

PATHWAY TO A FEMINIST INTERNATIONAL CORPORATE ACCOUNTABILITY FRAMEWORK



Cases from Uganda, Zimbabwe,
Guatemala and Kenya

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ABOUT THIS REPORT

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Cover image: Maya Q'eqchi' woman from El Estor, Guatemala a community greatly impacted by nickel mining activities

Photo credits: ActionAid

Focus group discussion with community members in Kiryandongo district, Uganda, raising issues they face due to large-scale agriculture in their community.





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Executive summary

Women around the world continue to experience business-related human rights abuses and violations differently and disproportionately: from significant barriers to access justice and discrimination in the labour market, to gender-based violence, uneven domestic workloads and unpaid care duties.

Systemic gender impacts connected to corporate activities are particularly felt by women in the Global South. Business activities often have a negative impact on people and the planet. The need for a feminist corporate accountability framework in line with human rights obligations and planetary boundaries is urgent.

This report aims to encourage further action and sets out a pathway to achieve such a feminist framework.

CURRENT STANDARDS ON BUSINESS AND HUMAN RIGHTS

In the context of the international human rights framework as well as through voluntary commitments, global steps have been taken to adopt rules relating to women, business activities and human rights.

With a specific focus on corporate activities, the UN Guiding Principles on Business and Human Rights (UNGPs) were endorsed by the UN Human Rights Council in 2011 and designed to protect and respect human rights, prevent adverse impacts and ensure access to remedy for business-related harms. The OECD Guidelines for Multinational Enterprises further set out guidance around human rights due diligence requiring businesses to identify, prevent and mitigate adverse impacts and to account for how they address them.

However, the voluntary nature of these existing standards has not translated into meaningful change. And women's experiences are largely excluded from corporate accountability frameworks.

GENDERED IMPACTS OF CORPORATE CONDUCT

Four case studies offer specific examples of women's lived experiences in relation to large-scale agribusiness and mining activities in the Global South.

In the first case, over 35,000 people were forcibly removed from their homes in Uganda by agribusinesses linked to the Global North. Following the evictions, women experienced violence, loss of livelihoods and restricted access to water and firewood.

In Zimbabwe, granite mining connected to Chinese and European companies and investors has impacted on the region's small-scale agriculture due to widespread clearing of vegetation. This male-dominated sector has a knock-on effect for women such as a lack of employment opportunities and increased likelihood of gender-based violence.

The third case study outlines the significant environmental damage caused by nickel mining in Guatemala by the Swiss-based Solway Investment Group. It demonstrates how women active in community advocacy have experienced impacts on their lives through ongoing criminalisation and repression.

Lastly, large-scale sisal cultivation in Kenya raises human rights issues connected to land dispossession and employment circumstances. Women face gender-blind working conditions and a loss of livelihoods due to environmental degradation.

The case studies exemplify how women from groups in various contexts experience corporate activity related abuses in different ways and therefore need a feminist response.

A FEMINIST PERSPECTIVE

Since 2014, in the context of an open-ended working group of the UN Human Rights Council, states come together every year to advance on an international legally binding instrument on business and human rights. Significant progress has been made to secure a gender-responsive treaty, including acknowledgement of the disproportionate impacts on women and girls, agreement on the need for states and businesses to integrate a gender perspective and gender-sensitive access to justice.

Despite advances, the adoption of a treaty is still several years away. Powerful business lobbies and a lack of engagement of a number of major economies, where transnational companies are based, hamper the treaty process. At the same time, while it is a positive step, the development of mandatory human rights due diligence laws at national and regional levels can also undercut progressive approaches at the international level.

With these concerns in mind, constructive engagement of states to incorporate a feminist perspective and build upon progress that has been made so far is needed. A UN Treaty on business and human rights offers an opportunity for states to fulfil their obligation to respect, promote and protect human rights, put an end to harmful corporate activities, and harmonise international rules for businesses.

FIVE KEY RECOMMENDATIONS

To address the structural and gendered impacts of transnational corporate activities during the upcoming session of the working group on the UN Treaty, we call upon states to:

1. Engage constructively in the treaty process, build on previous negotiations, and harmonise with human rights and environmental obligations, including by maintaining and strengthening gender-responsive provisions.
2. Ensure women are at the heart of the conversation, leading with maxim “nothing about us, without us”.
3. Prevent harm to people and planet, including provisions that encourage effective substantive equality analysis and practice.
4. Make things right when harm occurs, ensure that systems of legal liability and provisions governing access to justice, remedy and support services are gender-responsive.
5. Put corporate accountability at the heart of broader measures towards economic, climate and ecological justice and transformation.

Former staff member of
Teita Sisal Estate, Kenya



1. Introduction

Setting a vision for a feminist international corporate accountability framework and a more positive future.

What would a feminist international corporate accountability framework look like? It would mean opportunities are available for all people to enjoy secure forms of work that ensures a decent living for themselves and their loved ones, in safe and healthy conditions and balanced with rest and leisure. Violence by or on behalf of companies would not be tolerated, whether directed towards workers or those taking action to defend human rights and healthy environments.

WOMEN

When referring to **women**, we mean all women, girls and persons with diverse gender identities. Women are not a homogenous group, and we take into account other intersecting identities.

All companies would be required by law to identify and prevent harm to people and ecosystems. This includes sharing relevant information publicly and facilitating access to justice in relation to any harm that occurs in connection with their activities or value chains. This way of operating would be binding, global and feminist, with the leadership and engagement of women, children, Indigenous peoples and communities in marginalised situations.

This framework for business activities would be a necessary component of a broader shift towards a feminist, just and green future. Moving forward, we must realign our behaviour – across business, economics, agriculture, health, education, politics and other human systems – with commitments to recognise care as a foundation for society and to place people and planet above profit.

SYSTEMIC CHANGE

At present, there is a growing movement to regulate business activities in line with human rights obligations and planetary boundaries, which must be welcomed. However, fundamental questions remain as to whether this process is progressing fast enough given the scale of business-related human rights abuses and the dangers associated with the escalating climate and ecological crises, both of which women experience in different and disproportionate ways.

An essential first step is to recognise that a new global approach to business activities and new ways of living together are possible. We created our current legal frameworks, and we can change them. Many women around the world stand at the forefront of today's climate and ecological crises, as do many young people, Indigenous communities and others closely connected with the land. They are already modelling positive ways of living in harmony with nature.

A group of women digging in the Kakira sugarcane plantation, Uganda



This report aims to support these practices and encourage further urgent action. **Chapter 2** provides an overview of the connection between business activities operating under the current rules and the significant harm for people and planet.

In **Chapter 3**, case studies from Uganda, Guatemala, Zimbabwe and Kenya offer specific examples of women's lived experiences in relation to large-scale agribusiness and mining activities, illustrating the relationship between transnational corporate activities and human rights abuses and violations

Chapter 4 highlights patterns emerging across these case studies and explains how a feminist analysis of corporate conduct can support transformative change for women and all people.

In **Chapter 5**, we revisit the current state of global action towards new binding rules for business activities. Finally, **Chapter 6** outlines key recommendations for a feminist binding treaty on business and human rights, as well as for national and regional action.

“The company came without consulting the people, it came to cause us harm, it did not consult us, it did not even say how it was going to work in our town, it began to carry out its operations without the consent of the people”
Woman living in El Estor, Guatemala



Woman and her son collecting fish in the El Estor region, Guatemala

2. Our existing system is broken

How business activities impact people and planet, and the urgent need for new legal rules.

Our current human rights framework sets out guidance and affirms various state obligations in relation to women, business activities and human rights. However, a lack of full state implementation of this framework, coupled with the voluntary nature of existing rules for business activities, mean that women continue to face widespread corporate-related human rights abuses. In the broader context of decades of a neoliberal capitalist agenda, business practices also contribute to multiple, escalating global crises in numerous ways. This reality is discussed below to emphasise why a feminist approach to binding new legal rules for business is necessary.

THE CURRENT HUMAN RIGHTS FRAMEWORK RELATING TO WOMEN, BUSINESS ACTIVITIES AND HUMAN RIGHTS

Under the international human rights framework, states have agreed that they have obligations to respect, protect and fulfil civil, cultural, economic, social and political rights. This includes duties to protect people against human rights abuses by non-state actors, including businesses. States are also obliged to take legislative, administrative, budgetary and other measures to create societies and conditions which ensure people enjoy their human rights in practice.

