

A close-up portrait of a woman with dark hair, wearing a bright blue headscarf. She has a small gold nose ring and is looking directly at the camera with a neutral expression. The background is blurred.

Ensuring a gender-responsive and effective Corporate Due Diligence Legislation in 10 steps

Dhaka, Bangladesh. 23rd November, 2014. Victims of Tazreen Fashion made protest in front of press club demanding punishment for the Tazreen Fashion factory owner and compensation for the victims of the 2012 factory fire, in Savar, some 30 kilometres north of Dhaka. At least 124 people were killed in a massive blaze which engulfed the multi-storey garment factory on the outskirts of the Bangladesh capital in one of the worst fire tragedies in the country on November 25, 2012.

Cover picture: © Zakir Hossain Chowdhury Zakir / Alamy Stock Photo

Contents

Executive summary	page 4
Introduction	page 6
Step 1 : Ensure the scope covers the entire value chain	page 8
Step 2 : Ensure the scope covers companies of all sizes	page 10
Step 3 : Include all relevant human rights instruments and ensure it is updated regularly	page 12
Step 4 : Explicitly recognise that the adverse impacts of corporate activities are not gender neutral	page 14
Step 5 : Ensure gender is embedded in every step of the due diligence process	page 16
Step 6 : Ensure companies implement gender-responsive stakeholder engagement	page 18
Step 7 : Ensure companies' risk identification processes are gender sensitive	page 20
Step 8 : Ensure companies' remediation processes are gender responsive	page 22
Step 9 : Guarantee access to justice for those experiencing additional barriers	page 24
Step 10 : Ensure the protection of human rights defenders and safeguard complaint and whistleblowing mechanisms	page 26
Conclusion	page 28
Definitions	page 29
References	page 30

Executive summary

Adverse impacts of corporate activities are by no means gender neutral.

Pollution, land grabbing, the exploitation of workers, violence against human rights defenders... all have different and disproportionate effects on women. ActionAid's extensive work with communities around the world shows companies' involvement in such human rights abuses are often exacerbated by existing gender norms and intersecting vulnerabilities.

How are women affected differently ?

- In many sectors, women are faced with persisting sexual and gender-based violence in the workplace, victims often remain silent as it is seen sensitive or taboo.
- Women are also more vulnerable to land grabbing, as less than 15% of all formally recognised landholders globally are women.
- Environmental pollution may lead to degradation of land, affecting women's food gardens and leading to less food security.
- Water pollution makes more people sick and at the same time, women have to walk further to access clean water, leading to a higher care burden for women.
- Many women around the world, on the front line defending their fundamental rights and the environment, face violence, repression and gender-based violence.
- When seeking redress and remedy, women face more barriers to justice and suffer more reprisals than men.

Any legislative initiative that attempts to regulate business conduct must address such gendered impacts. Especially considering that in many sectors, such as textiles and agriculture, women make up the majority of the workforce.

In February 2022, the European Commission presented its proposal for a Corporate Sustainability Due Diligence Directive (CSDDD). It's a crucial opportunity to advance women's rights and gender equality in the international value chains of European companies. **However, considering the EU's commitment to gender equality, it is surprising that the Commission's proposal is completely gender-blind. The CSDDD risks leaving women behind.**

The time is now to capitalise on this unique opportunity and ensure this legislation makes a lasting difference in the lives of millions of women around the world.

ActionAid developed 10 recommendations to ensure gender-responsive and effective corporate sustainability due diligence legislation.

Step 1: Ensure the scope covers the entire value chain

Adverse impacts of business activities are more likely to occur in the lowest tiers of global value chains, at the facilities of indirect suppliers or in the informal economy. Moreover, women are more likely to depend on semi-formal or informal relationship schemes, unofficial subcontracting and home-based work. That is why the CSDDD should include all types of business relationships throughout the value chain.

Step 2: Ensure the scope covers companies of all sizes

Regardless of the size of a company, adverse impacts of business activities may take place in international value chains. Women are overrepresented in sectors which consist mainly of small to medium enterprises, such as the textile industry. Women will not benefit from this legislation, unless companies of all sizes are included in the CSDDD.

Step 3: Include all relevant human rights instruments and ensure it is updated regularly

Tremendous progress has been made in terms of women's rights and gender equality in existing international human rights frameworks. It is important that the CSDDD builds on this, by ensuring the rights covered are non-restrictive and includes important human rights provisions on women's rights, gender equality and the protection of human rights defenders.

Step 4: Explicitly recognise that the adverse impacts of corporate activities are not gender neutral

Differentiated impacts faced by women due to corporate activities relate to abuses of economic rights, decent work, impacts on their unpaid care work and persisting gender-based violence. These impacts often remain invisible. The CSDDD must explicitly recognise that different groups

and individuals are affected differently by actual and potential adverse impacts of corporate activities, including due to gender.

Step 5: Ensure gender is embedded in every step of the due diligence process

Gender-specific impacts happen in all sectors. Without addressing gender in due diligence processes, these impacts remain unaddressed or can even be exacerbated. To develop, design and evaluate policies that are responsive to women's experiences, and establish plans to mitigate and address differentiated impacts, the CSDDD must require that companies apply a gender lens throughout the entire due diligence process.

Step 6: Ensure companies implement gender-responsive stakeholder engagement

Women are often excluded from consultation and decision-making processes, so their voice is not heard unless specific attention is paid to their participation. Female workers, gender experts, NGOs, and women's organisations can provide tremendous support in pointing out gender risks and impacts. The CSDDD should require companies to apply a gender-responsive approach to stakeholder engagement in every step of the due diligence process.

Step 7: Ensure companies' risk identification processes are gender sensitive

Gender impacts only come to light when they are explicitly investigated. Issues such as sexual violence are often difficult to identify, as they are usually regarded as sensitive. The CSDDD should require companies to identify gender-specific trends and patterns in actual or potential adverse impacts. The use of disaggregated data is key to ensure an intersectional analysis of the risks.

Step 8: Ensure companies' remediation processes are gender responsive

Women can experience additional barriers in accessing remediation processes, especially if gender inequality is not taken into account. As an example, women are often not recognised as head of the household and are

therefore less likely to be considered in remedial mechanisms. The CSDDD should require companies to remediate adverse impacts and should require assessments whether women benefit equitably in compensation and provide for gender-responsive forms of redress.

Step 9: Guarantee access to justice for those experiencing additional barriers

Accessing justice is difficult for anyone who has had their rights violated by corporate activities, particularly for women and those in vulnerable situations. Therefore, specific provisions that require Member States to provide adequate policing and judicial mechanisms, including reversing the burden of proof for victims, as well as establishing a strong legal liability regime should be included in the CSDDD.

Step 10: Ensure the protection of human rights defenders and safeguard complaint and whistleblowing mechanisms

Standing up for human rights, too often, comes at a cost. Women environmental and human rights defenders often face gender-based violence to control and silence them. Complainants, whistleblowers and human rights defenders need to be able to put forward grievances safely, without fear of repercussion. The CSDDD should require Member States and companies to develop gender responsive warning systems and ensure the protection of (women) human rights defenders.*

For upcoming legislation to be truly effective and make a difference in many lives around the world, it is important that women are not left behind. The directive must recognise that women and marginalised groups face disproportionate impacts of business activities and provide for a comprehensive framework to prevent and end these abuses.

ActionAid calls on policy makers to ensure the CSDDD proposal is gender-responsive.

Introduction

Pollution, land grabbing, dire working conditions and other misconduct: the adverse human rights impacts of corporate activities are by no means gender neutral.

