Rights.

⁹⁴ (Bourke-Martignoni, J. and Umlas, E., 2018, p.6)

⁹⁵ (Bourke-Martignoni, J. and Umlas, E., 2018, pp. 14-15)

⁹⁶ (Bourke-Martignoni, J. and Umlas, E., 2018, p.19)

In sectors like global supply chains, land-based agricultural investments, and conflict-affected zones, applying a gender lens often highlights disparities without addressing the root causes of inequality. For example, while women workers in global supply chains face unique vulnerabilities like unequal pay and sexual harassment, the gender lens typically stops at identifying these issues without implementing systemic changes to dismantle the structures that perpetuate them⁹⁷.

After this analysis, the limitations of applying a gender lens in HRDD processes seem clear. This application alone can lead to tokenistic practices where companies perform surface-level actions, such as collecting gender-disaggregated data or implementing diversity initiatives, without addressing the systemic barriers that create and sustain gender inequalities within their structures. While the first appearance of the application of a gender lens to HRDD may seem to contribute to the mainstreaming of gender equality within corporate policies and practices - after all, companies would be thinking about gender and women. However, this practice ends up treating gender as an “add-on” to HRDD, perpetuating the idea that gender is a peripheral concern. This limits the HRDD processes' capacity to address complex and systemic inequalities. It undermines the goal of businesses engaging in active measures that not only consider women’s experiences but also take specific action to address them and mitigate the harms that are being caused.

3.2. Uncovering the Role of Gender-Responsive Human Rights Due Diligence

With the above-mentioned concerns in mind, Marignoni and Umlas discuss the need to transition from the limited scope of the gender lens to a more integrated and actionable approach, introducing the concept of gender-responsive HRDD. This framework incorporates gender considerations throughout the HRDD process, requiring companies to go beyond mere identification of risks to actively address and remediate gendered harms⁹⁸.

⁹⁷ (Bourke-Martignoni, J. and Umlas, E., 2018, pp. 19-20)

⁹⁸ (Bourke-Martignoni, J. and Umlas, E., 2018, p.6)

Gender-responsive human rights due diligence (GR-HRDD) represents a transformative shift in the way corporations address systemic and structural gender inequalities in their operations. Moving beyond the limited scope of the "gender lens" approach, GR-HRDD actively seeks to dismantle entrenched patriarchal norms and power structures, address the root causes of gendered harms, and promote substantive equality across all aspects of corporate activity. This section explores the defining characteristics of GR-HRDD, the actions it entails, and its potential to redress the limitations of gender-lens applications in HRDD.

As mentioned, the core of GR-HRDD involves integrating a gender-sensitive perspective into all stages of the human rights due diligence process. It entails identifying, mitigating, and addressing human rights risks with a comprehensive understanding of how business operations disproportionately impact women and other marginalised groups. Unlike the "gender lens," which often remains observational, GR-HRDD is characterised by actionable and transformative measures that directly confront systemic barriers and inequalities. This approach aligns with the UNGPs, highlighting the importance of addressing gender-specific risks and vulnerabilities in corporate activities⁹⁹.

For a gender-responsive HRDD process, businesses must incorporate a structural integration of gender principles in their structures, ensuring they are embedded throughout corporate policies, practices, and impact assessments. It recognises that achieving gender equality requires not only equal treatment but also proactive measures to empower women and other marginalised groups in overcoming historical and structural disadvantages.

Aligned with the UNGPs Gender Guidance, GR-HRDD is operationalised through three interrelated pillars: gender-responsive assessments, gender-transformative measures, and remedies. A gender-responsive assessment entails analysing corporate activities' specific and intersectional impacts on women. For example,

⁹⁹ Wagner, C. Z., & Stafford, N. K. (2022). Developing standards for gender-responsive human rights due diligence. In *A guide to human rights due diligence for lawyers* (Chapter 12, pp. 5–7). Saint Louis University - School of Law.

identifying that women in informal sectors or global supply chains often face compounded risks of exploitation, violence, and discrimination. GR-HRDD ensures that such impacts are identified and addressed through meaningful consultations with affected communities and the use of gender-disaggregated data¹⁰⁰. Some key practices could include collecting gender-disaggregated data to illuminate disparities in pay, working conditions, and representation; conducting targeted consultations with women and gender-diverse individuals to understand their lived experiences in the context of the business; and, on a last example, employing a participatory approach that ensures women's voices are central to the evaluation process. In turn, gender-transformative measures move beyond identifying risks to implement measures that address the root causes of gender inequality. This includes policies that ensure equitable representation in leadership, eliminate harassment and gender-based violence, and provide fair wages and labour protections¹⁰¹. Lastly, approaching remedies in a gender-responsive way is prioritising remedies that go beyond compensation to address structural inequalities. For example, businesses may provide community-based programs that enhance women's access to education and economic opportunities or work with local governments to improve legal protections for women¹⁰².

The transition from a "gender lens" to a gender-responsive human rights due diligence framework offers companies a critical opportunity to address structural and systemic inequalities inherent in their global value chains. Applying GR-HRDD extends beyond superficial compliance and emphasises actionable strategies to embed gender equity in corporate operations, ensuring substantial improvements in women's working conditions, representation, and agency¹⁰³.

In summary, while applying a gender lens in HRDD is essential for identifying and understanding the specific risks and impacts of corporate activities on women, it does not inherently translate into gender-responsive action. A gender lens serves

¹⁰⁰ (Wagner and Stafford, 2022, pp. 9-12)

¹⁰¹ (Wagner and Stafford, 2022, pp. 14-16)

¹⁰² (Wagner and Stafford, 2022, pp. 16-18)

¹⁰³ Tobalagba, A. (2020). Corporate human rights due diligence and assessing risks of sexual violence in large-scale mining operations. *Australian Journal of Human Rights*, 26(2), pp. 358–359.

more as a diagnostic tool, offering a perspective to uncover inequalities and vulnerabilities that might otherwise remain invisible. However, this process stops at recognition and identification. A gender-responsive HRDD, on the other hand, builds upon this identification phase by operationalising actionable measures that address the risks and promote equitable outcomes. This distinction between "identifying" and "responding" is not just theoretical but reflects differing intentions and procedural requirements.