INTERNATIONAL CONVENTIONS

Of particular relevance to the achievement of women's rights and access to justice in connection with business-related harms, most states have made commitments to legally binding international conventions and treaties. These include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),ⁱⁱ the International Covenant on Economic, Social and Cultural Rights (ICESCR),ⁱⁱⁱ the International Covenant on Civil and Political Rights (ICCPR),^{iv} and the comprehensive system of instruments on work and social protection found across numerous International Labour Organization (ILO) agreements, including the Violence and Harassment Convention 2019 (No. 190).^v CEDAW, for example, establishes states parties' obligations to eliminate discrimination against women in all its forms. It encourages the use of temporary special measures to accelerate the achievement of substantive equality for women in a range of areas, including employment and for economic and social benefits.

NON-BINDING MEASURES

In relation to corporate activities, specifically the UN Guiding Principles on Business and Human Rights (UNGPs)^{vi} were endorsed by the UN Human Rights Council in June 2011. They represent the authoritative

Former sacred mountain, now an abandoned water-filled pit, mining impact in Zimbabwe



global standard for preventing and addressing human rights harms connected to business activity. They set out distinct but complementary roles of states and companies to prevent and address business-related human rights abuses and ensure access to remedy for those affected.

Following the adoption of the UNGPs, the OECD Guidelines for Multinational Enterprises were revised in 2011 to reflect a rapidly changing global landscape. They include the only existing international mechanism to hold corporations to account for their human rights record overseas. However, these are non-binding and only a small number of complaints by communities and civil society have led to some form of remedy.^{vii}

THE LIMITATIONS OF VOLUNTARY COMMITMENTS BY COMPANIES

The UNGPs have been recognised as an important global step to affirm a common framework for all stakeholders with respect to business and human rights. They have set an expectation for the need for business due diligence measures to identify, prevent, mitigate and account for impacts on human rights.^{viii} However, efforts to translate the UNGPs into meaningful and binding national action have been inadequate. Fewer than 30 countries have produced National Action Plans on business and human rights (or included chapters on this topic in their human rights national action plans) a decade since the launch.^{ix}

This framework, including due diligence requirements, remains largely voluntary. This is inadequate to prevent human rights abuses caused or contributed to by business activities, or to ensure access to justice when such abuse occurs. This is particularly evident when affected individuals or communities do not have access to relevant information, where corporate structures are opaque or complex and when the countries where abuses occur are different to the headquarters of the company responsible.^x

DIFFERENT AND DISPROPORTIONATE IMPACTS OF BUSINESS ACTIVITIES ON WOMEN GLOBALLY

Women's experiences are largely excluded from corporate accountability frameworks. This reflects a broader failure to build appropriate legal systems that ensure corporate practices respond to lived experiences and support diverse groups to flourish.

While certainly not a homogenous group, women around the world generally face discrimination in the labour market, lower remuneration for the same work, poorer working conditions and higher levels of

employment precarity than their male counterparts.^{xi} Women also tend to be significantly and disproportionately impacted by fossil fuel extraction, the climate crisis and land grabs that impact traditional agricultural activities and access to water sources.^{xii}

Such experiences are amplified by underlying structural inequalities and social gender constructs which impact women such as lack of access to employment opportunities, the prevalence of gender-based violence, uneven domestic work and care responsibilities, and barriers to meaningful engagement in formal and informal decision-making spaces.

INADEQUATE ATTENTION TO GENDERED IMPACTS

Over time, a range of systemic gendered impacts connected to corporate activities have been well documented by UN experts^{xiii} and civil society.^{xiv} The continuing nature of this is illustrated in the case studies in this report. The UN Working Group on the issue of human rights and transnational corporations and other business enterprises has acknowledged the inadequate implementation of the UNGPs in relation to women's lives, highlighting that:

...neither States nor business enterprises have paid adequate attention to gender equality in discharging their respective obligations and responsibilities under the Guiding Principles. The limited integration of a gender perspective in existing national action plans on business and human rights and the gender-neutral nature of current modern slavery legislation illustrate this. Consultations convened by the Working Group revealed that many businesses relegated gender to a "tick-box exercise", without meaningfully addressing structural forms of inequality.^{xv}

Similarly, in the absence of mandatory laws, other efforts to increase international recognition for the need for a gender perspective in business and human rights, including in relation to the UNGPs and the OECD Guidelines,^{xvi} have not translated into meaningful change or access to remedy for women facing business-related harms.

BUSINESS ACTIVITIES CONNECTED WITH MULTIPLE, ESCALATING GLOBAL CRISES

Corporate practices are being directed down harmful trajectories within a current dominant neoliberal capitalist economic system which promotes privatisation, deregulation, tax reduction

and global trade, and the myth of continued financial growth on a finite planet. When human rights standards are not made mandatory for all business activities, even well-intentioned companies find it challenging to align with the UNGPs because they face the prospect of losing competitive advantage in today's economic climate.

INTERSECTING CRISES

Globally, we face challenges connected with growing conflicts, inequality, displacement, risks associated with powerful but largely ungoverned technologies, and the intersecting climate, ecological and pollution crises. We now know that 100 companies are responsible for over 70% of greenhouse gas emissions.^{xvii} A shocking statistic, yet the specific and cumulative actions of businesses worldwide continue to cause or contribute to ecological damage, through land use, pollution and waste.

A perceived separation between humans and nature allows for practices of extraction, exploitation and degradation to proliferate. It favours short-term profit over the long-term wellbeing of people and planet. Under pressure to ensure high profit margins, many companies outsource production to cheaper labour elsewhere. The COVID-19 pandemic and recent conflicts have demonstrated the lack of resilience of such practices.

Financial profits in the form of extreme wages, bonuses and dividends flow towards owners and shareholders, often based in the Global North, rather than to the workers and communities where extraction, exploitation and destruction of the living world takes place to deliver these profits. This imbalance in wealth is exacerbated by illicit financial flows linked to inadequate tax regulation or oversight. Businesses also rely significantly on unrecognised care work and unpaid labour performed primarily by women and ignore the harmful impacts on people or ecosystems.

The increasing concentration of political power held by such companies has contributed to the 'corporate capture' of government and intergovernmental decision-making mechanisms. This has adverse consequences on the development of laws and policies, as well as community cohesion and democracy more broadly. People feel that their votes, voices and engagement with governments have no real effect against the interests of corporations.

A FEMINIST PATH TO A MORE POSITIVE WORLD

Corporate-related human rights abuses and ecological devastation occurs largely with impunity. However, it is essential to recognise that such situations of vulnerability or marginalisation experienced by individuals and communities around the world are not inevitable or due to inherent characteristics. Instead, they are a consequence of social, economic and political systems and choices, including the laws, policies and practices put in place by states, or inaction by states.

TRANSFORMATIVE CHANGE

Therefore, taking a feminist, binding and green approach to corporate accountability matters greatly for the daily lives of billions of women around the world, their families and their communities. A feminist path would also lead to transformative change in the way we as humans relate to our environment, with most positive outcomes for a more stable climate and the health of local and global ecosystems. These reforms are not only necessary, but urgent.



A women in the sugarcane plantation at Kiryandongo, Uganda

3. Learning from women's lived experiences

The relationship between transnational corporate activities and human rights harms in the Global South

Below are four case studies relating to the activities of companies based in or associated with the Global North. These companies operate in the Global South, namely Uganda, Zimbabwe, Guatemala and Kenya. Each case study outlines the specific business activities, the impact of the activities on women and communities, and the community responses to the harm they cause.

CASE STUDY 1: LARGE-SCALE AGRICULTURE IN UGANDA

WHAT IS HAPPENING?

Between 2017 and 2020, over 35,000 people in the Kiryandongo District of mid-western Uganda were forcibly removed from their homes and land, purportedly at the behest of transnational agribusiness companies operating in the area, including Agilis Partners, Kiryandongo Sugar Limited and Great Seasons SMC Limited.^{xviii}

Over 100 members of the communities in the district report that these evictions were carried out with the support or supervision of machete-wielding men, private security guards and local police officers, and facilitated by government representatives. The removals took place without prior consultation, warning or fair compensation and involved violence against, and in some cases the arrest of, those who resisted. In addition to the forced displacement of people, hundreds of acres of maize, sweet potatoes and cassava were destroyed. Homes, food gardens, community schools and a health centre were also demolished.