In many international value chains, such as garment manufacturing and agriculture, women make up the majority of the workforce¹. Yet their rights are often denied or not recognised. Throughout ActionAid's extensive work in communities around the world, we have repeatedly seen how companies can be involved in the degradation of women's lives and the violation of their rights. Business activities often lead to gender-specific harms and discrimination and exacerbate existing inequitable gender roles and structures within a community. Women do not have the same access as men to the resources and opportunities that international trade offers, yet they bear the brunt of its negative impact. In spite of this, many women around the world are on the front line defending their fundamental rights and the environment. But when seeking redress and remedy, they face more barriers to justice and suffer more reprisals than men.

In recent years, governments in several European countries have realised that voluntary measures are insufficient to improve corporate behaviour and have instead sought to enshrine international business and human rights standards in legislation.

For example, Norway, Germany and France have already passed human rights due diligence legislation, and similar laws are under discussion in the Netherlands, Finland, Austria, Belgium and Spain². For its part, the European Commission announced in 2020 its intention to adopt legislation on due diligence. The Corporate Sustainability Due Diligence Directive (CSDDD) will be applicable to European companies and those operating in the European market. As the world's largest trading bloc³, the European Union's decision to hold companies accountable for the negative impact of their activities could improve the living and working conditions of millions of people around the world.

This legislative process is a major opportunity to guarantee that businesses respect women's human rights, and to move towards gender equality... provided that gender-responsive obligations are included, in an intersectional approach⁴.

Unless gender issues are explicitly investigated in due diligence processes, they are unlikely to be identified by companies. For example, women are excluded from decision-making processes in many contexts, so their voice is not heard during consultations about corporate projects or investments, unless specifically arranged. The potential impact of violence against women is also not considered carefully enough, as this is usually regarded as a sensitive or taboo issue.

This is what we saw, for instance, after the adoption of the French law on the duty of vigilance. This law does not explicitly address violations of women's rights. It does not require companies to apply a gender lens⁵. As a result, companies subject to this law have adopted inadequate vigilance plans against violence and sexual harassment in their supply chains⁶.

Furthermore, rights holders are not a homogenous group. The adverse impacts of corporate activities affect both women and men, albeit differently. Because of intersecting and multiple forms of discrimination, women that also belong to other vulnerable groups may be affected differently by business activities depending on their age, caste, class, ethnicity, religion, language, literacy, access to economic resources, marital status, sexual orientation, gender identity, disability, geographical location or migration, indigenous or minority status, and other forms of identity. That is why applying a gender lens means taking an intersectional approach.

Preventative measures undertaken by companies based on gender-blind⁷ risk assessments can be misguided to the point of reinforcing gender inequalities.



Large buyers in the garment sector may (correctly) identify freedom of association as one of the salient risks in their supply chains and respond by collaborating directly with factories to establish workers' committees to strengthen workers' voices. Yet if these committees do not meaningfully include women – who are concentrated in the lower positions in garment factories, they may fail to recognise women's needs when representing workers and may exacerbate gender inequality within the factory*.

However, despite its potential, the proposed CSDDD issued by the European Commission in February 2022 is gender-blind.

The current text does not recognise that the adverse impacts of corporate activities have different and disproportionate impacts on women and other groups. This is particularly worrying, considering the lessons learned from previous gender-blind due diligence legislation.

Women make up half of the world population and a significant extent of the global economy is driven by their contribution, both in the workforce and at home. For upcoming legislation to be truly effective and make a difference in many lives around the world, it is important that it also works for women.

Therefore, ActionAid calls on policymakers to ensure the CSDDD proposal is gender responsive, by following the 10 steps laid out in this brief.

1. Even though the term 'women' is used throughout this briefing, ActionAid underscores that not only cisgender-women experience the disproportionate impacts of business activities, as many vulnerable groups experience intersecting forms of discrimination.

2. European Coalition for Corporate Justice(2022) Mandatory human rights due diligence map [online] Available from:<https://corporatejustice.org/wp-content/uploads/2022/01/ECCJ-mHREDD-map-January-2022.pdf>

3. EU Trade (2022) EU position in world trade [online] Available from: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/eu-position-world-trade_en

4. An intersectional approach shows the way that people's social identities can overlap, creating compounding experiences of discrimination. "We tend to talk about race inequality as separate from inequality based on gender, class, sexuality or immigrant status.

5. Applying a gender lens reveals the ways in which content and approaches are gendered – informed by, shaped by, or biased toward men's or women's perspectives or experiences.

6. ActionAid France (2021) Gender-Based Violence. Transnational corporations fall short on due diligence [Online] Available from: <https://admin.actionaid.fr/uploads/downloadFile/544/Rapport%20Vigilance%200%20Executive%20Summary%20WEB.pdf>

7. Gender-blind means the failure to recognise that the roles and responsibilities of women/girls and men/boys are ascribed to, or imposed upon, them in specific social, cultural, economic and political contexts.

8. ActionAid (2020) We Mean Business. Protecting Women's Rights in Global Supply Chains [Online] Available from: https://actionaid.nl/wp-content/uploads/2020/02/We-Mean-Business-Protecting-Womens-Rights-in-Global-Supply-Chains_ActionAid_March-2020.pdf

Step 1

Ensure the scope covers the entire value chain

How will women benefit from adjusting the scope of the CSDDD?

At present, companies' human rights due diligence processes often do not extend past tier 1 suppliers⁹. However, the adverse impacts of corporate activities are more likely to occur in the lowest tiers of global supply chains, at the facilities of indirect suppliers or subcontractors or in the informal economy, as there is less risk oversight and control¹⁰. Women are overrepresented in sectors¹¹ where demand for low-skilled labour at tier 2 or tier 3 supplier facilities is high, such as cotton plantations or tea estates¹². Or where informal work is the norm, such as in the garment sector where seamstresses often work from home, and thus fall beyond the scope of current due diligence processes¹³. Moreover, women are sometimes not part of the workforce but dependent on the workforce, such as in communities surrounding mining operations - where the majority of employees are men. Or they live in a community that is impacted by the operations of a supplier facility, such as communities who are dependent on the water or land that is polluted by large-scale agricultural operations, i.e. in the palm oil sector¹⁴. These impacts tend to be overlooked during due diligence processes, yet can be enormous in terms of likelihood, scale and severity.

When the COVID-19 pandemic hit, many large fashion brands in Europe, the US and Australia, such as Nike, cancelled or delayed orders, or requested large discounts from suppliers¹⁵. Thousands of factory workers in Bangladesh and Cambodia lost their jobs as a result. Now, it is extremely difficult for the workers and labour rights organisations to claim compensation for these job losses, as the brands refuse to release supplier lists or only release information on acknowledged end-production suppliers, not subcontractors or indirect suppliers. The fashion brands are currently making strong profits again, yet many Cambodian and Bangladeshi workers are still without a job or adequate compensation.

International standards on human rights due diligence, such as the OECD Guidelines for multinational enterprises, recommend including all types of business relationships in companies' due diligence processes. The current draft of the CSDDD falls short of this. It is important that every activity in the supply chain that can be linked, directly or indirectly to a companies' operations, products or services is included in the scope of the due diligence process. This will prevent and mitigate adverse impacts and strengthen women's rights. At present, the scope of the CSDDD remains limited to 'established business relationships', which means there is a risk that companies will engage in risk-avoidant behaviour. This includes only engaging in more volatile business relationships to avoid having to do due diligence for those partners or not being transparent about their suppliers to escape accountability. In doing so, companies will not have a real positive impact in their international supply chains.

If the large fashion brands were obligated to conduct due diligence for their entire value chain, they could have been held accountable for the responsibility to conduct due diligence, to identify the risks related to their actions, to act upon them and communicate about them, not only for the end-production suppliers they acknowledged but for all suppliers that were affected by their actions.

How to amend the CSDDD to ensure the scope covers the entire value chain

Article 1 of the CSDDD 'subject matter' should be broadened to include all business relationships throughout the value chain, not only established business relationships, and it should clarify that this includes semi-formal or informal relationship schemes, unofficial subcontracting and home-based work in which women are often over-represented.