From a critical analysis point of view, conflating these concepts within HRDD frameworks risks diluting their respective roles. Treating a gender lens and a gender-responsive approach as interchangeable overlooks the unique function each plays within the broader HRDD process. A gender lens is instrumental for uncovering disproportionate impacts and creating awareness, but a gender-responsive approach is critical for embedding that awareness into policy, practice, and enforcement.

Categorising them as separate yet complementary concepts allows for more precise integration into HRDD frameworks. This intentional differentiation ensures that HRDD not only identifies gendered risks but also translates these insights into transformative actions, reinforcing businesses' role as active contributors to gender equality rather than passive observers of inequality. By embedding both elements in a structured and sequential manner, HRDD can better address the complex and systemic challenges posed by corporate activities, paving the way for more equitable and inclusive outcomes.

4. ANALYSIS OF A GENDER LENS IN HUMAN RIGHTS DUE DILIGENCE IN CONTEXT

Transitioning from the theoretical underpinnings of gender-responsive human rights due diligence, this chapter delves into its practical implementation by analysing three distinct case studies. By examining the application of GR-HRDD in Indonesia, Thailand, and within FIFA's global operations, this chapter illustrates the multifaceted challenges and opportunities of integrating gender considerations into

corporate human rights practices. These case studies represent diverse contexts—spanning national, sectoral, and organisational dimensions—allowing for a comparative exploration of how GR-HRDD frameworks translate into real-world settings.

The case of Indonesia highlights the intersection of labour rights and gender, particularly in sectors where systemic barriers perpetuate inequality for female workers¹⁰⁴. Through an analysis of the country's legal framework and its alignment with international human rights standards, this study assesses the effectiveness of national mechanisms in addressing gendered vulnerabilities within the workforce.

Meanwhile, the case of Thailand provides insights into the application of a gender lens within the context of broader societal inequities, including issues of land rights, workplace discrimination, and the marginalisation of women from indigenous and rural communities¹⁰⁵. The focus here is on how community-driven approaches and civil society engagement can address gaps in state and corporate accountability.

Lastly, the FIFA case study explores the organisation's attempts to incorporate feminist principles into its governance structures¹⁰⁶. This example sheds light on the challenges of implementing GR-HRDD within an international and highly visible organisation, emphasising the persistent gaps between policy commitments and the lived realities of women in the world of football.

By analysing these cases, this chapter aims to identify recurring patterns of success and failure in the operationalisation of GR-HRDD. Each study underscores the importance of contextualising gender-responsive initiatives within local cultural, legal, and economic frameworks while also revealing the systemic obstacles that hinder transformative change. This analysis will provide a foundation for drawing

¹⁰⁴ Putra, A. M. A., & Hidayah, N. P. (2023). Implementation of business and human rights principles (UNGPs) in the protection given to Indonesian laborers: Gender perspective. *Jurnal Cita Hukum (Indonesian Law Journal)*, 11(1).

¹⁰⁵ Pradichit, E., & Phonphra, S. (2019). *Applying a gender lens to the UNGPs in the context of Thailand: Working paper*. Manushya Foundation.

¹⁰⁶ Heerdt, D., & Bernaz, N. (2022). Elements for FIFA's feminist transformation: The case for indicators on football and women's rights. *International Journal of Constitutional Law*, 20(1).

broader conclusions about the structural and practical changes needed to achieve substantive gender equality in BHR practices.

4.1. Indonesia: Navigating Labor Rights Through a Gender Lens in a Developing Economy

The study developed by Arsyi Manggali Arya Putra and Nur Putri Hidayah on the application of a gender perspective in UNGPs implementation in Indonesian workers reveals critical insights into the systemic failures and unrealised potential of applying a gender lens to human rights due diligence in Indonesia. A deeper analysis of the evidence provided demonstrates that while the framework for such an approach exists within the UNGPs and national laws, the practical application falls short of addressing the disproportionate burdens borne by women due to corporate activities.

Indonesia's legal framework offers a foundation for worker protection, yet it falls short of mandating gender-sensitive corporate practices. Laws such as the Employment Law¹⁰⁷ and its amendments provide theoretical guarantees of equal treatment but lack mechanisms to ensure compliance. For instance, the law acknowledges women's rights to menstrual leave, maternity leave, and breastfeeding breaks¹⁰⁸. These rights are often undermined by corporate practices that either ignore or explicitly violate them. Many companies refuse to accommodate breastfeeding breaks or provide facilities such as nursing rooms despite legal requirements. This disconnection between legal provisions and real-world application highlights a broader issue: the absence of enforcement mechanisms. Regulatory bodies tasked with monitoring corporate compliance often lack the resources or authority to hold businesses accountable. As a result, women workers are left vulnerable to exploitation and discrimination, with little recourse for addressing violations¹⁰⁹.

¹⁰⁷International Labour Organization (ILO). (2004). *Indonesia: Law Number 13 of 2003 concerning manpower*. Natlex Database. Retrieved from https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=64764

¹⁰⁸ (Putra and Hidayah, 2023, pp. 169-170)

¹⁰⁹ (Putra and Hidayah, 2023, pp. 171-172)

In addition to legal shortcomings, cultural and institutional factors play a significant role in perpetuating gender inequality in the workplace. The study identifies deeply ingrained patriarchal attitudes as a major barrier to the implementation of gender-sensitive human rights practices. Women are often perceived as less capable than men, which affects their opportunities for career advancement and leadership roles. Even when women perform tasks equal to or more demanding than their male counterparts, they are frequently underpaid and undervalued¹¹⁰. These biases are not limited to wage disparities. Women workers are also marginalised in discussions about workplace policies and practices, leaving their needs and perspectives unaddressed. For example, many companies fail to provide facilities such as separate restrooms or breastfeeding rooms despite legal requirements¹¹¹. This neglect reflects a broader disregard for women's rights within the corporate sphere, perpetuating cycles of discrimination and inequality.