Following the evictions, the communities faced little choice in terms of employment opportunities or the ability to avoid continued interactions with the companies involved. Women experienced significant violence, including alleged molestation

and sexual violence while seeking factory employment from these companies. They have been forced to fetch water and firewood far away from their settlements following the clearing of vegetation in nearby common lands and the fencing off of traditional water sources. Impacted communities report being physically restricted when accessing gardens, fishing grounds and local water and firewood sources, or they are charged fees for access.

***"We just saw tractors during the Christmas season and started erasing our houses down and we ran away since life is important".
Woman evicted from her land around sugarcane plantation, Uganda***

Environmental degradation linked to corporate farming activities is also a key issue. There is a reported lack of compliance with environmental impact assessments or national constitutional and legislative requirements concerning environmental restoration. Significant climatic consequences have been linked to the widespread removal of vegetation cover across vast areas of land used for large-scale mechanised farming.

***"I used to live in Kapapura Nyamuntende where I had six acres of land and a permanent house, maize and bananas. We were not compensated at all. We were evicted by armed men in 2017."
Woman evicted from her land around sugarcane plantation, Uganda***

The communities affected by the evictions had lived on the ranches for over a decade. Most settled there after fleeing the war waged by the Lord's Resistance Army in northern Uganda, the Alice Lakwena insurgency in eastern Uganda, or earlier eviction from South Busoga Forest Reserve in the 1990s.

HISTORICAL CONTEXT

The evictions in Kiryandongo took place in the broader historical context of challenges connected with the allocation, mismanagement and under-utilisation of ranches in Kiryandongo. This has led to conflicts between tenant pastoralists and absentee ranch landlords, a government commission inquiry, associated land use reforms over several decades and ongoing uncertainty for communities regarding land ownership and tenure security.

IMPACT ON WOMEN AND COMMUNITIES

Women in Kiryandongo experienced specific impact through gender-based violence in employment contexts as well as impact arising indirectly from corporate land use and farming practices. The knock-on effects of such violence are severe, with women facing unwanted pregnancies, health complications and secondary victimisation through unsupportive police responses. Women are also under pressure to remain silent to avoid stigma and are fearful of diminished social value and the breakdown of marriages. The destruction of community gardens prevented women's capacity to provide food for their families and ensure their livelihoods, while the destruction of schools is expected to lead to the increased likelihood of child marriages, which disproportionately effects girls.

The evictions and associated corporate activities arguably give rise to a wide range of human rights abuses and violations. These include: the right to an adequate standard of living including adequate food and housing; the right to life; protection from torture and cruel, inhuman or degrading treatment or punishment; the right to personal liberty and security; the right to liberty of movement and freedom to choose one's residence; the right to protection from arbitrary or unlawful interference with privacy, family or home; the right to self-determination; the right to health; the right to education; the right to the enjoyment of just and favourable conditions of work; the right to a clean, healthy and sustainable environment; and cross-cutting guarantees of non-discrimination and equality.

“Women were raped, (...) we work for the same companies that evicted us and we are paid peanuts. (...) there is nowhere to complain or even an option for more work”.

Woman working at the sugarcane plantation, Uganda

COMPANIES INVOLVED

AGILIS PARTNERS

Reportedly the largest producer of grains and oilseed in Uganda, the company operates on approximately 13,500 acres of land in Kiryandongo through various subsidiary companies. Agilis Partners is owned by brothers from the United States. It has a complex corporate structure with parent companies located in various jurisdictions and financial input from multiple sources.

KIRYANDONGO SUGAR LIMITED

Responsible for sugar cane cultivation on approximately 13,000 acres of land on leased ranches in Kiryandongo. It also produces industrial sugar, which is then sold within Uganda and neighbouring countries. The company is part of the Rai Group, an agribusiness dynasty domiciled in Mauritius, which holds full or majority ownership of various sugar plantations which constitute about 8% of arable land in Kiryandongo.

GREAT SEASONS SMC LIMITED Acquired almost 3,000 acres of land in Kiryandongo to grow soyabean, maize and other food crops. It allows local communities to grow crops on the land at present due to limited company resources. The company is believed to be domiciled in Dubai.



A woman in the sugarcane plantation at Kiryandongo, Uganda

COMMUNITY ACTION AND VISIONS FOR THE FUTURE

In response to the evictions, the affected communities started a number of legal cases against the companies in the Masindi High Court in February and April 2020, arguing a violation of the constitutional protection from deprivation of property. The claimants are seeking a comprehensive assessment of damages, compensation and a return to their land or permanent resettlement on land with space to cultivate food for their families.

The communities also call for mechanisms in Uganda that ensure free, prior and informed consent (FPIC)^{xix}, adequate legal aid service provision, and awareness-raising regarding relevant legal frameworks and use of the law in practice.

This will support communities facing such abuses and those who would like to regularise land tenure. And they call for gender-responsive standards for companies, including due diligence, from inception to exit.

CHALLENGES

To date, the cases remain ongoing, and communities have described significant challenges in pursuing justice, including an escalation of harassment by company employees, a lack of police support in response to reported crimes, hurdles in accessing promised compensation, a lack of available legal aid and support, and a fear of injustice due to perceived corruption and perceived protection of transnational companies by the government.

This situation persists despite a national legal framework which includes constitutional and legislative protections against illegal evictions, laws governing, variously, agriculture, investment, gender equality and the land rights of people in vulnerable situations. Exacerbated by lengthy court processes,

FREE, PRIOR AND INFORMED CONSENT

Free, prior and informed consent (FPIC) is a specific right that pertains to Indigenous peoples and is recognised in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP).

It allows them to give or withhold consent to a project that may affect them or their territories. Once they have given their consent, they can withdraw it at any stage.

Furthermore, FPIC enables them to negotiate the conditions under which the project will be designed, implemented, monitored and evaluated. This is also embedded within the universal right to self-determination.

In various places, including Africa, FPIC is understood as applying more broadly to both Indigenous and non-Indigenous communities. In undertaking human rights impact assessment, states should also pay particular attention to women, Indigenous and customary people's rights.

hearing delays, lack of access to relevant documents and high legal costs, there are still 15 to 20 families squatting on road reserves awaiting court decisions.

UN HUMAN RIGHTS EXPERTS

Events in Kiryandongo have also prompted the engagement of UN human rights experts. In December 2020, they wrote to Ugandan government, the companies involved in the allegations, and the governments of their parent companies to express concern, request further information and reference relevant international human rights law.^{xx}

Focus group discussion with a group of women where they raised their issues they face by having investors in their community. The community was Mutunda subcounty, Kiryandongo district, Uganda



LARGE-SCALE AGRICULTURE IN UGANDA



WHAT?

Large-scale agriculture including sugar cane, soybeans, maize, grains and other food crops

WHO IS INVOLVED?

The following big agriculture corporations:

- **Agilis Partners**, largest producers of grains and oil seeds in Uganda, owned by brothers in the USA
- **Kiryandongo Sugar Limited**, part of Rai Group an agribusiness dynasty located in Mauritius
- **Great Seasons SMC Limited**, believed to be domiciled in Dubai



WHO IS AFFECTED?

Reportedly 35,000 people were forcibly evicted in the Kiryandongo district of Mid-Western Uganda

HUMAN RIGHTS HARMS AND THEIR GENDERED IMPACTS



**LACK OF
CONSULTATION**



**FORCED EVICTIONS &
DESTRUCTION OF PROPERTIES**



**LOSS OF AGRICULTURAL
LAND & LOSS OF
LIVELIHOODS**



**REPRESSION & VIOLENCE
BY STATE ACTORS**



**INCREASE
SEXUAL VIOLENCE**



**LACK OF ACCESS
TO COMMON GOODS**

Women have to walk further to access water, leading to an increased risk for sexual violence

CASE STUDY 2: GRANITE MINING IN ZIMBABWE

WHAT IS HAPPENING?

The activities of various European-linked and Chinese granite mining companies operating over several decades in the Mutoko, Mt Darwin and Murehwa Districts of Zimbabwe – and the failure of the Zimbabwean government to take appropriate action – are reported to be causing significant environmental degradation and human rights abuses and violations, with specific gendered impacts for women.