Further reading

- ActionAid Australia (2021) Casualties of Fashion. How garment workers in Bangladesh and Cambodia are wearing the cost of Covid-19.
- ActionAid Netherlands (2020) We Mean Business: Protecting women's rights in global supply chains.
- European Coalition for Corporate Justice (2022) European Commission's proposal for a directive on Corporate Sustainability Due Diligence. A comprehensive analysis.
- ActionAid et al (2022) EU Corporate due diligence laws must be gender-responsive.

9. Business Continuity Institute (2019) Supply Chain Resilience. 10 year trend analysis. [Online] Available from: <https://www.thebci.org/static/uploads/d/6bd728bd-bf0e-4eb7-b15fa67164eb9484.pdf>

10. European Coalition for Corporate Justice. Priorities and HREDD [Online] Available from: <https://corporatejustice.org/priorities/>

11. Such as textile, agriculture, manufacturing, electronics, tourism, health and social care and domestic work.

12. ILO and Fair Wear Foundation. Global supply chains: where do women work and under what conditions? [Online] Available from: https://gbv.itcilo.org/index.php/briefing/show_paragraph/id/40.html

13. Fair Wear Foundation. How does Covid-19 affect women garment workers? [Online] Available from: <https://www.fairwear.org/covid-19-dossier/worker-engagement-and-monitoring/gender-analysis/>

14. Ibid.

15. ActionAid Australia (2021) Casualties of Fashion. How garment workers in Bangladesh and Cambodia are wearing the cost of Covid-19 [Online] Available from: <https://actionaid.org.au/wp-content/uploads/2021/12/CASUALTIES-OF-FASHON-HOW-GARMENT-WORKERS-IN-BANGLADESH-AND-CAMBODIA-ARE-WEARING-THE-COST-OF-COVID-19-Dec2021.pdf>

Step 2

Ensure the scope covers companies of all sizes

How will women benefit from including all companies in the scope of the CSDDD?

Women are overrepresented in sectors, such as the textile industry, which consists mainly of small to medium enterprises. In fact, globally, small to medium enterprises account for about 90% of all businesses and contribute up to 50% of all employment in the world¹⁶. The adverse impacts of corporate activities happen through its operations, products or services, regardless of the size of the company that has caused, contributed to or can be directly linked to these impacts. Therefore international standards recommend that all companies, regardless of size, conduct due diligence and prioritise action based on the severity and scope of the risks and potential impacts. In addition, many small to medium enterprises will be affected by the legislation as subsidiaries of multinationals¹⁷. This would create an unequal playing field if their peers were not covered by the same legislation. In Europe, 98.9% of all companies are small to medium enterprises, and they produce 55.9% of the total value added in the European economy. As the EU is the largest trading bloc in the world, they have a strong influence over advancing women's rights in global supply chains¹⁸.

More than 95% of Dutch textile companies are small to medium enterprises¹⁹. A study by the Clean Clothes Campaign found that with the current threshold proposed by the European Commission, only 5% of the companies in the textile and garment sector would be obligated to respect human rights and the environment in their value chains. This is particularly worrying, as this sector is often directly linked to the exploitation of workers, gender-based discrimination and environmental pollution, in addition to a strong lack of transparency and living wages. Women face the adverse impacts of corporate activities in this sector, as 80% of the world's garment workers are women²⁰. They often face precarious working environments, are at risk of violence and sexual abuse and have no basic labour rights, including no access to redress when injustices are faced at work, or right to collective bargaining.

As the legislation currently stands, only 0.2% of all European companies would be included in the scope of the CSDDD²¹. With such a narrow scope, a huge proportion of the workforce and potentially impacted rights holders, particularly women, in production countries would not reap the benefits of this legislation. In addition, there are other dimensions of the scope that are problematic. For example, the definition of high risk sectors is too narrow, as high risk sectors for women, such as tourism and electronics, are not included. Other problematic dimensions are the notion that due diligence by these companies should only be undertaken for 'severe' impacts, the exemption to conducting due diligence awarded to the financial sector and the fact that 'high risk contexts', such as conflict and post-conflict zones²², are not included.

How to amend the CSDDD to ensure the scope covers companies of all sizes

Article 2 of the CSDDD 'scope' should be amended to include all companies. This could be done by amending the article to include all companies and defining additional provisions to bring proportionality in the due diligence duty.

Further reading

- ActionAid UK (2015) Close the gap! The inequality of women's work.
- Clean Clothes Campaign (2021) Why all companies need to be included in due diligence and corporate accountability legislation.
- European Coalition for Corporate Justice (2022) Dangerous gaps undermine the European Commission's new legislation on sustainable supply chains.
- Shift (2020) On mandatory due diligence, SMEs don't need a free pass; they need flexibility.



© Clean Clothes Campaign #PayYourWorkers - Cambodia 2020

16. Shift (2020) On Mandatory Due Diligence, SME's don't need a free pass; they need flexibility [Online] Available from: <https://shiftproject.org/smes-mhrdd/>

17. Ibid.

18. Ibid.

19. Clean Clothes Campaign (2021) Why all companies need to be included in due diligence and corporate accountability legislation [Online] Available from: <https://www.schonekieren.nl/wp-content/uploads/2021/07/SKC-SME-report-2021-1.pdf>

20. ActionAid UK (2015) Close the gap! The inequality of women's work [Online] Available from: https://www.actionaid.org.uk/sites/default/files/publications/womens_rights_on-line_version_2.1.pdf

21. European Coalition for Corporate Justice (2022) Dangerous gaps undermine the EU Commission's new legislation on sustainable supply chains [Online] Available from: <https://corporatejustice.org/news/dangerous-gaps-undermine-eu-commissions-new-legislation-on-sustainable-supply-chains/>

22. European Coalition for Corporate Justice (2022) Joint Statement on Conflict Due Diligence Legislation [Online] Available from: <https://corporatejustice.org/wp-content/uploads/2022/08/Joint-Statement-on-Conflict-Due-Diligence-Legislation-.pdf>

Step 3

Include all relevant human rights instruments and ensure it is updated regularly

How will women benefit from human rights instruments being included in the CSDDD?

Women's rights organisations, gender experts and women human rights defenders have advocated for years for a strong, comprehensive international framework on women's rights and gender equality, and with success. Similarly, at both the international and the European level there are strong instruments protecting human rights and its defenders. In order to ensure a cohesive international law framework, it is important that the CSDDD builds on these existing treaties and conventions to provide maximum protection for women, human rights defenders and other vulnerable groups. As it stands, the definitions of human rights and environmental abuses in the CSDDD are too restrictive. Only when the rights of women and vulnerable groups have a solid legal footing in the legislation, will they be able to utilise the proposal to defend and protect their rights.

In 2018, Flormar, a subsidiary of French cosmetic brand the Rocher Group, based in Turkey, fired 132 workers, mostly women, without compensation because they attempted to unionise²³. It did this without interference from the parent company. As a French company, the Rocher Group falls under the French due diligence law and thus failed in its duty of care to protect worker's freedom to associate at its subsidiary. The Rocher Group's lack of vigilance also led to the systemic discrimination of women, as management at the factory implemented and maintained salary, working and rest conditions that discriminated against women. Because the right to non-discrimination is enshrined in international human rights and fundamental freedom laws on equal pay, it is part of the French due diligence law. ActionAid France, Sherpa and the Turkish union Petrol-İs were able to take the Rocher Group to court to request compensation for the workers.

Human rights instruments and rights that are essential to the protection of women's rights are not included in the draft annex of the CSDDD which lists the relevant instruments. The CSDDD also does not have a provision to ensure the legislation is updated as international human rights law advances. In order for the CSDDD to be as effective as possible and reflective of the times, it is important

that the CSDDD is regularly updated and reviewed to reflect these changes. The CSDDD needs to adequately protect all rights, either by ensuring the annex is non-exhaustive or by covering all internationally recognised human rights.