The second pillar of the UNGPs, as already mentioned in this thesis, embraces the corporate responsibility to respect human rights, which includes conducting human rights due diligence to identify, assess, and address potential risks. However, as the study notes, most companies operating in Indonesia fail to incorporate a gender lens into these processes¹¹².

As already concluded, effective due diligence requires companies to acknowledge the specific ways in which their operations impact women and assess risks related to health and safety, such as exposure to workplace harassment or inadequate accommodations for pregnant workers. Yet many businesses lack the structures or incentives to perform these assessments. As a result, women workers are left without the protections they need, and the broader objectives of human rights due diligence remain unmet.

Transparency is another critical component of due diligence. Companies are expected to report on their human rights impacts and mitigation efforts, but few

¹¹⁰ (Putra and Hidayah, 2023, pp. 169)

¹¹¹ (Putra and Hidayah, 2023, pp. 169 -171)

¹¹² (Putra and Hidayah, 2023, pp. 171-172)

provide gender-disaggregated data¹¹³. This lack of accountability makes it difficult to evaluate the effectiveness of corporate practices in addressing gender disparities. Without a clear understanding of how corporate activities affect women, businesses cannot take the necessary steps to mitigate harm.

Regarding access to effective remediation for victims of human rights violations, the third pillar of the UNGPs, for women workers, includes judicial and non-judicial grievance mechanisms, as well as recovery measures tailored to their specific needs. However, the study highlights significant gaps in the availability and accessibility of these mechanisms¹¹⁴. Many women face cultural and logistical barriers to seeking remediation. Fear of retaliation, social stigma, and lack of awareness about their rights often prevent women from filing complaints. Even when they do pursue legal action, the outcomes are often insufficient to address the full scope of their harm. Remediation efforts rarely include measures such as counselling, rehabilitation, or career support, leaving women without the resources they need to recover and rebuild. These shortcomings are compounded by the lack of gender-sensitive guidelines for remediation. Existing mechanisms are designed to address general human rights violations and fail to account for the unique challenges faced by women. This oversight not only limits the effectiveness of remediation efforts but also perpetuates systemic inequalities within the workplace.

The authors recommend addressing these identified shortcomings by integrating a gender lens into HRDD. Given the non-binding nature of the UNGPs, national laws should explicitly require companies to conduct gender-sensitive human rights impact assessments and report on their findings. Regulatory bodies should be empowered to enforce these requirements and hold businesses accountable for noncompliance. To enhance their corporate accountability, businesses should adopt clear guidelines for integrating gender considerations into their human rights policies and practices, including collecting and reporting gender-disaggregated data to improve transparency and accountability¹¹⁵. Another recommendation is

¹¹³ (Putra and Hidayah, 2023, p. 171)

¹¹⁴ (Putra and Hidayah, 2023, pp. 172-173)

¹¹⁵ (Putra and Hidayah, 2023, p. 171)

improving remediation mechanisms, where judicial and non-judicial grievance processes should be restructured to address the specific needs of women. Recovery measures should include both financial and non-financial support, such as counselling and career development programs¹¹⁶.

A critical analysis of the study's conclusions reveals significant challenges in operationalising a gender lens within human rights due diligence frameworks. While legal structures such as Indonesia's Employment Law establish formal protections, the persistent gap in enforcement mechanisms highlights a deeper issue: the insufficient prioritisation of gender-specific human rights within both state and corporate governance structures. This gap is not merely a failure of implementation but a reflection of systemic biases, where patriarchal norms shape not only workplace dynamics but also the institutional frameworks that oversee corporate accountability. Furthermore, the lack of gender-disaggregated data is symptomatic of a broader disregard for transparency and accountability, which undermines any meaningful effort to identify and mitigate gender-specific risks.

The inadequate remediation mechanisms fail to consider the socio-economic and cultural contexts that uniquely affect women. Addressing these deficiencies requires a paradigm shift in how businesses and regulatory bodies approach human rights due diligence - one that moves beyond compliance to actively dismantle structural inequalities and prioritise inclusivity in policy design and practice. This calls for a more holistic integration of gender considerations across all stages of corporate governance, paired with systemic reforms in enforcement and cultural attitudes to drive sustainable change.

Relating the distinction between a gender lens and gender-responsive HRDD to the Indonesia case reveals both the potential and limitations of each approach within this specific socio-legal and cultural context. The challenges faced by women workers in Indonesia - such as wage discrimination, lack of workplace protections, and entrenched patriarchal norms¹¹⁷ - highlight the need for a robust framework that

¹¹⁶ (Putra and Hidayah, 2023, p. 173)

¹¹⁷ (Putra and Hidayah, 2023, pp. 169-171)

goes beyond surface-level gender considerations. A gender lens helps highlight the systemic inequities faced by women that are often ignored in corporate risk assessments, providing an “entry point” to recognise and address these challenges.

By identifying immediate gender-specific risks, companies operating in Indonesia can make relatively simple but impactful adjustments, such as ensuring compliance with labour laws. These are crucial first steps in a context where legal enforcement mechanisms are weak. However, as the Indonesia study points out, using a gender lens alone risks treating gender as an isolated issue rather than addressing the systemic drivers of inequality, such as patriarchal norms and inadequate corporate accountability structures¹¹⁸. To promote transformational change and apply a gender-responsive approach to HRDD, a step further would be meaningful engagement with women workers and other stakeholders. This contrasts with the top-down approaches often observed in Indonesian corporations, which fail to include women in decision-making processes¹¹⁹.

4.2. Thailand: Community-Driven Approaches to Gender-Responsive HRDD in Marginalised Settings

Building on the insights from the Indonesia case, the analysis now shifts to Thailand, where the application of a gender lens in human rights due diligence provides a compelling example of community-driven approaches to addressing systemic gendered inequalities. Unlike Indonesia, where the emphasis lies predominantly on workplace-based discrimination and enforcement gaps, Thailand’s context highlights the intersection of broader societal inequities, such as land rights, environmental degradation, and the marginalisation of rural and indigenous women.