Black granite is a form of common natural stone used for construction, tiles and tombstones and is extracted from large areas of land. Most of this granite is exported to South Africa, various European Union countries, the United States and Mozambique (with 90% of the granite imported by the latter then exported to Italy and Spain).

LABOUR RIGHTS ABUSES

Workers at these companies have shared experiences of labour rights abuses, including the prevalence of short-term and precarious contracts, low or delayed wages, denial of the right to organise and the right to collective bargaining, and the failure to comply with health and safety standards for employees.

The land use involved in granite mining is substantial and in Zimbabwe has involved the widespread clearing of vegetation, dumping of rubble and interference with natural river flows. In turn, the lives and livelihoods of communities who depend on small-scale agriculture, livestock ranching, hunting and gathering forest products, grazing pastures and local businesses are greatly impacted. Some of the direct effects include forced evictions and displacement, while the long-term indirect effects are environmental degradation and air, soil, water and noise pollution. Various companies have operated, allegedly, without conducting or adhering to required environmental impact assessments.

Such mining activities occur in a broader context of a continuing struggle or unwillingness by Zimbabwe to regulate powerful transnational companies in a manner that continues to attract desired investment but that also guarantees human rights for workers and the communities. Corruption is reported to be rife within the sector, with alleged failure by government regulatory and administrative bodies to issue licences, to monitor compliance with relevant

COMPANIES INVOLVED

The major granite mining companies operating in these areas of Zimbabwe are understood to be as follows, although very little public information is available to confirm corporate details and structures:

- Various Chinese-owned or linked companies including **Jintings**, **Surewin Pvt Ltd**, **Longlui** and **Dingmao**
- Natural Stones Export Company – one of the oldest companies operating in Mutoko, NSEC commenced mining in the early 1970s and its current ownership is linked to Italian shareholders
- **CRG Quarries** – mining since around 2000, with its ownership linked to Italian shareholders
- **Zimbabwe International Quarries (ZIQ)** – with local Zimbabwean and European shareholders, ZIQ has been mining since around 1995
- **Quarrying Enterprises** – the company has been mining since around 1986 and has a shareholder mix of Italians and Zimbabweans
- **Iford Services Mining Company** – operating since the mid-1980s

national laws and regulations, or to safeguard the human rights of communities.

IMPACT ON WOMEN AND COMMUNITIES

A male-dominated sector along with stressful, poor conditions for workers have knock-on effects in terms of the burden of care work, a lack of livelihood opportunities and the increased likelihood of gender-based violence.

With recruitment in the mining sector favouring men over women, women have not enjoyed similar employment opportunities with the mining companies. They generally face higher unemployment levels in the area and have turned to community agriculture to provide food for the community and sell to neighbouring markets.

Evictions and the destruction of homes have had a disproportionate impact on women. Due to the

excess use of water in granite mining and the fencing of mining sites which block traditional rural footpaths, they have been forced to travel longer distances to fetch water and firewood and to reach grazing pastures and graveyards. Roads are destroyed or flattened by heavy mining company vehicles leading to reduced road levels and excessive water runoff during rainstorms. Sand is then washed into women’s gardens, ruining the crops grown to help their families survive on low wages paid in the sector.

“We also suspect that the regulatory authorities are being paid by the mining authorities so that they do not expose them. When the Environmental Management Agency conducts inspection visits, we are never invited, yet it’s our lands that are damaged, our rivers that are silted and polluted, our forests that are cut.”
Headman of impacted mining community, Zimbabwe

With considerable impact on communities and the environment, and an apparent lack of government action to protect against such harm, the granite mining practices in Zimbabwe arguably constitute patterns of human rights abuses and violations. These include: the right to just and favourable conditions of work (which ensure fair wages, equal remuneration for work of equal value and safe and healthy working conditions); the right to an adequate standard of living including adequate food, water and housing; the right to protection from arbitrary or unlawful interference with privacy, family

or home; the right to health; the right to a clean, healthy and sustainable environment; the right to self-determination; and cross-cutting guarantees of non-discrimination and equality.

COMMUNITY ACTION AND VISIONS FOR THE FUTURE

Widespread and significant patterns of human rights abuses and violations remain prevalent in the granite mining sector, exacerbated by Zimbabwe’s socio-economic and political context and complications linked to the COVID-19 pandemic. Communities report a lack of redress mechanisms, whether through informal or formal resolution mechanisms.

The significant underfunding of government departments means that regulatory inspections, monitoring and investigations generally do not take place. When they do, corruption compromises their effectiveness. The involvement of many senior government officials and party personnel in the granite mining companies is also conducive to the corporate capture of government decision-making which puts corporate interests over community concerns.

ADEQUATE SUPPORT NEEDED

The communities are left with few options and reportedly no adequate mechanisms in the relevant legal framework to protect against human rights abuses by granite mining companies. There is also a lack of knowledge and adequate support regarding international standards such as the UN Guiding Principles on Business and Human Rights or the OECD Guidelines on Multinational Enterprises.



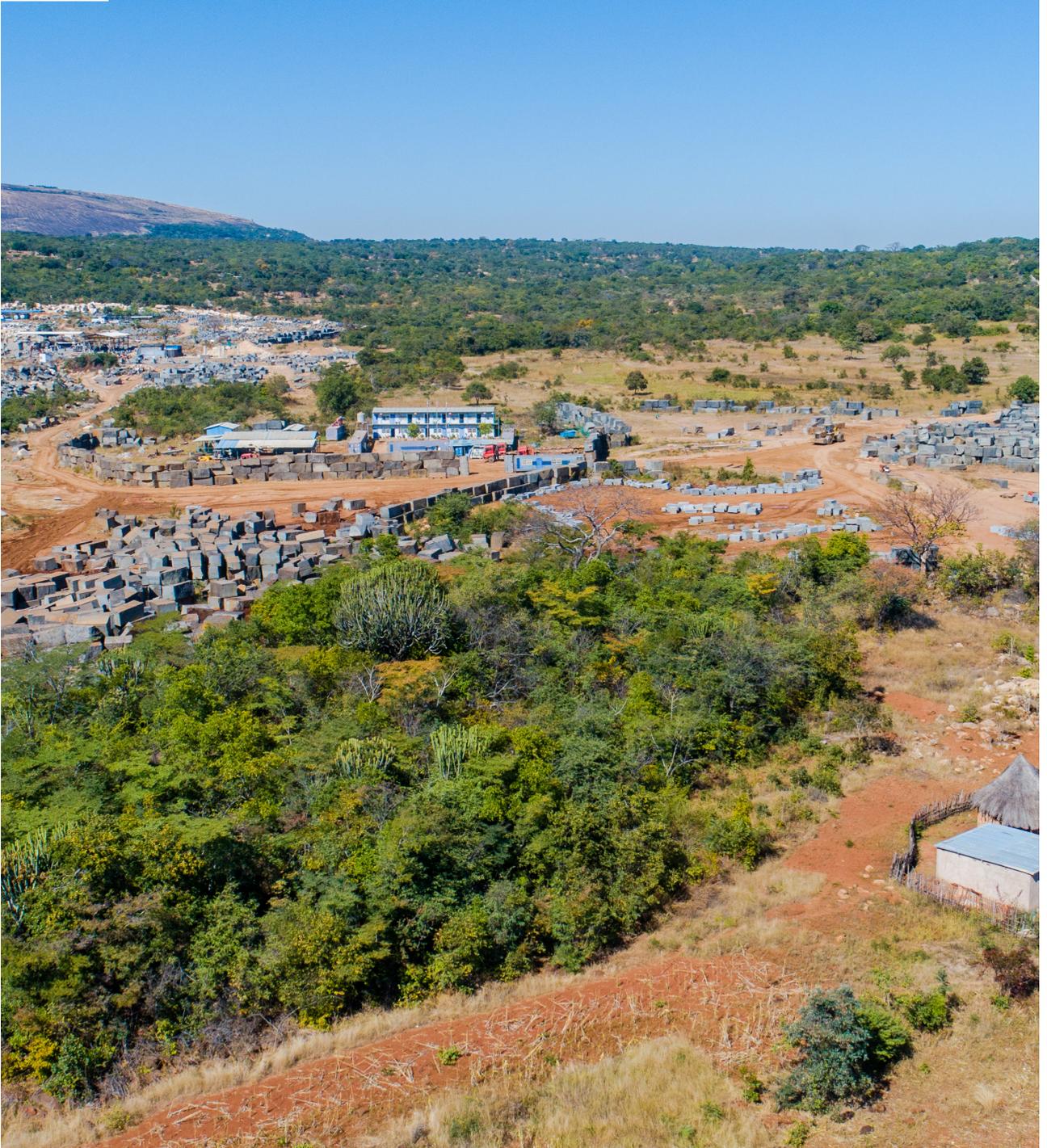
A woman from the mining community who lost her 12 year old son due to drowning in an open pit in 2021. Behind her is her son’s grave.