Just as ActionAid France, Sherpa and the Turkish union were able to rely on the fact that all human rights are covered by the French due diligence law to protect the rights of the Turkish women workers, the CSDDD could be instrumentalised to further women's rights by including important human rights instruments for advancing gender equality.

How to amend the CSDDD to include human rights instruments important to women's rights and gender equality

In article 3.c of the CSDDD, the definition of 'adverse human rights impact' should be expanded and should refer to 'any negative impact on the enjoyment of human rights', as enshrined in international human rights instruments. The annex part I (section 1 and 2) should be non-exhaustive and should avoid the worrying suggestion that some rights violations are more severe than others. Important human rights provisions and instruments on women's rights, gender equality and the protection of human rights defenders should be included:

Section 1:

- Articles 3 of ICESCR and the ICCPR, which both provide that States must guarantee the rights under the covenants equally to women and men
- Articles 1 and 2 of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW is critical for the protection against gender-based discrimination and violence including at work and for the protection of other women and girls' rights abuses committed by businesses.)

Section 2:

- Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children
- ILO Convention on Violence & Harassment in the World of Work (C-190)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
- EU Charter on Fundamental Rights
- European Convention on Human Rights
- UN Declaration on Human Rights Defenders

Further reading

- ActionAid France, Petrol-İş & Sherpa (2022) French cosmetics company Yves Rocher facing court proceedings for failure to ensure freedom of association and workers' rights in Turkey.
- European Coalition for Corporate Justice (2022) European Commission's proposal for a directive on Corporate Sustainability Due Diligence. A comprehensive analysis.



23. ActionAid France, Petrol-İş & Sherpa (2022) French cosmetics company Yves Rocher facing court proceedings for failure to ensure freedom of association and workers' rights in Turkey [Online] Available from: <https://admin.actionaid.fr/uploads/downloadFile/592/2022-03-23%20Press%20Release.pdf>

Step 4

Explicitly recognize that adverse impacts of corporate activities are not gender neutral



How will women benefit from explicitly recognizing gendered impacts of corporate activities?

The adverse impacts of corporate activities are not gender neutral; women are impacted disproportionately and differently due to existing gender inequality. This ranges from differentiated impacts to their economic rights, their access to and control over land and other resources, their right to decent work, impacts on their unpaid care work and the persistence of sexual and gender-based violence. For example, when women are economically or financially impacted by corporate activities, they face additional barriers in recovering from this. This is because, in many contexts, they do not have the same access to resources as men. And since women around the world still bear the brunt of unpaid care work such as collecting water, growing food and caring for the sick, it is women that face the most severe consequences of pollution and other adverse impacts.

A recent study by ActionAid and others found multiple adverse impacts on women's rights as the result of corporate activities in Uganda, Zimbabwe, Kenya and Guatemala²⁴. In Uganda, large-scale agriculture led to gender-based violence. In Zimbabwe, women faced destruction of land used to grow food for their families due to granite mining. In Guatemala, women who were defending their rights and the environment against a nickel mining company were met with violence and repression. Lastly, in Kenya, women working in sisal cultivation faced dire working conditions, as the employment lacked adequate accommodation for pregnancy, breastfeeding or menstruation needs, and they were sexually harassed. Many of the investigated companies either export to Europe or are headquartered in Europe.



Gender-specific impacts happen in all sectors from extractives, manufacturing and agriculture to hospitality, food services industry and the garment sector. Such issues frequently intersect with other grounds for discrimination and many women are further discriminated against based on intersecting identities, i.e. their ethnic origin, age, class, caste, migration status, gender identity and/or other factors. The current CSDDD text does not recognise the fact that the adverse impacts of corporate activities have differentiated impacts on individuals and vulnerable groups, including on women and girls. This is surprising considering the European Union's commitment to gender equality²⁵.

An explicit recognition in the CSDDD of the gendered impacts of corporate activities would send a strong message to companies on the importance of identifying and addressing these impacts in their supply chains. This would be a driving force behind advancing women's rights and gender equality around the world. European companies linked to the adverse impacts in Uganda, Kenya, Guatemala and Zimbabwe through their supply chain would be more likely to take steps to address these impacts.

How to amend the CSDDD to explicitly recognize the gendered impacts of corporate activities

The CSDDD should make explicit that different groups and individuals are affected differently by actual and potential adverse impacts of corporate activities, including due to gender. This should also be recognised in Article 4 on 'due diligence'.

Further reading

- ActionAid (2020) We mean business. Protecting women's rights in global supply chains.
- ActionAid et al (2022) Pathway to a feminist international corporate accountability framework.
- Feminists for Binding Treaty (2018) Women's rights beyond the business case. Ensuring corporate accountability.

²⁴. ActionAid et al (2022) Pathway to a feminist international corporate accountability framework [Online] Available from: <https://actionaid.nl/2022/10/24/pathway-to-a-feminist-international-corporate-accountability-framework/>

²⁵. See EU Gender Equality Strategy and Gender Action Plan III.

Step 5

Ensure gender is embedded in every step of the due diligence process

How will women benefit from gender due diligence being integrated into companies' policies?

As stated in the introduction, if gender risks are not adequately addressed during the due diligence process, we run the risk women will be left behind. Or, that well-meaning companies introduce misguided measures that could actually reinforce gender inequalities. Therefore, it is important that a gender lens is applied to every step of the due diligence process to ensure an effective risk identification and mitigation process that will truly offer a solution to women affected. If the CSDDD does not explicitly require companies to apply a gender lens during each step of the due diligence, the results of the legislation for women will be similar to that of the French due diligence law, where impacts on women's rights in the supply chains of French companies remain unaddressed in due diligence processes.

Research by ActionAid France shows that companies such as Bonduelle and La Compagnie Fruitière, that have to comply with the French due diligence law, have not identified gender-based violence as a risk in their supply chains and thus have not taken measures to address this. Yet, the research shows that female workers in their supply chains have experienced gender-based violence and harassment²⁶. In fact, 20-30% of workers in agricultural supply chains worldwide are women, working under conditions that increase the risk of gender-based violence²⁷. It is important that companies not only address the issue of gender-based violence but also address the underlying causes, such as the working conditions, to prevent the issue from happening again in the future.

Currently, the CSDDD doesn't require companies to apply a gender lens to the different steps of the due diligence process, increasing the likelihood that companies will not do this. The CSDDD should require companies to conduct due

diligence that is gender-responsive, paying attention to multiple or aggravated forms of discrimination and identifying overlapping vulnerabilities. And this should be accompanied by specific guidance on the issue for companies.

If companies like Bonduelle and La Compagnie Fruitière had been required by the French law to take into account a gender lens during every step of the due diligence process, they would certainly have identified gender-based violence as a risk and would have been more likely to take the necessary steps to prevent and mitigate this risk, improving the situation of women workers in their supply chains.

How to amend the CSDDD to ensure companies will carry out gender-responsive due diligence

Article 4 'due diligence' and Article 5 'integrating due diligence in companies' policies' of the CSDDD should require that companies implement gender-responsive due diligence by developing, designing and evaluating policies that are responsive to women's experiences and needs and establish plans to mitigate and address real and potential impacts that are gender responsive.

Further reading

- ActionAid (2020) We mean business. Protecting women's rights in global supply chains.
- ActionAid France (2021) Gender-based violence. Transnational corporations fall short on due diligence.



26. ActionAid France (2021) Gender-based violence. Transnational corporations fall short on due diligence [online] Available from: <https://admin.actionaid.fr/uploads/downloadFile/544/Rapport%20Vigilance%200%20Executive%20Summary%20WEB.pdf>

27. Ibid.

Step 6

Ensure companies implement gender-responsive stakeholder engagement

How will women benefit from companies' stakeholder engagement being gender responsive?