The Thai case, studied by Pradichit and Phonphra¹²⁰, illustrates how gender-responsive HRDD can engage with community voices to uncover and

¹¹⁸ (Putra and Hidayah, 2023, p. 170)

¹¹⁹ (Putra and Hidayah, 2023, pp. 171-172)

¹²⁰ Pradichit, E., & Phonphra, S. (2019). *Applying a gender lens to the UNGPs in the context of Thailand: Working paper*. Manushya Foundation.

address the nuanced ways corporate activities disproportionately impact women. By focusing on the lived experiences of women within rural and Indigenous communities, this case study explores how integrating a gender lens into HRDD processes can move beyond mere compliance to foster transformative social and economic outcomes¹²¹. It delves into the pivotal role of civil society organisations and grassroots movements in driving gender-inclusive policy reforms, as well as the challenges of state and corporate accountability in ensuring substantive gender equality.

This case study will examine Thailand's approach to gender-sensitive HRDD, shedding light on how it has been operationalised in a context shaped by patriarchal norms, socio-economic inequalities, and uneven power dynamics between corporations and marginalised communities. By evaluating the successes and limitations of Thailand's efforts, the study offers valuable insights into how community engagement and intersectional considerations can enrich HRDD practices and more effectively address systemic gender inequities.

Additionally, workplace discrimination remains a persistent issue in Thailand, with widespread sexual harassment and unequal treatment in recruitment, promotion, and wages. Despite legal protections under frameworks such as the Labour Protection Act¹²², gaps in enforcement leave many women vulnerable to exploitation¹²³. These systemic challenges need a shift from gender-lens approaches that merely identify issues to gender-responsive HRDD practices that actively mitigate harm and dismantle structural inequalities.

Concerning the transformative potential of community-driven approaches, civil society organisations and grassroots movements play a pivotal role in amplifying women's voices affected by corporate activities. For instance, women human rights defenders (WHRDs) face unique risks, including sexual violence, judicial

¹²¹ (Pradichit and Phonphra, 2019, pp. 10-12)

¹²² International Labour Organization (ILO). (2004). *Thailand: Labour Protection Act, B.E. 2541 (1998)*. Natlex Database. Retrieved from https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=49727

¹²³ (Pradichit and Phonphra, 2019, pp. 8-10)

harassment, and exclusion from public consultations¹²⁴. Addressing these challenges requires HRDD frameworks that integrate intersectional perspectives and prioritise the safety and empowerment of WHRDs.

This study examines the application of a gender lens in Thailand and illustrates how HRDD can move beyond compliance to foster meaningful social change. The analysis will evaluate successes in engaging community voices and addressing intersectional vulnerabilities while identifying persistent state and corporate accountability gaps. Through this lens, the Thailand case study offers critical insights into operationalising gender-responsive HRDD in contexts shaped by patriarchal norms and socio-economic inequities.

This case is deeply tied to issues of workplace discrimination, land rights, environmental degradation, trade agreements, and the exclusion of women—mainly rural and Indigenous women—from critical decision-making processes. The purpose of analysing it is to understand how Thailand’s experience relates to the transition from a gender lens, which identifies gender-specific impacts, to a gender-responsive HRDD framework, which aims to implement actionable, transformative measures.

A key feature of the Thailand case is the disproportionate impact of corporate activities on rural and indigenous women. Women in these communities often rely on land and natural resources for their livelihoods, yet they are systematically excluded from land-related decision-making processes, compensation schemes, and resettlement negotiations. Pradichit and Phonphras's study highlights how trade agreements like the Regional Comprehensive Economic Partnership (RCEP)¹²⁵ and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)¹²⁶ exacerbate these vulnerabilities by restricting traditional agricultural

¹²⁴ (Pradichit and Phonphra, 2019, pp. 14-15)

¹²⁵ Regional Comprehensive Economic Partnership (RCEP). (2020). *Regional Comprehensive Economic Partnership Agreement: Full text*. ASEAN. Retrieved from <https://asean.org/wp-content/uploads/2024/10/Regional-Comprehensive-Economic-Partnership-RCEP-Agreement-Full-Text.pdf>

¹²⁶ Department of Foreign Affairs and Trade (DFAT). (2018). *Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)*. Government of Australia. Retrieved from

practices such as seed sharing—roles traditionally held by women¹²⁷. A gender lens reveals the gender-specific risks tied to these agreements and corporate activities. However, a gender-responsive HRDD framework would further ensure that women are included in consultations and empowered to shape policies directly impacting their livelihoods. For example, integrating women into decision-making processes related to land use and compensation would address the structural inequalities perpetuating their marginalisation.

The Thailand case also underscores the critical role of Women Human Rights Defenders, who advocate for land rights, environmental protection, and gender equality. The study details the unique risks faced by WHRDs, including sexual violence, harassment, judicial persecution, and even extrajudicial killings¹²⁸. These defenders are often targeted because their activism challenges both corporate exploitation and entrenched patriarchal norms. The gender lens approach helps identify the threats faced by WHRDs. Still, a gender-responsive HRDD framework would actively mitigate these risks by implementing protections, such as legal safeguards and community-based support systems, to enable their continued advocacy.

Access to remedies is another critical area where Thailand demonstrates the need for gender-responsive HRDD. The study outlines women's systemic barriers to accessing judicial and non-judicial grievance mechanisms. These mechanisms are often ill-equipped to address gender-specific harms such as sexual violence and economic displacement¹²⁹. A gender lens highlights the inadequacy of these systems. Still, a gender-responsive HRDD framework would require the design and implementation of remedies that account for the unique needs of women. For instance, creating grievance mechanisms that are accessible, confidential, and culturally sensitive would ensure that women can seek justice without fear of retaliation or stigma.