RECOMMENDATIONS

Communities continue to face deep levels of poverty, necessitating urgent and transformative change. Targeted recommendations for granite mining companies, government departments and institutions, civil society organisations and domestic human rights institutions include demands related to access information on corporate activities, undertaking human rights due diligence, preventing and restoring environmental harms, full compliance with labour laws, adopting comprehensive complaint procedures and redress mechanisms, and robust government action to tackle corruption and improve governance issues in the extractive sectors.

Communities continue to face deep levels of poverty, necessitating urgent and transformative change.

The combination of rural livelihoods and immense impact of large scale mining, in Zimbabwe



BLACK GRANITE MINING IN ZIMBABWE



WHAT?

Black granite used for e.g. kitchen tops and gravestones

WHO IS INVOLVED?

Various European-linked and Chinese granite mining companies:

- **Chinese-owned companies** including Jintings, Surewin Pvt Ltd, Longlui, Dingmao
- **Natural Stones Export Company** current ownership linked to Italian shareholders CRG Quarries
- **Zimbabwe International Quarries** with Zimbabwean and European shareholders
- **Quarrying Enterprises** – with a Zimbabwean and Italian shareholders
- **Ilford Services Mining Company**



WHO IS AFFECTED?

Communities in the Mutoko, Mt Darwin and Murehwa districts of Zimbabwe.

HUMAN RIGHTS HARMS AND THEIR GENDERED IMPACTS



LABOUR RIGHTS ABUSES



FORCED EVICTIONS & DESTRUCTION OF PROPERTIES



INCREASE IN WORK & CARE BURDEN



DISCRIMINATION OF WOMEN IN WORK



ENVIRONMENTAL DEGRADATION & LOSS OF LIVELIHOODS



INCREASE IN GENDER BASED VIOLENCE

Roads destroyed by mining vehicles, cause excessive water runoff into women's food gardens leading to less food security

CASE STUDY 3: NICKEL MINING IN GUATEMALA

WHAT IS HAPPENING?

In Guatemala, the Indigenous Maya Q'eqchi' people and their communities in the departments of Izabal and Alta Verapaz have been fighting since 2016 to access justice in connection with environmental degradation and human rights abuses linked to nickel mining by the Solway Investment Group.

The company bought 98.2% of the Fénix nickel mining project in 2011, with the remainder owned by the Guatemalan government. It operates in Guatemala through its subsidiaries Compañía Guatemalteca de Níquel S.A. (CGN) and Compañía Procesadora de Níquel de Izabal S.A. (PRONICO).

CONTAMINATION

In January 2016, following several years of CGN-PRONICO mining operations, the Artisanal Fishermen's Guild (Gremial de Pescadores Artesanales, GPA) became concerned about a red slick in the waters of nearby Lake Izabal, which reportedly grew over several weeks and emitted a strong oxide smell. It also killed manatees (an endangered species), turtles, alligators and fish in the lake. The GPA raised concerns and requested an investigation by the government, as they suspected that runoff from the mining company was responsible for contaminating the lake.

Continuing contamination of the lake and a failure by the government to respond, despite its agreement to investigate, led the GPA to begin a period of protest against CGN-PRONICO, as well as make a formal complaint to the public prosecutor's sectional office for crimes against the environment, part of the public ministry. They demanded clarification as to the causes of contamination of Lake Izabal, a determination of criminal and civil responsibilities, and associated damages. In May 2016, Carlos Maaz, a 27-year-old fisherman, was killed during a GPA demonstration allegedly by police forces, although the case remains unresolved.

“We do not want to be without water, without mountains, there are many violations of rights that are being carried out. Not only that, but they are also stealing all the wealth from our hills without leaving anything in return, barely 1% pay for everything they steal, as well as damaging the lake and the rivers.”
Maya Q'eqchi' woman living in impacted area in El Estor, Guatemala

COMPANIES INVOLVED

SOLWAY INVESTMENT GROUP – the world's largest privately owned nickel producer – is headquartered in Switzerland, with its parent company, **Solway Holding Limited** located in Malta. It operates globally, including mines and smelting plants in Guatemala, Ukraine, North Macedonia, Argentina and Indonesia.

CGN owns the Fénix nickel mine and extracts and sells nickel ore on the international market. **PRONICO** owns the nickel processing plant that processes nickel extracted from the Fénix nickel mine to produce ferronickel, which is widely used in engineering, transport, electrical and electronics, building and construction, and metal goods and tubular products.

In **2022**, the European stainless steel producer Outokumpu, reportedly supplier of Bosch-Siemens, IKEA, and Voestalpine Böhler Edelstahl, suspended all purchasing from the El Estor nickel mine.



Press conference of the communities in peaceful resistance of El Estor, Guatemala

LONGER-TERM CONTEXT

In 2017, the government established a dialogue process involving the GPA, the impacted communities and government officials, but later stopped this process. At the same time, the Ministry of the Environment and Natural Resources (MARN) and the Mining and Energy Ministry (MEM) absolved the mining company of any and all responsibility, suggesting instead that the contamination of the lake was caused by algae overproduction resulting from the population dirtying the water.

In the face of significant environmental damage, and without adequate company or government response or remedy, the communities affected by the mining project faced years of challenges to

restore the health of Lake Izabal and access justice via administrative and legal avenues. Throughout this period, they also faced repression and the criminalisation of their activities as human rights defenders.

The pollution of Lake Izabal and the subsequent struggle by the communities for redress should be understood in the longer-term context of government support to extractive industries operating in Indigenous territories. It also reflects an associated shift towards patriarchal militarisation measures that put corporate profit above people and planet, through what these communities describe as the 'breaking of cycles through which life is reproduced'.

***"We want justice, but who is going to give us justice? If we go to [state institutions], they are bribed by the companies. Even the Public Ministry no longer favours the community, rather they imprison one, or they want they kill us. What we ask is that there would be good justice from the international court."
Maya Q'eqchi' woman living in impacted area in El Estor, Guatemala***

IMPACT ON WOMEN AND COMMUNITIES

Women active in community advocacy and resistance have experienced significant impact on their homes, livelihoods and lives. They have had their chickens and pigs killed during home raids by the state, they experience a lack of employment opportunities in a mining industry skewed towards men, and they live with the chilling effect of ongoing intimidation and violence in their daily activities. The twin responsibilities of ensuring family income and providing care have also increased, with women forced to seek paid work following the criminalisation and arrest of male family members and having to care for people falling ill through contaminated water sources.

The apparent connections between mining company activities and environmental pollution, followed by a government failure to investigate promptly or effectively has led to a significant backlash against the affected communities' attempts to access justice. This situation raises questions in connection with human rights abuses and violations such as: the right to a clean, healthy and sustainable environment; the right to an adequate standard of living including adequate food and housing; the right to life; protection from

torture and cruel, inhuman or degrading treatment or punishment; the right to protection from arbitrary or unlawful interference with privacy, family or home; the right to self-determination; the right to health; and cross-cutting guarantees of non-discrimination and equality.

COMMUNITY ACTION AND VISIONS FOR THE FUTURE

In 2019, the Maya Q'eqchi' communities initiated legal proceedings before the Supreme Court of Justice of Guatemala, which ordered the Ministry of Energy and Mining to conduct a consultation of the people as established by International Labour Organization (ILO) Convention 169. This ruling was upheld in 2020 by the Constitutional Court of Guatemala, which also ordered a reduction in the Fénix nickel mining project area.

In 2021, the Constitutional Court reaffirmed the obligation of the government to carry out consultations with affected communities. This process was subsequently denounced by the communities on the basis that these took place during a government-declared state of siege and failed to include ancestral authorities elected by the communities or the affected communities themselves. They also took place with little participation from women. Amid these complaints, the consultation process was validated by the government, and the mine recommenced operations.

