

Gender Analysis Needs To Inform A Treaty Regulating Business Activities

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ANNIE MATUNDU MBAMBI- A woman washes canvas to cover minerals outside an artisanal mine in DRC. New report from Women's International League for Peace and Freedom (WILPF) documents gender discrimination, slavery-like conditions, deterioration of reproductive health, violence, forced displacement, and sexual exploitation experienced by women in (and because of) artisanal mines in the DRC. The timely report is released few days before the second session of the intergovernmental working group on a legally binding instrument on transnational corporations and other business enterprises is scheduled to take place in Geneva (24-28 October 2016).

When things go wrong, when children cannot get to school, when labour rights are violated, when there is no access to appropriate health care, no access to adequate housing, the environment is being degraded – the potential list is long – we expect to be able to rely on laws to achieve redress with a system in place to make that happen. That expectation does not and should not stop at our own doorsteps.

There has been growing international attention to exactly these issues in the context of globalization; the adverse environmental, social and human rights impacts of business operations. This has led to the establishment of the [UN intergovernmental working group on a legally binding instrument on transnational corporations and other](#)

[business enterprises](#). The working group will begin its second session this Monday, 24 October.

The setting up of a process to draft such a treaty is an historic decision that was long overdue. The reasons why a legally binding framework is needed are numerous and well known; I will not attempt to enumerate all of them here. If this framework is to protect and promote women's rights effectively, gender analysis needs to be integrated throughout its drafting process. That might be self-evident to some, but is often not acknowledged fully.

The adverse human rights impacts of corporate activities are not gender neutral. Business activities in a community may cause or even exacerbate gender discrimination because of pre-existing gender roles and structures within that community. Mining operations are no exception. Women experience direct and indirect consequences of mining activities in different, and often more prominent, ways than men. This is particularly so in the case of artisanal mining.

Artisanal mining accounts for over 80 percent of mined products exported by the DRC, and women generally play a much larger – but often invisible – role in artisanal mining than in the large-scale mining sector. Artisanal mining sites, such as the ones in Haut Katanga, DRC, covered in [WILPF's research](#), are at the bottom of the supply chain and the furthest from the corporations that produce the final goods. The precarious living and working conditions in these sites are, however, clearly determined by these corporations, since they are responsible for setting the prices of mined products. A situation they prefer to ignore, their priority being obtaining supplies at low prices.

Working conditions in artisanal mines are considerably more dangerous than in large mining companies' mining sites. Artisanal miners often work under hazardous, labour-intensive, sometimes inhumane, conditions. Women are among the most impacted by the insalubrious and precarious conditions in artisanal mining sites. They are also the most impacted by the militarization of the sites stemming from the use of private and security forces.

Men and women do not perform the same roles in the mining sites. Despite being vital actors in mining communities, women's roles are normally relegated

to *droumage* (crushing, sorting and washing of minerals, sifting the crushed minerals, and processing the waste), selling the minerals, or to marginal support roles with minimal profitability. *Droumage*, in particular, are the most toxic mining activities.

Women experience violations such as gender discrimination, slavery-like conditions, deterioration of reproductive health (e.g. menstrual disruption, miscarriages, vaginal yeast infections), violence, forced displacement, sexual exploitation in (and because of) artisanal mines, exposure to HIV/AIDS and other sexually transmitted diseases. Poverty is a driver of the need to sell sex to survive. They live on meagre meals, wholly inadequate given their relentlessly long working hours that include those devoted to domestic tasks. They have no access to the justice system since it is too remote from the mines.

The majority of women and girls working in those mining sites have very low level of education; many are illiterate. Many of those interviewed said that, if they were presented with interesting, lucrative alternative livelihoods, they would leave the mine. Their opportunities to obtain adequately remunerated, formal work in other sectors are, however, scarce.

The environmental impact of the mines includes the destruction of farmland, deforestation, pollution of rivers and water sources, and soil erosion. Women's ideas to improve their situation and that of their community include literacy programs, training in safe mining practices, education for their children, and sustainable solutions for access to potable water, health centers, fertilizer and seed centers to promote lucrative farming, and care for the environment. Their wisdom, however, is ignored by the mining industry.

How can a treaty improve the lives of these and other women negatively affected by the mining industry? Bonita Meyersfeld, a gender expert invited as a working group panelist, suggests, for example, that corporations be required to ensure that their supply chains are subject to strict gender considerations and to assess whether their activities create, encourage, reinforce or exacerbate existing gender-based inequalities within the communities where they operate.

Applying a gender perspective means to seek to prevent and address negative gendered impacts by analyzing the particular ways in which corporations may affect the rights of women, and identifying a response that is adapted to women's needs, taking into consideration the intersection of other discriminations, such as race, ethnicity, sexual orientation, economic status et al, which have additional and negative impact. This should start with an analysis of the social, cultural and economic context in which the activities are to be undertaken so as to understand the political economy. This should then inform how activities will either reinforce the status quo or how they can be used as a vehicle for positive change. For example, a focus on those at the end of their supply chains to assess gender violence in communities, access to land, tools, documentation etc., differences in wages, barriers to access markets for women. It would also mean requiring companies to ensure that any consultation process, done as part of the due diligence requirement, is carried out with sensitivity to women's needs, for example, by having women interviewers, who are familiar with the cultural dynamics within certain communities.

Gender analysis would also consider the economic and development opportunities associated with bringing women in the job market.

Women cannot be out of sight, out of mind in efforts to prevent adverse human rights impacts of business activities. Applying a gender perspective throughout the treaty drafting process is the only way to achieve an instrument that gives responses adapted to women's needs. The meaningful participation of affected women is essential to making a treaty fully useful and useable for women. However, participation does not replace gender expertise. Understanding gendered power relations is key to building an effective response to corporate practices that exacerbate gendered harms.

Read: WILPF's new report "[Life at the bottom of the chain: women in artisanal mines in the DRC](#)" (released October 2016), available in English and French.

The report is based on the research: "[Enquête sur les violations des droits humains subies par les femmes congolaises dans l'exploitation des mines artisanales dans la province du Haut Katanga](#)", conducted by Annie Matundu Mbambi and Léonnie Kandolo of WILPF DRC.

The [Women's International League for Peace and Freedom](#) is part of the [Treaty Alliance](#).

See also:

Business, human rights and gender: a legal approach to external and internal considerations by Bonita Meyersfeld, Director of the Centre for Applied Legal Studies and Associate Professor of law at the School of Law, University of Witwatersrand, Johannesburg

[Women, Communities and mining. The gender impacts of mining and the role of gender impact assessment](#), Oxfam Australia.