<https://www.dfat.gov.au/trade/agreements/in-force/cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership>

¹²⁷ (Pradichit and Phonphra, 2019, pp. 10-12)

¹²⁸ (Pradichit and Phonphra, 2019, pp. 14-15)

¹²⁹ (Pradichit and Phonphra, 2019, p. 20)

Civil society organisations play a pivotal role in addressing these gaps. They amplify the voices of marginalised women, advocate for policy reforms, and hold corporations accountable for their actions. Their efforts demonstrate the transformative potential of integrating community-driven approaches into HRDD frameworks. For example, these organisations have successfully mobilised women to participate in consultations and negotiations, thereby challenging the top-down approaches that often dominate corporate and state practices¹³⁰.

Going into a critical analysis of the Thailand context, it illustrates the limitations of applying a gender lens in isolation. While this approach is instrumental in identifying gender-specific impacts, such as workplace harassment or excluding women from land rights discussions, as previously noted, it often stops short of demanding systemic change. This creates a risk of tokenistic compliance, where companies collect gender-disaggregated data or hold consultations without addressing the structural drivers of inequality¹³¹. In contrast, a gender-responsive HRDD framework operationalises actionable measures to address these inequalities. For example, it would mandate not only the inclusion of women in decision-making processes but also the implementation of policies that ensure equitable representation, fair wages, and protection against gender-based violence¹³².

The Thailand case highlights the evolution from a gender lens to a gender-responsive HRDD framework. The gender lens is critical for identifying and raising awareness of the disproportionate impacts of corporate activities on women. However, this study proves the point again that in order to achieve substantive gender equality, HRDD must be complemented by a gender-responsive approach that implements transformative measures to address systemic inequalities. This case underscores the importance of integrating intersectional perspectives, empowering women in marginalised communities, and fostering accountability through robust grievance mechanisms and protective measures for WHRDs. HRDD can move

¹³⁰ (Pradichit and Phonphra, 2019, pp. 14-15)

¹³¹ (Pradichit and Phonphra, 2019, pp. 10-12)

¹³² (Pradichit and Phonphra, 2019, pp. 20-22)

beyond observation to become a tool for meaningful social and economic change through these efforts.

4.3. FIFA: Advancing Gender-Responsive HRDD in Global Sports Governance

Moving from a country context to a company setting, this case study - brought by Heerdt and Bernaz¹³³ - examines the application of the 2019 UNGPs Gender Framework to FIFA's human rights policies and practices, focusing on the extent to which the framework enables a feminist transformation of FIFA's approach to human rights. This framework was designed to address systemic and structural gender inequities in human rights, emphasising the need for gender-responsive assessment, transformative measures, and remedies. It aims to ensure that organisations like FIFA move beyond superficial compliance and actively address the unique and disproportionate impacts their activities may have on women.

FIFA's engagement with human rights was formalised in 2015 when it commissioned John Ruggie to integrate the UNGPs into its policies and operations¹³⁴. Subsequent developments included the establishment of a Human Rights Policy in 2017¹³⁵, which explicitly acknowledged women as a group requiring special attention¹³⁶. However, despite these initiatives, the implementation of women's rights protections has remained inadequate. Cases of gender-based discrimination and abuse persist at all levels of football, underscoring the limited impact of these policies on the ground. For instance, systemic issues such as unequal pay, discriminatory treatment of women's teams, and widespread underrepresentation of women in football governance have yet to be effectively addressed¹³⁷. FIFA has often focused narrowly on issues like discrimination while neglecting the broader structural challenges that perpetuate gender inequities¹³⁸.

¹³³ Heerdt, D., & Bernaz, N. (2022). Elements for FIFA's feminist transformation: The case for indicators on football and women's rights. *International Journal of Constitutional Law*, 20(1)

¹³⁴ (Heerdt and Bernaz, 2022, p. 300)

¹³⁵ Fédération Internationale de Football Association (FIFA). (2017). *FIFA human rights policy*. Retrieved from <https://digitalhub.fifa.com/m/1a876c66a3f0498d/original/kr05dqyhwr1uhqy2lh6r-pdf.pdf>

¹³⁶ (Heerdt and Bernaz, 2022, p. 302)

¹³⁷ (Heerdt and Bernaz, 2022, p. 306)

¹³⁸ (Heerdt and Bernaz, 2022, p. 307)

As already studied in Chapter 2.2 of this thesis, the UNGP Gender Framework provides a pathway for integrating a gender perspective - in this case, throughout FIFA's human rights due diligence processes. It emphasises the importance of identifying and mitigating risks, engaging meaningfully with affected women and organisations, and implementing transformative remedies. Applying this framework has highlighted the need for FIFA to reframe its approach to women's rights. This requires moving beyond the "do no harm" principle, which assumes a default state of gender neutrality, to actively promote substantive gender equality¹³⁹. The framework also calls for an intersectional approach that considers the multiple and overlapping forms of discrimination that women face based on race, class, sexual orientation, or disability¹⁴⁰. Such an approach ensures that interventions do not merely address surface-level issues but engage with the deeper social and institutional dynamics that marginalise women in football.

In practice, FIFA's application of the UNGP Gender Framework has yielded mixed results. Positive steps have included efforts to implement anti-discrimination measures, such as monitoring systems during major tournaments and introducing bidding requirements for future events¹⁴¹. However, many of these measures have been critiqued as symbolic rather than transformative. For example, while FIFA's Women's Football Strategy ostensibly promotes gender equality, critics argue that it primarily serves as a marketing tool rather than a substantive policy framework for advancing women's rights¹⁴². Similarly, FIFA's initiatives to address sexual abuse cases, such as those involving officials in Afghanistan and Haiti, have focused on punishing individual perpetrators rather than addressing the institutional conditions that enable such abuses¹⁴³.