Stakeholder engagement is critical during every step of the due diligence process. People affected by the adverse impacts of corporate activities are best placed to advise companies about which issues have the greatest impact and should be prioritised and addressed in their due diligence processes. Stakeholder engagement is crucial in getting to the root cause of issues in the supply chain and to ensure the measures that are taken are responsive to the context and will prevent reoccurrence. For example, in the case of gender-based violence, it is often not enough to penalise the perpetrator. The working conditions enabling such violence should also be addressed and only those affected will be able to provide this context.

It is important to engage a diverse group of stakeholders, as specific groups are affected differently and addressing these impacts requires different strategies. For example, companies should consult both supply chain workers and community members, as they will have different needs and objectives. An operator at a mining company might not object to the pollution of the surrounding land when the job is the main source of income, yet a neighbour who is dependent on this land to feed the family, will. Companies should also ensure both men and women are heard, as often women are not able to participate fully, or certain issues are taboo.

ActionAid conducted research in communities surrounding manganese mining operations in South Africa and found that women, particularly young women, unduly carry the burden of mining and its impacts at both household and local community level²⁸. Yet they are excluded from the consultations about the impact of mining, both in the traditional council and governmental spheres, and thus they have no platform to report their grievances²⁹. At present, 70% of the manganese that is mined in South Africa makes its way to the Netherlands to be used in technology for the energy transition, such as wind turbines³⁰. Due to policy commitments to stimulate the energy transition, the demand for manganese is only going to increase in the Netherlands and Europe³¹. Yet if the impact on women is not addressed, they will continue to bear the brunt of negative impact caused by the energy transition.

Stakeholders such as (female) supply chain workers, gender experts, women's organisations, NGOs and unions can provide tremendous support for companies in identifying gaps in policies and processes and in pointing out potential and actual risks and impacts in the supply chain. In particular, local women's rights organisations can provide essential context to companies during the risk assessment stage of the due diligence process, as well as reporting back on the implementation and effectiveness of prevention and mitigation measures. However, as it stands, the CSDDD does not provide adequate obligations on companies to engage in stakeholder engagement throughout the due diligence process or to do this in a gender-responsive manner.

If the CSDDD would require European companies to make adequate gender-responsive stakeholder engagement part of their due diligence process, Dutch energy companies could apply their leverage to ensure South African women are involved in the consultation process on mining activities. The specific impacts on women's rights would come to light in the human rights risk identification process and could subsequently be addressed.

How to amend the CSDDD to ensure companies' stakeholder engagement is gender responsive

The CSDDD should address stakeholder engagement in a comprehensive way. A new article should require companies to apply a gender-responsive approach to stakeholder engagement and specifically identify, address, track and monitor the risks to groups in vulnerable situations. Companies may need to take special provisions to ensure these groups can meaningfully take part in consultation processes. This may require consulting women outside the presence of men and facilitating alternative spaces for vulnerable groups to express opinions and provide input on a company's decisions. An explicit requirement to meaningfully consult with relevant stakeholders must be included in every step of the due diligence process (art. 5-11).

Further reading

- ActionAid, MACUA/WAMUA, and SOMO (2021) Manganese matters. A metal of consequence for women and communities in South Africa affected by mining and the global energy transition.
- OECD (2017) OECD due diligence guidance for meaningful stakeholder engagement in the extractive sector.



© Daniel Jukes / ActionAid

28. ActionAid, Macua, SOMO and Wamua (2021) Manganese matters. A metal of consequence for women and communities in South Africa affected by mining and the global energy transition [Online] Available from: https://actionaid.nl/wp-content/uploads/2021/06/ActionAid_MangaanRaport_Lowres-FINAL.pdf

29. Ibid.

30. Ibid.

31. Ibid.

Step 7

Ensure companies' risk identification processes are gender sensitive

How will women benefit from companies' risk identification processes being gender-sensitive?

Gender impacts often do not come to light, unless they are explicitly investigated. This is because women are excluded from decision-making processes, so their voice is not heard during consultations, audits or assessments, unless specifically arranged. Issues such as violence against women or sexual harassment are also difficult to identify and address, as they are usually regarded as sensitive or taboo issues and thus often not reported. Gender inequality causes disproportionate impacts for women, as they are still held responsible for the majority of care work and face additional safety risks. For example, when water is polluted by a mining company or an agricultural plantation, women will have to walk further to collect water, leaving less time for other activities. They might also face additional safety risks on the way. Only when a gender lens is applied, will these impacts come to light. This is particularly important during step 2 of the due diligence process, when companies scope for and assess human rights and environmental risks. Luckily, there are a number of measures that companies can take to ensure gender risks are identified during the risk identification process.

In Ecuador, the Banana Workers and Farmers Union (ASTAC) has set up specific women's committees that provide a safe space where women workers can address issues that they might not want to talk about in front of male colleagues, such as sexual harassment and the provision of sanitary products. The data that is derived from these sessions is essential to the union, as it allows them to integrate women's needs in their policies and programmes, aimed at protecting workers' rights. It is also highly instrumental as a supplement to audits and on-site risk assessments, as those often don't provide the right conditions to assess women-specific concerns and needs.

The current draft of the CSDDD does not require companies to apply a gender lens to their due diligence processes, and thus, does not require companies to undertake a gender-sensitive risk identification process.

If the CSDDD would explicitly require companies to undertake a gender-sensitive risk assessment, best practices such as in Ecuador could be replicated on a large scale, with an enhanced and accurate human rights risk scoping as a result, which will lead to more gender impacts being addressed.

How to amend the CSDDD to ensure companies carry out gender-sensitive risk identification processes

Article 6 of the CSDDD 'identifying and addressing potential and actual impacts' sets forth the risk identification process and should include identifying gender-specific trends and patterns in actual or potential adverse impacts. In addition, it should require that companies use quantitative and qualitative information, including disaggregated data, to identify, assess, track and monitor the adverse impacts and effectiveness of the actions taken. Collecting and assessing disaggregated data means that collected data is disaggregated by characteristics including sex, gender, age, race, ethnicity, class, migration status, disability and others. This permits an intersectional analysis of the risks.

Further reading

- ActionAid (2020) We mean business. Protecting women's rights in global supply chains.



© Eros Sana / ActionAid France

Step 8

Ensure companies' remediation processes are gender responsive

How will women benefit from companies' remediation processes being gender responsive?

The last step of the due diligence process, cooperate in or provide for remediation, is an often neglected but very important step of the human rights due diligence process³². This is unfortunate, as this is the step where companies can have a tremendously positive impact on the lives of affected rights holders, whether by formally acknowledging the impact, extending an apology or providing financial or other forms of redress. Women can experience additional barriers in accessing remediation processes, especially if gender inequality is not taken into account by companies providing remediation. As an example, women are often not recognised as head of the household and are therefore less likely to be considered in remedial mechanisms. Women can also find themselves in the position where they are unable to enforce suitable remedies because the remedial system operates within the patriarchal system.

In many contexts around the world, women are not allowed to own land. According to the FAO (2018), less than 15% of all land-holders globally are women³³. Women are responsible for most of the food production consumed in the Global South, yet they are rarely able to meaningfully participate when access to land is being negotiated, prior to and during extractive, agriculture or infrastructure projects. This means they lose out on compensation³⁴. ActionAid identified this in a biofuels project in Mozambique for exportation to northern Europe. There were no women among the administrative and traditional leaders who took part in the initial meeting with the Swedish company, and so their needs, rights and priorities were not taken into account. The same is true in the case of the subsidiary of a British company in Zambia that did not meaningfully consult with women when providing land compensation to male legal landowners in the context of a mining project³⁵.

Remedy is often about more than financial compensation. Victims of corporate abuse regularly have to struggle for years to get acknowledgement for the fact that their rights have been violated. Engaging in a remedial procedure, whichever form or shape it takes, can have a restorative effect on the trauma that these communities have gone through. When remedial processes are implemented in an effective, timely and gender-responsive manner, remedies can address the root causes of inequality and discrimination and be truly gender transformative.