ILO CONVENTION 169

ILO Convention 169 is the major binding international convention concerning Indigenous peoples and tribal peoples and includes provisions outlining rights relating to land, consultation and decision-making regarding economic, social and cultural development. It is a forerunner of the UN Declaration on the Rights of Indigenous Peoples.

'MINING SECRETS' REPORT

In 2022, 'The Mining Secrets' report was released, revealing that the mining company hid monitoring, environmental evaluations and other internal reports. It concluded that the reddish lake water with a ferrous smell that fishers had detected in Lake Izabal came from the mine. The report was compiled by 65 journalists and 20 media outlets worldwide following a leak of 8 million company documents and purportedly provided evidence of Solway's operational and territorial control strategy, as well as company influence of government and

security force operations to align with its interests. As a result, the stainless steel producer Outokumpu cancelled commercial ties with Solway after its own investigation confirmed issues raised by the report^{xxi}, and the popular Austrian Salzburg Festival announced the rescission of its sponsorship agreement with Solway. Communities are calling for similar action by other companies with ties to CGN-PRONICO, as well as greater participation of women's voices in decisions that affect their territories and measures to prevent the corporate capture of state institutions.

PETITION

In June 2022, the communities presented a petition to the Inter-American Commission on Human Rights against the State of Guatemala, requesting revision of the legal status of land held by the mining company, assurance of the right to prior, free and informed consent, and the cessation of criminal legal repression of the communities by the government.

The nickel mine in El Estor,
Guatemala



NICKEL MINING IN GUATEMALA



WHAT?

Nickel used and applied in e.g. engineering, electronics, batteries, construction and stainless steel

WHO IS INVOLVED?

- **Solway Investment Group** – the world’s largest privately owned nickel producer, headquartered in Switzerland.
- **Subsidiary company CGN** owns the nickel mine in Izabal and Alta Verapaz
- **Subsidiary company PRONICO** owns the nickel processing plant



WHO IS AFFECTED?

Communities of the Indigenous Maya Q’eqchi’ People in the departments of Izabal and Alta Verapaz.

HUMAN RIGHTS HARMS AND THEIR GENDERED IMPACTS



INCREASE IN WORK & CARE BURDEN



REPRESSION & VIOLENCE BY STATE ACTORS



CRIMINALISATION OF HUMAN RIGHTS DEFENDERS



BARRIERS TO ACCESS JUSTICE



WATER POLLUTION & LOSS OF LIVELIHOODS



LACK OF CONSULTATION

Water pollution makes more people sick, leading to a higher care burden for women who look after their family

CASE STUDY 4: SISAL CULTIVATION IN KENYA

WHAT IS HAPPENING?

The large-scale cultivation of sisal, a plant used to manufacture goods such as rope, sacks and twine, raises important human rights issues connected to land dispossession, land use and employment conditions.

Teita Sisal Estate Limited is the largest sisal estate in East Africa and employs over 6,000 workers to cultivate sisal. This takes place on an area of land of 32,000 acres (though some reports suggest it extends to over 100,000 acres), in Taita Taveta County, southern Kenya.

The sisal cultivation in this location has been linked to decades of land rights disputes. The establishment of a farm in the early 1920s took place without the consultation of communities living on the land. In the early 1990s, thousands of residents of villages were faced with the abrupt destruction of houses, graves, crops and scattering of animals, purportedly on the grounds of encroachment on the company land.

LABOUR CONDITIONS

Today, the farm employs many community members who live adjacent to the farm as well as immigrant communities who come to search for work. Many employees have shared concerns about their conditions of employment, involving patterns of precarious temporary employment, subcontracting to non-unionised workers, occupational hazards due to excess loads and extremely demanding physical work, and unfair remuneration practices that include the forfeiture of wages if daily targets are not met. Workers report that, within the estate, the company exerts significant control over housing, the supply of electricity and household products, and living arrangements. Children of families employed by the company who reach the age of 18 are required to leave company housing.

“The estate’s management is not good. When employees complain about their rights or conducive work environment they get fired.”

**Former woman staff member of
the sisal farm, Kenya**

COMPANIES INVOLVED

TEITA SISAL ESTATE LIMITED – is the one of the largest sisal estates in the world and is owned investor Philip Kyriazi, an investor reportedly of Greek origin. The company grows sisal principally for export to other countries, with the largest markets including Nigeria, China, Ghana, Spain and Morocco.



Sisal plant

The extensive reach of the estate has also been connected to environmental consequences, through extensive monoculture cropping, the use of ancestral land formerly used communally for animal grazing and subsistence farming and the subsequent intensification of grazing and agriculture of remaining parcels of land outside its boundaries. Many residents do not believe the company has social licence to operate.

IMPACT ON WOMEN AND COMMUNITIES

Strict daily agricultural targets that are unresponsive to worker capability or needs related to gender have a disproportionate impact on women working on the estate. The employment lacks adequate accommodation for pregnancy, breastfeeding or menstruation needs. Sexual harassment is pervasive, with many women reportedly choosing to remain silent in the face of abuse due to the normalisation of this behaviour or because the perpetrator is in a powerful position in one of the companies. Notably, while men employed by the company are permitted to live with spouses not working for the company, women are not allowed to share housing with husbands who are not employed by the company. Societal gender roles mean that even as women undertake demanding physical employment with the company to earn a livelihood, they also have the responsibility for time-consuming domestic work that includes fetching water, food, cooking and childcare.

“The headmen makes advances and when we reject them, they start targeting and hating the female employee”.
Woman working at the sisal farm, Kenya

The activities of Teita Sisal Estate Limited impact employees directly as well as communities more broadly. They are connected to potential human rights issues such as: the right to just and favourable conditions of work (which ensure fair wages, equal remuneration for work of equal value and safe and healthy working conditions); the right to special protection for working mothers; the right to an adequate standard of living; the right to health; the right to a clean, healthy and sustainable environment; protection from inhuman or degrading treatment; the right to protection from arbitrary or unlawful interference with privacy, family or home; the right to self-determination; and cross-cutting guarantees of non-discrimination and equality.

COMMUNITY ACTION AND VISIONS FOR THE FUTURE

Communities employed by the sisal company, or otherwise impacted based on geographical proximity, have called for alignment of its activities with constitutional and legislative protections set out in the Kenyan national legal framework. They call for increased participation of women in the leadership of relevant unions to increase a gender perspective on working conditions, the involvement of communities in the company’s policy development and robust adherence to gender-responsive labour conditions.

Affected communities have made continued attempts to resolve ongoing land disputes. These include taking legal action, community mobilisation efforts, peaceful assembly and dialogue with the company. At the same time, communities have faced threats, backlash, harassment, arrests and ill-treatment in response to their demands.

In 2016, government officials responded to a petition

A village leader from Majengo Village, she was one of the 35 community persons who were arrested by orders from Teita Sisal Estate, Kenya



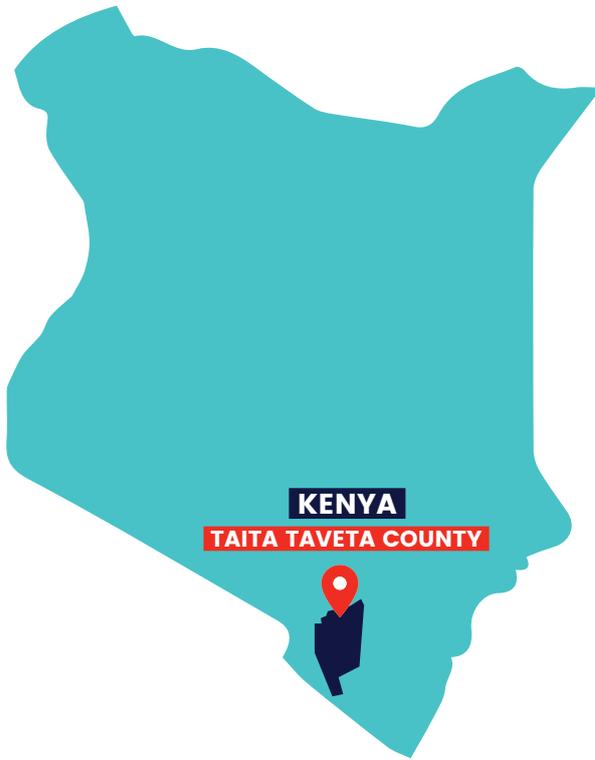
by the community in relation to disputed land boundaries, calling on the company to provide relevant documentation. Communities were disturbed to find their village land listed as part of the company estate in official maps. Following negotiations, only 200 acres of land were returned to the communities out of the 250 acres they had claimed, and the process stalled.