The study underscores the critical role of meaningful stakeholder engagement in addressing these shortcomings. For FIFA to effectively integrate a gender lens into its human rights due diligence, it must prioritise the voices of women and women's

¹³⁹ (Heerdt and Bernaz, 2022, p. 311)

¹⁴⁰ (Heerdt and Bernaz, 2022, p. 310)

¹⁴¹ (Heerdt and Bernaz, 2022, p. 306)

¹⁴² (Heerdt and Bernaz, 2022, p. 307)

¹⁴³ (Heerdt and Bernaz, 2022, p. 304-306)

organisations in shaping policies and designing grievance mechanisms. This requires recognising women as experts in their own experiences and creating spaces for their active participation. Furthermore, FIFA must ensure that its policies account for the cultural and social contexts in which its activities take place. For instance, in countries where football is deeply entrenched as a male-dominated sport, such as Iran or Brazil, FIFA's policies must strike a balance between respecting local cultural norms and challenging practices that harm women's rights¹⁴⁴.

The case study also highlights the limitations of existing accountability and remedy mechanisms within FIFA's governance structure. Women often face significant barriers in accessing these mechanisms due to their gender-insensitive design and male-dominated administration¹⁴⁵. Addressing these gaps requires FIFA to adopt gender-transformative remedies that not only provide redress for harm suffered but also address the systemic power imbalances that perpetuate abuses. This includes reforming FIFA's internal judicial bodies to ensure greater representation of women and integrating gender expertise into the administration of grievance mechanisms. Additionally, FIFA must hold member associations and confederations accountable for their human rights practices by leveraging its significant financial and contractual influence¹⁴⁶.

From a critical perspective of this case, the findings of the study indicate that while FIFA has made strides in recognising women's rights as a critical aspect of its human rights responsibilities, its efforts remain insufficient to address the full spectrum of gendered risks associated with its activities. A feminist transformation of FIFA's policies and practices requires a shift from a top-down compliance model to a participatory approach that centres on the voices of women and prioritises substantive equality¹⁴⁷. This transformation must be supported by robust monitoring systems that use gender-sensitive data to track progress and inform policy

¹⁴⁴ (Heerdt and Bernaz, 2022, p. 312)

¹⁴⁵ (Heerdt and Bernaz, 2022, p. 313)

¹⁴⁶ (Heerdt and Bernaz, 2022, pp. 314-315)

¹⁴⁷ (Heerdt and Bernaz, 2022, p. 309)

adjustments¹⁴⁸. Moreover, FIFA must move beyond its current focus on addressing individual cases of discrimination or abuse to tackle the structural inequalities that underlie these issues.

The application of the UNGP Gender Framework to FIFA's human rights policies reveals both the potential and the challenges of embedding a gender lens in organisational practices. While the framework provides a valuable tool for identifying and addressing the disproportionate impacts of corporate activities on women, its effectiveness depends on FIFA's willingness to implement systemic changes - which leads to the conclusion that FIFA is not approaching HRDD with gender-responsiveness yet. By embracing a feminist approach that integrates intersectionality, promotes meaningful participation, and prioritises transformative remedies, FIFA can begin to address the deep-rooted gender inequities in football governance and create a more inclusive and equitable future for the sport.

On a concluding note, this chapter's exploration of the application of a gender lens in HRDD and a gender-responsive HRDD in Indonesia, Thailand, and FIFA's global operations revealed critical insights into the challenges and opportunities of integrating gender considerations into corporate human rights practices across diverse contexts. Despite differences in geography, sector, and institutional structures, the case studies collectively highlight recurring themes that underscore the systemic barriers and transformative potential of applying a gender lens to human rights due diligence.

A key takeaway is the pivotal role of contextualisation in implementing GR-HRDD frameworks effectively. In Indonesia, the analysis underscores how legal provisions alone are insufficient without robust enforcement mechanisms and cultural shifts to dismantle entrenched patriarchal norms. While Indonesia's laws theoretically guarantee protections for women workers, the absence of compliance and accountability measures leaves them vulnerable to exploitation. Similarly, the lack

¹⁴⁸ (Heerdt and Bernaz, 2022, p. 312)

of gender-disaggregated data impedes transparency, illustrating the broader systemic neglect of gender-specific impacts in corporate risk assessments.

The Thailand case extends this discussion by highlighting how intersectionality enriches GR-HRDD practices. Here, the focus on rural and indigenous women reveals the compounded vulnerabilities arising from corporate activities intersecting with land rights, environmental degradation, and socio-economic inequities. The transformative potential of community-driven approaches, championed by civil society organisations and women human rights defenders, demonstrates the importance of inclusive and participatory frameworks. However, like Indonesia, Thailand's experience shows that transitioning from a gender lens to a fully gender-responsive approach remains a significant challenge, requiring systemic change and stronger accountability mechanisms.

The FIFA case offers a contrasting organisational perspective, revealing the complexities of embedding GR-HRDD in a global and highly visible institution. Despite progressive policies, FIFA's efforts are often criticised as symbolic, failing to address the structural gender inequalities in football governance. The case illustrates that superficial compliance - such as anti-discrimination monitoring or promotional strategies - cannot substitute for transformative action. A participatory, intersectional approach prioritising women's voices and implementing gender-sensitive remedies is essential for meaningful change.

The three case studies underscore the limitations of applying a gender lens in isolation. While valuable in identifying gender-specific risks, this approach often fails to address the systemic drivers of inequality. A gender-responsive HRDD framework, on the other hand, operationalises actionable measures that dismantle these structural barriers. Transitioning from a gender lens to a gender-responsive approach requires organisations to move beyond compliance and actively pursue transformative policies and practices.

5. CONCLUSION

This thesis critically examines the effectiveness of applying a gender lens to human rights due diligence, interrogating its potential to address corporate activities' disproportionate and systemic impacts on women. By analysing existing legal frameworks, business practices, and case studies across varied sectors and regions, the research reveals that while a gender lens provides initial visibility to gender-specific risks, it is fundamentally limited in scope and impact. The thesis advocates for a transformative shift toward gender-responsive HRDD, a framework that actively dismantles structural inequalities, promotes substantive gender equity, and fosters systemic accountability in corporate operations.

The persistence of patriarchal, racialised, and neo-colonial structures within businesses is highlighted in this thesis, revealing how these systems disproportionately exploit women, particularly in precarious and informal labour sectors. Despite international frameworks like the UN Guiding Principles on Business and Human Rights and the Corporate Sustainability Due Diligence Directive, the integration of gender considerations remains superficial and tokenistic. Initiatives often reduce women to economic assets, failing to address the root causes of inequality, such as gender-based violence, wage disparity, and unequal access to resources.