Unfortunately, the current draft of the CSDDD does not require companies to take into account the differences between various groups of rights holders when they provide remediation. Nor does the CSDDD refer to the obligation to provide for or to cooperate in remedy. Instead, it seems to focus on pecuniary damage and does not include other forms of remedy, such as apologies or guarantees of non-repetition. This is particularly problematic in the context of gender and the barriers women face in accessing remedy, as financial compensations might not be the remedy sought by this group³⁶.

When the CSDDD requires companies to establish gender-responsive remediation processes, companies will take into account the barriers women face in accessing remediation, including the fact that women might sometimes pursue other forms of remedy, other than financial compensation. In the case of Mozambique and Zambia, women would have been involved in the remediation process and they would have received remediation that is responsive to their needs.



© Daniel Jukes / ActionAid

How to amend the CSDDD to ensure companies' remediation processes are gender responsive?

Article 8 of the CSDDD should require companies to remediate adverse impacts and acknowledge that adverse impacts can affect different groups of stakeholders, such as men and women, differently and should require assessment of whether women benefit equitably in compensation payments or other forms of restitution. In addition, article 8 should outline that remediation may take a range of forms, including apologies, restitution, rehabilitation, financial or non-financial compensation, restoration of the environment to its previous state and punitive sanctions (criminal and administrative), as well as the prevention of harm, through i.e. injunctions or guarantees of non-repetition³⁷.

Further reading

- ActionAid (2020) We mean business. Protecting women's rights in global supply chains.
- European Coalition for Corporate Justice (2022) European Commission's proposal for a directive on Corporate Sustainability Due Diligence. A comprehensive analysis.
- OHCHR (2019) Gender dimensions of the Guiding Principles on Business and Human Rights.

³². For example, a research conducted in the Netherlands in 2019 found that only 1,6% of large Dutch companies carry out this last step of the due diligence process. See also: <https://open.overheid.nl/repository/ronl-09d06b3d-8b03-429f-89d3-58790b1ff87e/1/pdf/bijlage-1-monitoringproject-onderschrijving-oeso-richtlijnen-en-ungps.pdf>

³³. ActionAid (2020) We mean business. Protecting women's rights in global supply chains [online] Available from: https://actionaid.nl/wp-content/uploads/2020/02/We-Mean-Business-Protecting-Womens-Rights-in-Global-Supply-Chains_ActionAid_March-2020.pdf

³⁴. Idem.

³⁵. Ibid.

³⁶. Pels Rijcken for ActionAid Netherlands (August 2022) A legal analysis of and options for amendments to achieve more gender responsive due diligence in the EU Corporate Sustainability Due Diligence Directive [Available upon request]

³⁷. The Danish Institute for Human Rights. Guiding Principle 25 [Online] Available from: <https://globalnaps.org/ungp/guiding-principle-25/>

Step 9

Guarantee access to justice for those experiencing additional barriers

How will women benefit from their access to justice being guaranteed?

Accessing justice is difficult for anyone who has had their rights violated by corporate activities. Judicial processes are expensive and accessing information to provide proof of the allegations is often impossible for individuals and groups in vulnerable situations, such as communities living in poverty or workers active in the informal economy. This is even harder when they are up against powerful multinationals with almost infinite resources. Even when it comes to a court or mediation case, corporate actors are often able to escape liability due to their complex corporate structures and presence in different jurisdictions. And access to justice in production countries can be weak because the judiciary is not independent, or laws are not upheld³⁸. Therefore, victims should be able to pursue justice in the jurisdiction where the company is headquartered. Furthermore, women face additional barriers to accessing justice due to persisting gender inequality. They are more likely to be financially dependent and therefore have even more difficulty in funding legal action. Women also face other barriers, such as literacy, language and cultural barriers which hamper them in every step of accessing justice, whether engaging with judicial or non-judicial mechanisms to access justice.

Research undertaken by ActionAid Netherlands and Profundo between 2018 and 2020 found significant adverse impacts on women's rights, as a result of palm oil cultivation in Guatemala³⁹. The majority of this palm oil was exported to the Netherlands, to be processed by companies, such as Cargill and used by companies such as Unilever⁴⁰. The women experienced deteriorating living conditions, increased workloads and destroyed livelihoods, as well as gender-based and sexual violence⁴¹. In addition, when they tried to access justice for the violations suffered, they encountered more barriers⁴². The women who live in the Northern Lowlands, for instance, where much of the palm oil industry is active in Guatemala, are mainly from the

Maya Q'eqchi' indigenous population⁴³. Therefore, they face an additional level of social, political and economic marginalisation and language barriers in accessing justice. Women in the Northern Lowlands are mainly monolingual and speak Q'eqchi', which makes it difficult for them to access the Spanish speaking decision-making spaces or judicial systems outside of their communities⁴⁴.

At present, the CSDDD draft does not stipulate any provisions for either Member States or companies to strengthen access to justice, nor to take away any barriers that vulnerable groups may face in accessing justice. Due diligence legislation should facilitate access to justice for all affected stakeholders, particularly for women and those in vulnerable situations.

When the CSDDD requires European Member States and companies to address the barriers to justice that women and vulnerable groups experience, the CSDDD will become much more effective because people affected by corporate activities will be able to access justice and defend their rights. This will act as an early-warning system to companies about the risks to address in their supply chains.

How to amend the CSDDD to ensure access to justice is guaranteed

The CSDDD should include specific provisions that establish the obligations of Member States to ensure access to justice for people who have been affected by corporate activities. Member States should provide adequate policing and judicial mechanisms, including reversing the burden of proof for victims and combating active repression and criminalisation of community efforts to seek redress.

It should also require that both judicial and non-judicial grievance mechanisms are fair, accessible, efficient and appropriate for vulnerable groups. This means that both Member States and companies may need to take measures to ensure the accessibility of mechanisms, such as making the mechanisms available in multiple languages and accessible both online and offline. In addition, similarly to Article 47 of the EU Charter of Fundamental Rights, the CSDDD should require Member States to provide legal aid to those who lack sufficient resources insofar as such aid is necessary to ensure effective access to justice.

Further reading

- ActionAid (2020) We mean business. Protecting women's rights in global supply chains.
- SOMO et al (2017) Removing barriers to justice. How a treaty on business and human rights could improve access to remedy for victims.



© Fabio Erdos/ActionAid

38. Business and Human Rights Resource Centre (2014) Access to Justice for victims of human rights abuses should be strengthened [Online] Available from: <https://www.business-humanrights.org/en/latest-news/access-to-justice-for-victims-of-human-rights-abuses-needs-to-be-strengthened/>

39. ActionAid (2020) Women's rights violations in Dutch palm oil supply chains. The case of Guatemala [online] Available from: <https://actionaid.nl/2020/10/23/womens-rights-violations-in-dutch-palm-oil-supply-chains-the-case-of-guatemala>

40. Ibid.

41. Ibid.

42. Ibid.

43. Ibid.

44. Ibid.

Step 10

Ensure the protection of human rights defenders and safeguard complaint and whistleblowing mechanisms

How will women benefit from complaint and whistleblowing mechanisms being safeguarded?

Standing up for human rights, whether loudly in the streets or quietly through a whistleblowing mechanism, sometimes comes at a cost, particularly for women and vulnerable groups. Global Witness reports that in 2021 alone, 200 people were killed for defending their rights, their land or their environment against exploitation⁴⁵. 40% of those people were Indigenous and one in ten were women. According to Global Witness, “*gender-based violence rooted in misogyny and discriminatory gender norms is disproportionately used against women environmental and human rights defenders to control and silence them and suppress their power and authority as leaders*”⁴⁶. In addition, OECD Watch has found that of the 300 complaints that have been filed against companies through European National Contact Points since 2000, and a minimum of 25%⁴⁷ have included reprisals against complainants. It is not surprising that concerns about the privacy and safeguarding of complaint and whistleblowing mechanisms form a huge barrier for people affected by corporate activities to stand up for their rights, in addition to other social or cultural barriers.

Research conducted by ActionAid France, Solidar Switzerland and China Labor Watch found worrying evidence for sexual harassment and abuse at Mattel’s toy factories in China. Four out of ten women reported to have experienced instances of abuse, such as inappropriate remarks about physical appearance, remarks with sexual connotations, touching and the distribution of degrading photos⁴⁸. Even though Mattel put a complaint mechanism in place, due to the climate of impunity, a lack of information about the mechanism and because anonymity was not guaranteed, women did not use the mechanism, rendering it largely ineffective⁴⁹.

Signals about adverse impacts of corporate activities put forward through early warning systems or complaint mechanisms or that are addressed by human rights defenders, are an important tool for companies in their

scoping of human rights risks. Complainants, whistleblowers and human rights defenders need to be able to put forward grievances safely, without fear of repercussion, in order for companies to address risks effectively. The current proposal by the CSDDD unfortunately does not require companies to ensure complaint and whistleblowing mechanisms are safeguarded, especially for vulnerable groups, nor does it explicitly require companies and Member States to protect human rights defenders.

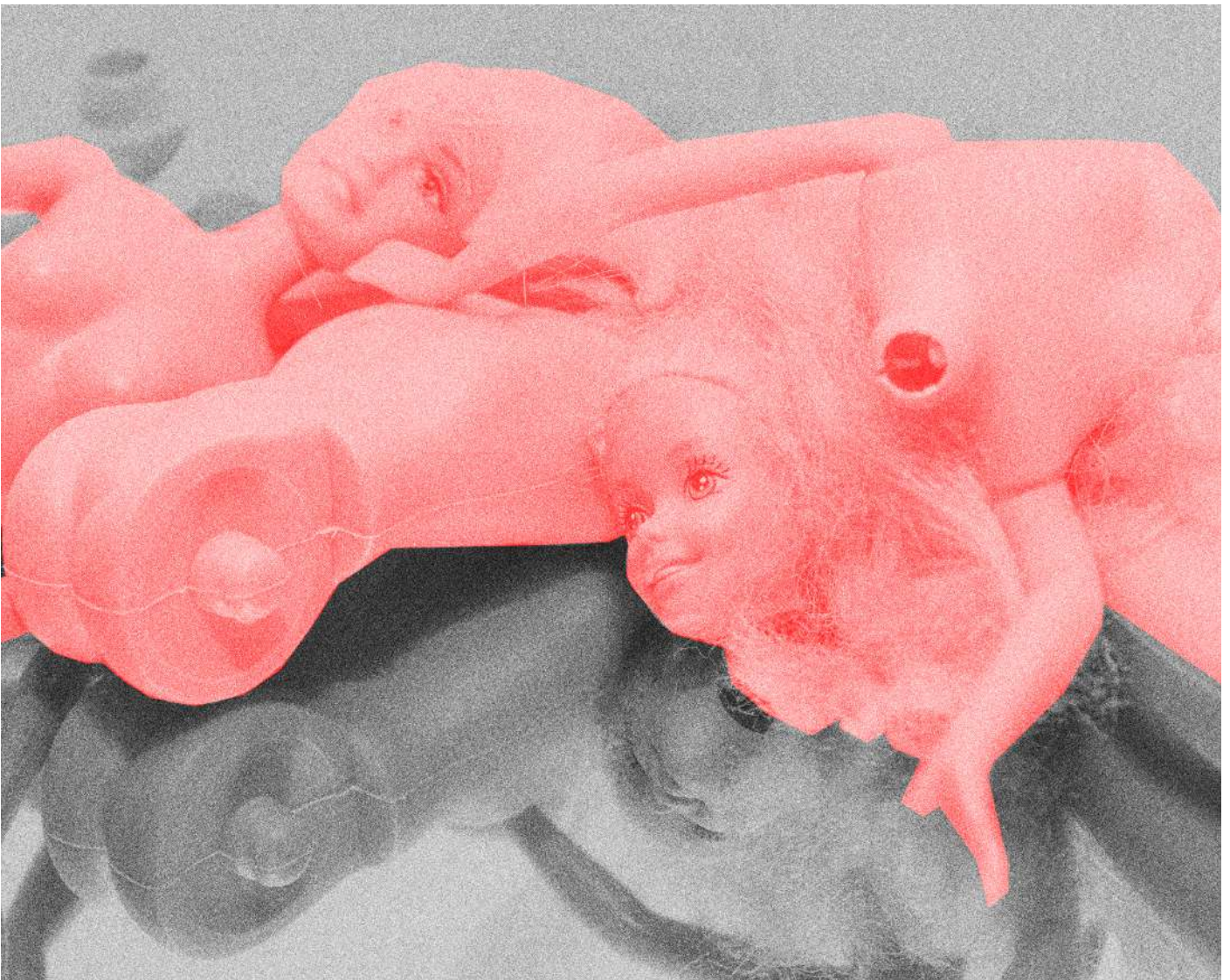
If due diligence legislation had required Mattel to safeguard their complaint mechanisms, Mattel would have made this part of the policies and processes at the Chinese factories, allowing women to report anonymously - rather than protecting the perpetrators. Women would have felt safe to come forward and Mattel would have been alerted to the issue sooner and could have taken action to prevent more women suffering the same abuse.

How to amend CSDDD to ensure complaint and whistleblowing mechanisms are safeguarded

Article 9 of the CSDDD on ‘complaint mechanisms’ should affirm that Member States ensure that it is possible for all stakeholders mentioned in paragraph 2 to submit a complaint. It should also specify that companies must inform stakeholders in an accessible manner of their rights and the existence of the possibility to complain and that they safeguard the privacy and safety of those filing a complaint or whistleblowing, in order to prevent retaliation and reprisals. Lastly, the article should specify that companies must remove barriers that could exist for certain groups of stakeholders, including but not limited to women, to submit a complaint. In connection with this, Member States and companies must develop gender responsive warning systems and ensure the protection of (women) human rights defenders.

Further reading

- ActionAid (2020) Sexual harassment: Mattel must do better. New investigation into sexual harassment in a Mattel group factory in China.
- Global Witness (2022) Decade of defiance. Ten years of reporting land and environmental activism worldwide.
- OECD Watch (2019) Human rights defenders face reprisals. Here's what OECD and National Contact Points can do to protect them
- Alliance for Indigenous and Environmental Defenders and Universal Rights Group (2022) The EU Corporate Sustainability Due Diligence Directive proposal and protecting human rights defenders.



45. Global Witness (2022) Decade of defiance. Ten years of reporting land and environmental activism worldwide [online] Available from: <https://www.globalwitness.org/en/campaigns/environmental-activists/decade-defiance/>

46. Ibid.

47. OECD Watch (2019) Human rights defenders face reprisals. Here's what OECD and National Contact Points can do to protect them [Online] Available from: <https://www.business-humanrights.org/en/blog/human-rights-defenders-face-reprisals-heres-what-oecd-and-national-contact-points-can-do-to-protect-them/>.

48. ActionAid (2020) Sexual harassment: Mattel must do better. New investigation into sexual harassment in a Mattel group factory in China [online] Available from: <https://admin.actionaid.fr/uploads/downloadFile/413/Mattel-factory-report-2020.pdf>.

49. Ibid.

Conclusion

The adoption of the CSDDD not only awards policymakers the opportunity to improve the conduct of European companies in international value chains, but it also creates the chance to structurally advance women's rights and gender equality. The CSDDD proposal is still being negotiated, so policymakers should seize this opportunity before the chance is gone and half of the world's population is left behind.

To avoid drafting another piece of gender-blind legislation, we must fully recognise that women and other vulnerable groups face disproportionate impacts of corporate activities, reinforced by existing discrimination, inequality and other vulnerabilities.