Subsequently, in 2018, the company donated 300 acres and a further 350 acres to the government to settle the claims of over 3,000 squatters, following further negotiations with the national government. This agreement also included water sharing arrangements as recommended by the government, as well as the removal of roadblocks and the creation of an access route to the dam to enable residents to fetch water. However, the dispute has continued, with action by the company in 2021 to fence land, causing continued issues of access to public amenities.

“The management we had was very bad, such that if a community member goes to fetch firewood they would be arrested for trespass without even being warned. So it seems like their security guards are creating enmity between the community and the company.”
Village leader from impacted community



SISAL CULTIVATION IN KENYA



WHAT?

Large-scale sisal cultivation used for e.g. ropes, sacks and carpets

WHO IS INVOLVED?

The following big agriculture corporations:

- **Teita Sisal Estate Limited**, the largest sisal estate in East Africa, owned by an investor of Greek Origin. The company grows sisal mainly for export to Nigeria, China, Spain and Morocco.



WHO IS AFFECTED?

Communities living in Taita Taveta County in Southern Kenya covering over 32,000 acres of land.

HUMAN RIGHTS HARMS AND THEIR GENDERED IMPACTS



**GENDER-BLIND
WORKING CONDITIONS**



**LABOUR RIGHTS
ABUSES**



**FORCED EVICTIONS &
DESTRUCTION OF PROPERTIES**



**INCREASE
SEXUAL VIOLENCE**



**INCREASE IN WORK
& CARE BURDEN**



**ENVIRONMENTAL DEGRADATION
& LOSS OF LIVELIHOODS**

Men in powerful positions sexually harass women workers, many remain silent due to normalisation of such behaviour

4. Recognising structural and gendered impact patterns across case studies

Understanding why we need a feminist approach to corporate accountability

Sharing case studies of ongoing business-related harms is an important way of understanding the extent to which the current corporate accountability frameworks at national and international levels are – or are not – supporting women, communities and the living world. While every situation is necessarily context specific, analysis across jurisdictions is an important way of revealing patterns of human rights abuses and violations. This can offer more specific guidance to companies and governments as to how to undertake practical feminist analysis and prevent similar structural and gendered impacts in the same or other locations in the future.

THE IMPORTANCE OF LOOKING AT SITUATIONS THROUGH A FEMINIST FRAMEWORK

The case studies reveal that differently situated groups, such as women, experience corporate-related abuses in different and sometimes disproportionate ways. To effect real change in the lives of women, it is essential that states and others adopt a practical feminist analysis of business activities based on the principles of non-discrimination and substantive equality. Such an approach can also a key entry point into identifying and responding constructively to the lived experiences of other groups who have traditionally been marginalised in different contexts.

NON-DISCRIMINATION

All women must be ensured the enjoyment and full realisation of their human rights in the context of business activities, on an equal basis to men. This means direct discrimination (such as illustrated by the Kenya case study, which describes different company housing policies applied to women and men employees) is prohibited, as is indirect discrimination (where an apparently neutral law, policy or practice affects women adversely in a disproportionate way, because of biological difference and/or the ways in which women are

situated or perceived in the world through socially and culturally constructed gender differences), on any grounds prohibited under international human rights law.

PATTERNS THAT OCCUR ACROSS CONTEXTS

Each of the case studies above, in various ways, reflect and reiterate common structural themes seen in connection with the activities of transnational companies. These include:

- The fact that human rights abuses by such companies are pervasive, extend across a wide range of human rights, and regularly have different and disproportionate impacts on women
- The fact that company land use and activities cause harm to both people and the planet, with increasing evidence of the interconnections between human, environmental, climate and related impacts (as well as the importance of the role played by many women, Indigenous communities and other groups closely connected with the land in modelling ways of living in harmony with the natural world and mitigating climate and ecological crises)
- The results of existing significant power imbalances, such as people being or feeling unable to address issues either with the companies in question (whether as employees or as local residents living nearby) or through dialogue with local or national governments
- The widespread lack of access to justice with respect to business-related harms, as linked to: minimal or opaque availability of information about company ownership, structure or practices; inadequate policing and judicial mechanisms; active repression and criminalisation of community efforts to seek redress; and broader national political environments that continue to privilege foreign investment over sustainable use of land and transformative country

development, and which facilitate the flow of finances away from local communities and the building of robust public services.

Together, these reiterate that voluntary commitments alone are inadequate to protect against such harms and ensure access to justice. This highlights the urgent need for states to agree on binding rules for business activities.

SUBSTANTIVE EQUALITY

In addition to considering and eliminating direct and indirect discrimination in laws, policies or practices, a gender-responsive corporate accountability framework requires that all women must be ensured substantive equality in the context of business activities. This invites a multifaceted approach^{xxii}, which:

1. Redresses disadvantage, based on historical and current social structures, and power relations that influence women's human rights enjoyment.

The case studies show the importance of understanding the roles and responsibilities women hold historically within their communities, and the extent to which they currently have access to, use of and control over financial and other resources. For example, women in both the Zimbabwe and Uganda case studies manage family gardens and have primary responsibility for domestic and care work, and the collection of water and firewood. The additional burdens or disruptions to these tasks by company activities are described. In the Uganda case study, where education facilities are disrupted, girls face the social pressure of child marriage. In the Guatemala case study, women face increased pressure from having to add paid work to the existing disproportionate burden of domestic and care work, following the criminalisation and arrest of male family members and family members' ill-health caused by environmental damage linked to mining activities. Similarly, in the Kenya case study, societal gender roles mean that women face a double burden of demanding physical employment and domestic work that involves fetching water, food, cooking and childcare.

2. Addresses stereotypes, stigma, prejudice and violence, within business enterprises and in connection with business activities.

Violence is a recurring theme across the case studies. For example, in the Uganda case study, women experienced violence within employment contexts with transnational agribusiness companies and through attacks by company security forces,

and stigma and prejudice following sexual violence and associated pregnancies. Women noted a chilling effect on their daily activities in the Guatemala case study, resulting from intimidation and violence connected with company backlash to community environmental defence action. In the Zimbabwe case study, women described facing increased domestic violence linked to work stress and corporate-related abuses experienced by male spouses. Women in the Kenya case study reported pervasive sexual harassment with impunity for perpetrators.

3. Transforms institutional structures and practices, which are often male-oriented and ignorant or dismissive of women's experiences.

Across the case studies, women reported significant barriers to accessing justice, such as in the Uganda case study, where women were subject to secondary victimisation in connection with unresponsive or obstructive police practices. In both the Guatemala and Zimbabwe case studies, the arrival of transnational mining companies has led to sectors favouring male-dominated employment. In the Kenya case study, women working on the sisal company estate faced daily agricultural targets which were not gender responsive, and a lack of adequate accommodation for pregnancy, breastfeeding or menstruation needs.

4. Facilitates inclusion and participation, in all formal and informal decision-making processes within business enterprises and concerning business activity regulation.

For example, communities in the Guatemala case study rejected the government consultation process to address business-related harms as being inherently flawed in its composition and minimal involvement of women. In Kenya, communities have called explicitly for women's participation in unions, recognising that existing gender imbalances leads to the ignoring or minimising of the different impacts of employment practices on differently situated groups.

Woman from Burundi descent living in the impacted area of Teita Sisal Estate, Kenya



5. An opportunity for change

Current global action towards new binding rules for business activities

Significant state action, bolstered by robust civil society advocacy, is already taking place at national, regional and international levels. Slow but steady progress is being made towards a new vision for how we understand and govern the impact of companies on people and planet. This direction is supported in public opinion polls^{xxiii}, and declarations from businesses who want level playing fields and understand the need to align short-term interests with the wellbeing of people and long-term flourishing of ecosystems.^{xxiv} However, such advances are also challenged by the existence of various obstacles, as highlighted below.

THE UN PROCESS TOWARDS A BINDING TREATY ON BUSINESS AND HUMAN RIGHTS

In June 2014, the UN Human Rights Council adopted resolution 26/09 which mandates a working group to elaborate an international legally binding instrument to regulate the activities of transnational corporations and other enterprises in international human rights law.

In practice, this means that all states interested in this process meet once a year in Geneva, Switzerland, to work towards a formal treaty regulating business activities and access to justice in connection with business-related harms to people and environments. Observer Member States may also attend the annual negotiations, as can non-governmental organisations (NGOs) with consultative status which allows them to participate in UN-hosted intergovernmental meetings.

The 8th session of the treaty negotiations will take place in late October 2022.

HOW ARE THE NEGOTIATIONS PROGRESSING?

Since negotiations began, states have considered and revised several versions of the draft treaty. Advances over time include expanded provisions on prevention of abuses, human rights and environmental due diligence and legal liability of companies. Strong submissions from civil society and a number of supportive states have amplified the nexus between human rights and

the environment. This will likely be bolstered by the recent UN General Assembly resolution recognising the human right to a clean, healthy and sustainable environment at the international level.^{xxvii} Similarly, more nuanced discussion and proposals in recent years relating to children's rights, the rights of persons with disabilities and other diverse perspectives have been effective in more closely connecting the treaty to the lived experiences of different groups. This shines a light on different issues that companies and states must be aware of in regulating business activities.

GENDER PERSPECTIVE

The initial draft of the treaty was largely gender-blind, with reference to women being minimal and limited to a framing of women as passive victims, to be considered only at the stage when harm has already occurred. Input by states committed to gender equality, as well as the active engagement of the Feminists for a Binding Treaty, have been instrumental in securing improvements in subsequent drafts.

Significant developments in this regard include:^{xxviii}

- The explicit acknowledgement of the distinctive and disproportionate impact of business-related human rights abuses on women and girls, and “the need for a business and human rights perspective that takes into account specific circumstances and vulnerabilities of different rights-holders and the structural obstacles for obtaining remedies for these persons”
- Emphasis on the need for states and businesses to integrate a gender perspective in all their measures in line with relevant international human rights and labour standards
- Agreement that states ensure that human rights due diligence measures undertaken by business enterprises must include “integrating a gender perspective, in consultation with potentially impacted women and women’s organisations, in all stages of human rights due diligence processes

to identify and address the differentiated risks and impacts experienced by women and girls”

- Recognition that access to justice must be gender-sensitive and take place in a manner that protects against re-victimisation “including through appropriate protective and support services that are gender and age responsive”, which enables victims “to overcome the specific obstacles which women, vulnerable and marginalised people and groups face in accessing such mechanisms and remedies” and which ensures gender-responsive reparations
- Special attention to business activities in conflict-affected areas, including relating to both gender-based and sexual violence

Despite progress, it is generally expected that the adoption of a treaty is still several years away. While agreeing an international agreement is always a multi-year process, the finalisation of this particular treaty has been hampered in various ways, including strong backlash by powerful business lobbies, diverted attention due to national crisis, the COVID-19 pandemic, the Russian invasion of Ukraine and other conflicts, and the destabilisation of global trade and energy sources. Further, a number of major economies where many transnational companies are based (such as the USA, Canada, the European Union and Australia), have not taken part officially in previous negotiation years, despite their commitments to human rights, gender equality and to realising the Sustainable Development Goals.

THE RELATIONSHIP BETWEEN GLOBAL, REGIONAL AND NATIONAL ACTION

The UN treaty process acts as an important focal point for regular global negotiations on corporate regulation, with various civil society groups noting the advantages of a defined space in which to exchange experience and expertise across jurisdictions, foster global solidarity and provide an opening for continuing dialogue with their governments.

At the same time, the international process supports momentum towards similar action at national and regional levels. Recent years have seen a growing movement towards mandatory human rights and environmental due diligence in different national jurisdictions around the world. France spearheaded such efforts in 2017 with its ‘duty of vigilance’ law, followed by the proposal or adoption of similar laws in countries across Europe, and elsewhere.

FEMINISTS FOR BINDING TREATY

The Feminists for Binding Treaty is an informal coalition of feminist and women’s rights organisations from all over the world. Together they work to secure a gender-responsive treaty through shared analysis and focused research into existing realities and challenges, dialogue with government representatives, targeted written and oral submissions and specific text suggestions.



Maya Q'eqchi' woman in the kitchen of her home in El Estor, Guatemala

Similarly, at the regional level, the European Commission adopted a draft directive in early 2022 on human rights and environmental due diligence.^{xxx} This will require large EU companies, and some non-European companies doing significant business in Europe, to assess actual and potential human rights and environmental impacts throughout their operations and supply chains. It will also require action to prevent, mitigate and remedy identified abuses or violations. Companies that fail to conduct effective due diligence or to implement preventative or remediation measures face both administrative penalties and civil liability.

Though increased support for binding regulations is positive, these developments can also undercut progressive approaches at the international level. They are primarily focused on due diligence requirements and do not address issues such as access to justice. Further, emerging laws and legislative proposals are not gender responsive.^{xxxi} With these concerns in mind, any steps taken at national or regional levels must incorporate a feminist perspective and build upon, rather than fall below, progress at the international level.

6. Next steps

Key recommendations for a feminist binding treaty on business and human rights

To address the structural and gendered impacts of transnational corporate activities highlighted above and to build on existing research, shared experience and mobilisation by women and civil society around the world, we call upon states to:

1. ENGAGE CONSTRUCTIVELY, BUILD ON PREVIOUS NEGOTIATIONS AND HARMONISE WITH HUMAN RIGHTS AND ENVIRONMENTAL OBLIGATIONS

- Welcoming the fact that, during previous sessions of the treaty negotiations, many states reaffirmed the importance of including a gender dimension in the process and supported the inclusion and strengthening of gender-responsive provisions, it is essential that all states continue to support these and build on developments.
- States must participate constructively in the ongoing treaty negotiations, in line with international human rights and environment obligations and commitments, and by strengthening a feminist perspective (including through oral and written submissions, bilateral state dialogue, and active engagement with civil society concerns).
- States must ensure that developments related to corporate accountability at national and regional levels reflect or improve on progress made at the international level, to ensure a 'level playing field' and commitment to human rights and environmental justice globally.

2. ENSURE WOMEN ARE AT THE HEART OF THE CONVERSATION

- States, companies and civil society must recognise and ensure the centrality and leadership of women in all their diversities in the process towards a binding treaty and in developments related to corporate accountability at national and regional levels, aligning with the maxim "nothing about us, without us".

3. PREVENT HARM TO PEOPLE AND PLANET

- States must ensure that companies undertake mandatory, gender-responsive human rights and environmental due diligence processes, which:
- Incorporate provisions that encourage effective substantive equality analysis and practice, and take into account different intersecting identities and factors affecting marginalisation and corporate-related harms.
- Identify and address the cumulative nature of the impacts of business activities over time, including processes to identify and respond to early warnings, and ongoing complaints and evidence, as presented by local communities and other stakeholders in relation to any aspect of the relevant business operations over time.

- Are aligned with international environmental standards, including but not limited to the precautionary principle, to guide the regulation of business activities or cessation of such activities where appropriate.

4. MAKE THINGS RIGHT WHEN HARM OCCURS

- States must ensure that systems of legal liability and provisions governing access to justice, remedy, and protective and support services are gender responsive, remove barriers to justice, and take into account different intersecting identities and factors affecting marginalisation and corporate-related harms.
- Welcoming the fact that, during previous sessions of the treaty negotiations, states reaffirmed that human rights due diligence shall not automatically absolve a legal or natural person conducting business activities from liability for business-related human rights abuses, states must ensure that relevant liability provisions at national and regional levels are similarly robust and that human rights and environmental due diligence does not become a ‘tick-the-box’ exercise or automatically absolve liability.

5. PUT CORPORATE ACCOUNTABILITY AT THE HEART OF BROADER MEASURES TOWARDS ECONOMIC, CLIMATE AND ECOLOGICAL JUSTICE AND TRANSFORMATION

- States must take urgent national action, including through international cooperation and assistance, to implement transparent, fair tax systems and ensure that measures are in place to ensure business compliance with such systems.
- States must take appropriate measures, including through international cooperation and assistance and with the centrality and leadership of women, to connect corporate accountability frameworks and measures with internationally agreed obligations, standards and commitments related to existing and emerging climate and ecological challenges.



The chairperson of one of the sugarcane plantations having a meeting with the sugarcane workers, Uganda

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Woman and paralegal
from impacted mining
community, Zimbabwe