A key insight emerges from the inadequacies of current frameworks: the predominance of neoliberal logic in HRDD perpetuates risk management approaches that prioritise corporate reputation over transformative justice. This "checklist mentality" encourages surface-level compliance—such as gender-disaggregated data collection or vague commitments to diversity—without confronting entrenched power imbalances. The thesis critiques these practices as performative, arguing that they obscure the more profound systemic changes required to achieve genuine gender equity.

The case studies analysed in Indonesia, Thailand, and the global sports industry (FIFA) reveal the contextual complexities of gender-responsive HRDD. They demonstrate that local socio-economic conditions, cultural norms, and governance

structures significantly influence the effectiveness of gender integration. For example, community-driven approaches in Thailand showcase the power of grassroots initiatives in challenging corporate practices. At the same time, FIFA's gender lens strategy highlights the potential of global organisations to set higher standards. However, these examples also underscore the risks of reliance on voluntary measures, which often need more enforcement mechanisms and drive consistent change.

One of the insights taken from this study is the apparent absence of intersectionality in HRDD frameworks as a critical flaw. By failing to address how overlapping identities—such as race, class, and sexuality—compound gendered vulnerabilities, current frameworks risk perpetuating a one-dimensional understanding of harm, consequently making it even more invisible. The thesis provocatively suggests that HRDD frameworks must embrace intersectionality not as an "add-on" but as a central analytical tool to uncover and dismantle interlocking systems of oppression.

Drawing on critiques from scholars like Leite and Karp, the thesis challenges the neoliberal framing of corporate accountability. It calls for a "missing fourth pillar" in the UNGPs, emphasising collective political responsibility transcending the state-business binary. This reimagining positions corporations not merely as economic actors but as agents of systemic change that addresses structural inequalities embedded in global capitalism.

While binding regulations like the CSDDD represent progress, their limited engagement with gender issues highlights a paradox: without substantive gender integration, mandatory frameworks risk reinforcing existing inequalities under the guise of accountability. The thesis argues that the CSDDD, despite its potential, perpetuates a "gender-blind" approach, failing to leverage its power to drive transformative change. It calls for an urgent recalibration of regulatory frameworks to embed gender equity as a binding priority.

This thesis investigates the limitations of current HRDD practices in addressing corporate activities' disproportionate impacts on women. The research highlights the inadequacies of the "gender lens" approach. It argues for a transformative,

gender-responsive HRDD framework that not only acknowledges systemic gender inequalities but actively works to dismantle them through intersectional and structural reforms. Ultimately, this thesis calls for a paradigm shift in HRDD, urging businesses, states, and civil society to redefine corporate accountability collectively. GR-HRDD, as proposed, offers a roadmap for integrating gender equity into the heart of human rights practices. It challenges corporations to move beyond risk mitigation and adopt a proactive role in addressing systemic harms.

This transformation requires a holistic approach: integrating intersectional analyses, fostering inclusive stakeholder engagement, and embedding enforceable gender-focused measures into mandatory frameworks. It also necessitates a cultural shift within corporations, where gender equity is not merely a compliance requirement but a core value driving all business operations.

This thesis envisions a future where businesses contribute meaningfully to dismantling patriarchal and neocolonial systems, paving the way for a more equitable global order. Achieving this vision requires courage, innovation, and an unwavering commitment to justice—qualities corporations, states, and international institutions must embody to fulfil their human rights obligations.

BIBLIOGRAPHY

Books, journals, academic articles and research papers:

Augenstein, D. (2018). Negotiating the hard/soft law divide in business and human rights: The implementation of the UNGPs in the European Union. *Global Policy*.

Barrientos, S. (2019). Women workers in global value chains: Rights and voice. Briefing Paper. University of Manchester.

Bourke-Martignoni, J., & Umlas, E. (2018). Gender-responsive due diligence for business actors: Human rights-based approaches. Geneva: Geneva Academy of International Humanitarian Law and Human Rights.

Charlesworth, H., Chinkin, C., & Wright, S. (1991). Feminist approaches to international law. *American Journal of International Law*, 85(4), 613.

Collins, P. H., & Bilge, S. (2016). *Intersectionality*. Cambridge: Polity Press.

Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A black feminist critique of antidiscrimination doctrine, feminist theory, and antiracist politics. *University of Chicago Legal Forum*, 1989(1), 139–167.

Crenshaw, K. W. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of color. *Stanford Law Review*, 43(6).

Danish Institute for Human Rights. (2021). Addressing the gender dimensions of business and human rights.

Deva, S. (2012). *Regulating corporate human rights violations: Humanizing business*. London: Routledge.

Fédération Internationale de Football Association (FIFA). (2017). FIFA human rights policy. Retrieved from

<https://digitalhub.fifa.com/m/1a876c66a3f0498d/original/kr05dqyhwr1uhqy2lh6r-pdf.pdf>

Götzmann, N., Bourke-Martignoni, J., Meyersfeld, B., & Kaur, H. (2022). From formalism to feminism: Gender, business, and human rights. *Business and Human Rights Journal*, 7.

Heerdt, D., & Bernaz, N. (2022). Elements for FIFA's feminist transformation: The case for indicators on football and women's rights. *International Journal of Constitutional Law*, 20(1).

Jacobs, S., Brahic, B., & Olaiya, M. M. (2015). Sexual harassment in an East African agribusiness supply chain. *The Economic and Labour Relations Review*, 26(3).

Karp, D. J. (2023). Business and human rights in a changing world order: Beyond the ethics of disembedded liberalism. *Business and Human Rights Journal*, 8.

Khosla, N. (2009). The ready-made garments industry in Bangladesh: A means to reducing gender-based social exclusion of women? *Journal of International Women's Studies*, 11(1).