Therefore, a gender-responsive CSDDD would have an enormous and positive impact on the lives of women and other vulnerable groups around the world. It would protect their human and labour rights at work and at home, enable them to fully participate in the world economy and to access economic resources, and empower them to be included in the decision-making about their lives and livelihoods. It would also safeguard them to raise their voices, stand up for their rights and access justice.

Each of the recommendations contained in this document has been carefully thought out by ActionAid, with communities and women mobilised for the respect of their rights on all continents, based on real-life situations regularly observed on the ground. The European Union has the opportunity to sustainably improve the lives of millions of women around the world. We call on our representatives to seize it!

Definitions

Gender-awareness

The ability to view society from the perspective of gender roles and understand how this has affected women's needs in comparison to the needs of men.

Gender-blind

Gender-blind means the failure to recognise that the roles and responsibilities of women/girls and men/boys are ascribed to, or imposed upon, them in specific social, cultural, economic and political contexts.

Gender-responsive

Gender-responsive means incorporating the experiences and needs of women and girls and address the underlying causes of vulnerability including gender inequality, gender relationships, power structures, social norms, and leadership.

Gender lens

Applying a gender lens reveals the ways in which content and approaches are gendered – informed by, shaped by, or biased toward men's or women's perspectives or experiences.

Gender-sensitive

Policies and programmes that take into account the particularities pertaining to the lives of both women and men, while aiming to eliminate inequalities and promote gender equality, including an equal distribution of resources, therefore addressing and taking into account the gender dimension.

Intersectional approach

An intersectional approach shows the way that people's social identities can overlap, creating compounding experiences of discrimination. "We tend to talk about race inequality as separate from inequality based on gender, class, sexuality or immigrant status.

References

- ActionAid (2020) We mean business. Protecting women's rights in global supply chains [Online] Available from: https://actionaid.nl/wp-content/uploads/2020/02/We-Mean-Business-Protecting-Womens-Rights-in-Global-Supply-Chains_ActionAid_March-2020.pdf
- ActionAid Australia (2021) Casualties of fashion. How garment workers in Bangladesh and Cambodia are wearing the cost of Covid-19 [Online] Available from: <https://actionaid.org.au/wp-content/uploads/2021/12/CASUALTIES-OF-FASHON-HOW-GARMENT-WORKERS-IN-BANGLADESH-AND-CAMBODIA-ARE-WEARING-THE-COST-OF-COVID-19-Dec2021.pdf>
- ActionAid et al. (2022) CSDDD Gender-responsiveness. An open letter to the EC and MEPS [Online] Available from: <https://actionaid.nl/wp-content/uploads/2022/03/CSDDD-Gender-responsiveness-open-letter-to-EC-MEPs-and-Council.pdf>
- ActionAid et al (2022) Pathway to a feminist international corporate accountability framework [Online] Available from: <https://actionaid.nl/2022/10/24/pathway-to-a-feminist-international-corporate-accountability-framework/>
- ActionAid France (2021) Gender-based violence. Transnational corporations fall short on due diligence [Online] Available from: <https://admin.actionaid.fr/uploads/downloadFile/544/Rapport%20Vigilance%20%20Executive%20Summary%20WEB.pdf>
- ActionAid France, Petrol-İş & Sherpa (2022) French cosmetics company Yves Rocher facing court proceedings for failure to ensure freedom of association and workers' rights in Turkey [Online] Available from: <https://admin.actionaid.fr/uploads/downloadFile/592/2022-03-23%20Press%20Release.pdf>
- ActionAid, MACUA/WAMUA, SOMO (2021) Manganese matters. A metal of consequence for women and communities in South Africa affected by mining and the global energy transition [Online] Available from: https://actionaid.nl/wp-content/uploads/2021/06/ActionAid_Mangaan-Raport_Lowres-FINAL.pdf
- ActionAid (2020) Women's rights violations in Dutch palm oil supply chains. The case of Guatemala [online] Available from: <https://actionaid.nl/2020/10/23/womens-rights-violations-in-dutch-palm-oil-supply-chains-the-case-of-guatemala>
- ActionAid UK (2015) Close the gap! The inequality of women's work [Online] Available from: https://www.actionaid.org.uk/sites/default/files/publications/womens_rights_on-line_version_2.1.pdf
- Alliance for Indigenous and Environmental Defenders and Universal Rights Group (2022) The EU Corporate Sustainability Due Diligence Directive proposal and protecting human rights defenders [Online] Available from: <https://environment-rights.org/eucsd/>
- Business Continuity Institute (2019) Supply chain resilience. 10 year trend analysis. [Online] Available from: <https://www.thebci.org/static/uploads/d/6bd728bd-bf0e-4eb7-b15fa67164eb9484.pdf>
- Clean Clothes Campaign (2021) Why all companies need to be included in due diligence and corporate accountability legislation [Online] Available from: <https://www.schonekieren.nl/wp-content/uploads/2021/07/SKC-SME-report-2021-1.pdf>
- European Coalition for Corporate Justice (2022) Mandatory human rights due diligence map [online] Available from: <https://corporatejustice.org/wp-content/uploads/2022/01/EC-CJ-mHREDD-map-January-2022.pdf> <https://corporatejustice.org/wp-content/uploads/>
- European Coalition for Corporate Justice. Priorities and HREDD [Online] Available from: <https://corporatejustice.org/priorities/>

- European Coalition for Corporate Justice (2022) European Commission's proposal for a directive on Corporate Sustainability Due Diligence. A comprehensive analysis. Available from: <https://corporatejustice.org/wp-content/uploads/2022/04/ECCJ-analysis-CSDDD-proposal-2022.pdf>
- EU Trade (2022) EU position in world trade [online] Available from: https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/eu-position-world-trade_en
- Feminists for Binding Treaty (2018) Women's rights beyond the business case. Ensuring corporate accountability [online] Available from: https://actionaid.org/sites/default/files/fem4bt_2018_-_womens_rights_beyond_the_business_case.pdf
- Global Witness (2022) Decade of defiance. Ten years of reporting land and environmental activism worldwide [online] Available from: <https://www.globalwitness.org/en/campaigns/environmental-activists/decade-defiance>
- ILO and Fair Wear Foundation. Global supply chains: Where do women work and under what conditions? [Online] Available from: https://gbv.itcilo.org/index.php/briefing/show_paragraph/id/40.html
- OECD Watch (2019) Human rights defenders face reprisals. Here's what OECD and National Contact Points can do to protect them [Online] Available from: <https://www.business-humanrights.org/en/blog/human-rights-defenders-face-reprisals-heres-what-oecd-and-national-contact-points-can-do-to-protect-them>
- Pels Rijcken for ActionAid Netherlands (August 2022) A legal analysis of and options for amendments to achieve more gender responsive due diligence in the EU Corporate Sustainability Due Diligence Directive [Available upon request]
- Shift (2020) On Mandatory Due Diligence, SMEs don't need a free pass; they need flexibility [Online] Available from: <https://shiftproject.org/smes-mhrdd/>
- The Danish Institute for Human Rights. Guiding Principle 25 [Online] Available from: <https://globalnaps.org/ungp/guiding-principle-25/>

About this report

This report has been published by ActionAid France and ActionAid Netherlands. It was written by Kelly Groen and coordinated by Anna Hengeveld and Maelys Orellana. The following people reviewed and provided valuable contributions to the report: Karol Balfe, Grainne Kilcullen, Sorcha Tunney, Adeline Parenty.

Published

November 2022

Design

Enora Tuauden-Bource

Editing

Claire Niven

Websites

ActionAid France: www.actionaid.fr

ActionAid Netherlands: www.actionaid.nl

act:onaid



Co-funded by
the European Union



This publication was produced with the financial support of the Dutch Ministry of Foreign Affairs and the European Union. Its contents are the sole responsibility of ActionAid France and do not necessarily reflect the views of the European Union