

Concluding Remarks on Corporate Due

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The webinar series “Business and Human Rights in Europe: Connecting the Dots” organised by NOVA BHRE with the support of the Portuguese Presidency of the Council of the EU closed with its sixth and last episode focused on the interconnectedness between corporate due diligence and gender equality in light of the legislative developments at the European level.

The panel was comprised by Nadia Bernaz (Wageningen University), Erika George (University of Utah), Harpreet Kaur (UNDP’s Regional Bureau of Asia and the Pacific), Salil Tripathi (Institute for Human Rights and Business), Penelope Simons (University of Ottawa) and Olena Uvarova (Yaroslav Mudriy National Law University), and chaired by Teresa Anjinho (Provedora Adjunta na Provedoria da Justiça/Deputy Ombudsman).

As part of the introductory remarks, Teresa Anjinho emphasized how the Ombudsperson Office in Portugal has been following the discussions regarding business and human rights issues. She highlighted the existence of huge governance gaps that need to be tackled, especially at the level of awareness, and at the same time how important is to look at the positive and negative impacts of companies’ activities in order to effectively implement the SDGs.

During the first intervention, Penelope Simons explained how gender equality is connected with business and human rights. She started by acknowledging that no business activity or its impact on broader society is gender-neutral. Taking the example of resource extraction, she considered the gender dynamics and gender expectations in this field. In particular, one of the consequence that resource extraction had on women was the increasing burden to care for sick family members due to toxic chemical contamination. In addition, other concerns related to domestic violence and violence committed by male workers and security forces. Penelope also commented on the insufficiency of the current regulatory framework on human rights due diligence, particularly the UNGPs, where there is still no proper recognition of how structural gender equality is, although the situation seems to be slightly better in the case of the draft treaty on business and human rights.

Salil Tripathi focused on the impact digital transition and teleworking had on women during the covid-19 pandemic and how gender inequality is intrinsically linked to women leaving work. In this regard, Salil discussed how working from home has increased the burden put on women when it comes to domestic chores and even has made women more vulnerable to domestic violence, an unfortunate reality that has not been sufficiently addressed by companies for a variety of reasons, including cultural or historical reasons. Additionally, Salil pointed out that in the services sectors, such as banking or stockbroking, working from home has impacted women also at a professional level since they are more prone to be left out of the networking, and due to this phenomenon, they are more likely to miss certain

opportunities that they would legitimately be entitled to because they are just not part of the loop. At the same time, frontline operating jobs, such as supermarket counters, hospital staff, have been prominently undertaken by women, without actually dealing with their specific needs or pondering how to address them.

Then, Nadia Bernaz referred to the question of intersectionality and interdisciplinary approaches, and how human rights due diligence can accommodate different right holders. She explained how an intersectional approach is relevant to identify multiple factors of discrimination, see clearly how women can be affected differently in different contexts, and discuss the fact that we need to be more inclusive in policy-making processes, including the context of Portugal developing its National Action Plan on Business and Human Rights. In her view, the concept of human rights due diligence can accommodate different right holders, which can start by changing the way the problem is being framed, that is, by identifying potential issues and designing strategies to address them. According to Nadia, it is necessary to use a gender perspective from the beginning and not only when discussing remedies, which would in turn enable a different approach towards human rights due diligence.

After the discussion on human rights due diligence, intersectionality and the domestic burden put on women, Erika George spoke about the role of women activists in enhancing business culture and on the indicators that provide important information on gender equality. Although women in C-suite positions have been at the centre of the discussions about gender equality, she pointed out how women's rights and women's labour activists paved the way for our modern discussions on gender equality and its interconnectivity to business and human rights. Frances Perkins, Dolores Huerta, Velma Hopkins, Grace Lee Boggs, Rebecca MacKinnon and Sheryl Sandberg are examples of women activists who have contributed to helping women climb up the corporate ladder, and demanding respect for their rights and access to remedy. In relation to the indicators that give us information on gender equality, Erika proposed a holistic balanced and integrated approach to clearly identify gaps.

Harpreet Kaur tackled the question of including equality in the governmental agendas and on how providing practical guidance to companies can help shift the paradigm. As to the first issue, Harpreet considered what Governments should not be doing and this is taking a mere tick-box exercise. Secondly, she emphasized that women cannot be considered a homogenous group, and, therefore, when developing a National Action Plan (NAP), Governments should acknowledge the different realities of different women in law and policy instruments. Going further into the NAP developing processes, Harpreet mentioned that one key aspect would be to make sure inter-ministerial committees have adequate representation of women and bring gender experts. Another important element is to consider gender disaggregated data in their assessment processes. With regard to practical guidance to companies, she discussed the tools available that can be used by companies to be better equipped to tackle gender and human rights related issues.

Finally, Olena Uvarova spoke about the power and influence companies can have on pushing for positive changes in local contexts. In particular, she highlighted how important was to have businesses on the side of gender equality in societies that have had a paternalistic regulation for a long time. The role in the construction of a more equal society also represents the adoption of a different understanding of the social contract. In this sense, she mentioned the necessity to adapt general tools and standards to the local context, and referred to the example of private companies in Ukraine which have not been considered as actors of social life in its recent past. As Olena argued, one important element for companies is to go beyond the formal compliance with the law and recognize the situations that increase the vulnerability of women and other groups.

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