Leite, M. (2023). Beyond buzzwords: Mandatory human rights due diligence and a rights-based approach to business models. *Business and Human Rights Journal*, 8.

Meyersfeld, B. (2013). Business, human rights, and gender: A legal approach to external and internal considerations. In S. Deva & D. Bilchitz (Eds.), *Human rights obligations of business: Beyond the corporate responsibility to respect*. Cambridge: Cambridge University Press.

Pradichit, E., & Phonphra, S. (2019). Applying a gender lens to the UNGPs in the context of Thailand: Working Paper. Manushya Foundation.

Putra, A. M. A., & Hidayah, N. P. (2023). Implementation of business and human rights principles (UNGPs) in the protection given to Indonesian laborers: Gender perspective. *Jurnal Cita Hukum (Indonesian Law Journal)*.

Ruggie, J. G. (2007). Business and human rights: The evolving international agenda. *American Journal of International Law*, 101(4).

Ruggie, J. G. (2017). The social construction of the UN guiding principles on business and human rights. Corporate Responsibility Initiative Working Paper No. 67. Cambridge, MA: Harvard Kennedy School of Government.

Santoro, M. A. (2015). Business and human rights in historical perspective. *Journal of Human Rights*, 14(2).

Simons, P., & Handl, M. (2019). Relations of ruling: A feminist critique of the United Nations Guiding Principles on Business and Human Rights and violence against women in the context of resource extraction. *Canadian Journal of Women and the Law*, 31(1).

Slaughter, J. R. (2018). Hijacking human rights: Neoliberalism, the new historiography, and the end of the Third World. *Human Rights Quarterly*, 40(3).

Tobalagba, A. (2020). Corporate human rights due diligence and assessing risks of sexual violence in large-scale mining operations. *Australian Journal of Human Rights*, 26(2).

Wagner, C. Z., & Stafford, N. K. (2022). Developing standards for gender-responsive human rights due diligence. In C. Lewis & C. Z. Wagner (Eds.), *A guide to human rights due diligence for lawyers*. Saint Louis University - School of Law.

Yahyaoui Krivenko, E. (2024). Sex and gender in international human rights law through the prism of the 'women' category in recent case law. *Human Rights Law Review*, 24(2).

Zhao, K. (2023). Human rights due diligence law for gender equality in multinational enterprises. *Highlights in Business, Economics and Management*, 16.

Legislation:

CEDAW. (1990). General recommendation No. 19: Violence against women (A/47/38). United Nations General Assembly. (1993). Declaration on the elimination of violence against women (UN GA Res 48/104, 20 December).

CEDAW. (2017). General recommendation No. 35 on gender-based violence against women updating general recommendation No. 19. Retrieved from <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-35-2017-gender-based>

Department of Foreign Affairs and Trade (DFAT). (2018). Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). Government of Australia. Retrieved from <https://www.dfat.gov.au/trade/agreements/in-force/cptpp/comprehensive-and-progressive-agreement-for-trans-pacific-partnership>

European Commission. (2024). Corporate sustainability due diligence. Retrieved from https://commission.europa.eu/business-economy-euro/doing-business-eu/sustainability-due-diligence-responsible-business/corporate-sustainability-due-diligence_en

European Parliament and Council of the European Union. (2024). Directive (EU) 2024/1760 of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859. *Official Journal of the European Union*, L 1760, 5 July, Recital 33.

European Parliament and Council of the European Union. (2024). Directive (EU) 2024/1760 of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859. *Official Journal*

of the European Union, L 1760, 5 July. Retrieved from <https://eur-lex.europa.eu/eli/dir/2024/1760/oj>

Human Rights Council. (2011). Guiding principles on business and human rights: Implementing the United Nations “protect, respect and remedy” framework (A/HRC/17/31).

International Labour Organization (ILO). (2004). Indonesia: Law Number 13 of 2003 Concerning Manpower. Natlex Database. Retrieved from https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=64764

International Labour Organization (ILO). (2004). Thailand: Labour Protection Act, B.E. 2541 (1998). Natlex Database. Retrieved from https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=49727

International Labour Organization (ILO). (2019). Violence and Harassment Convention, 2019 (No. 190).

International Labour Organization. (2003). The Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration). Geneva: ILO. Retrieved from https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_emp/@emp_ent/@multi/documents/publication/wcms_094386.pdf

International Labour Organization. (2022). Tripartite declaration of principles concerning multinational enterprises and social policy (6th ed.). Geneva: ILO. Retrieved from <https://www.ilo.org/mnedeclaration>

Organisation for Economic Co-operation and Development (OECD). (2018). OECD due diligence guidance for responsible business conduct. Paris: OECD Publishing. Retrieved from <https://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm>

Organisation for Economic Co-operation and Development (OECD). (2023). Applying a human rights and gender equality lens to the OECD evaluation criteria: Final draft launch edition. Development Co-operation Directorate.

Organisation for Economic Co-operation and Development (OECD). (2023). OECD guidelines for multinational enterprises on responsible business conduct. Paris: OECD Publishing. Retrieved from <https://doi.org/10.1787/81f92357-en>

Regional Comprehensive Economic Partnership (RCEP). (2020). Regional Comprehensive Economic Partnership Agreement: Full text. ASEAN. Retrieved from <https://asean.org/wp-content/uploads/2024/10/Regional-Comprehensive-Economic-Partnership-RCEP-Agreement-Full-Text.pdf>

United Nations Development Programme (UNDP). (2019). Gender dimensions of the guiding principles on business and human rights.

United Nations General Assembly. (1966). International covenant on civil and political rights. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>

United Nations General Assembly. (1966). International covenant on economic, social and cultural rights. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>

United Nations General Assembly. (1979). Convention on the elimination of all forms of discrimination against women. Retrieved from <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>

United Nations. (1948). Universal Declaration of Human Rights. Retrieved from

https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.pdf

United Nations. (2011). Guiding principles on business and human rights: Implementing the United Nations “protect, respect and remedy” framework (Commentary to UNGP 12).

United Nations. (2011). Guiding principles on business and human rights. Retrieved from https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf