**In 10 Steps towards a Binding Treaty with Feminist Perspective**

**Step 1: All governments support the UN binding treaty on Business and Human Rights and constructively engage in the negotiations taking place at the moment**

* **Rationale:** The negotiations for the binding treaty are taking place right now but most rich and emerging countries, who are host of large companies with cross-border operations are being uncooperative. For example, the European Union has paused its engagement despite the fact that most of these governments claim to be human rights and gender equality champions. And despite the fact these countries are mass producers and consumers, with corporations active all over the world and sometimes violating human rights.
* **What should governments do:** Governments have to be present at the annual negotiations for the treaty, they have to voice their opinion on the various drafts of the treaty and they have to deploy diplomatic pressure to make the treaty a reality.

**Step 2: The protection of human rights and rights-holders is the main goal of the treaty, specifically womxn and other marginalized groups[[1]](#footnote-1)**

* **Rationale:** When international Business and Human Rights standards mention “risks”, corporations often assume risks to business management is what is meant. In other words, risks to their possible profits. The main goal of the treaty should be the protection of human rights and rights-holders, not businesses’ reputation or profit.
* **What should governments do:** Governments guarantee that the treaty preamble refers to the all international Human Rights instruments, such as the Universal Declaration on Human Rights and CEDAW.

**Step 3: Full and meaningful participation of civil society - including womxn’s rights organizations, feminist collectives, labour unions, young people’s, LGBTQIA+ and other social movements, womxn human rights defenders and experts - particularly those representing marginalized groups, is fundamental and should be supported, by all states and by the Chair of the negotiation process**

* **Rationale:** The treaty can only make a difference in the lives of diverse womxn when it takes into account their different needs and wishes; womxn’s rights groups in their great diversity need to be able to shape the treaty and be listened to, together with other marginalized groups.
* **What should governments do:** Governments guarantee that civil society is present and able to provide input during the annual binding treaty negotiations. Governments make sure their input on the various drafts of the treaty is transparent and open to consultation with civil society and parliament, and they call upon other member states and the UN to do the same. Governments assert diplomatic influence in order to make the treaty a reality.

**Step 4: Governments oblige corporations to prevent and mitigate potential harmful impacts of their activities on womxn**

* **Rationale:** Adverse human rights impacts of corporate activities are not gender neutral due to existing gender inequality and patriarchal structures. For example, womxn have fewer employment opportunities, face gender-based violence and are disproportionately affected by environmental damage and socio-economic harm caused by corporate activities. These injustices reinforce gender inequality. However, these injustices do not always become apparent in standard human rights risk assessments. A gender lens will bring this injustice to light.
* **What should governments do:** It is important that corporations take into account the differentiated impact of their activities on womxn and men. Companies must explicitly evaluate, identify and address gendered risks and impacts, see where womxn are disproportionately impacted, and develop gender-sensitive and gender-responsive policies & plans. These policies and plans should be publicly available and accessible. Governments ratifying the treaty oblige corporations to carry out these steps. Governments also strive to make gender-disaggregated data available.

**Step 5: Governments oblige corporations to consult womxn who might be affected by potential and existing projects and investments**

* **Rationale:** To prevent the before-mentioned disproportionate impacts of corporate activities on womxn it is important to consult the womxn who might be affected.
* **What should governments do:** Corporations should take into account the existing gender inequality in the host countries of their activities and investments, and should take extra steps to make sure womxn can be meaningfully consulted. This includes, for example, organizing consultations after work and after children’s bedtimes, or making sure female interviewers are present. In order to carry out the consultation in an honest fashion it is important that the Free, Prior and Informed Consent-principle is applied, guaranteeing that the womxn have the right to say no to the investment or project. Governments ratifying the treaty oblige corporations to carry out these requirements.

**Step 6: Governments guarantee that corporations can be held accountable for womxn’s rights violations linked to their activities abroad**

* **Rationale:** At this moment in time, it is almost impossible for victims of human rights abuses to hold corporations accountable for the actions of their subsidiaries or suppliers. Large corporations are immensely powerful, both in terms of resources and in terms of influence, are present in many countries and have complicated governance structures and supply chains. This makes it extremely difficult for the victims of these abuses to figure out who exactly is responsible for the violations and who/how to address. Some corporations abuse these unclarities to escape justice and victims of these violations are bounced from country to country, and court to court.
* **What should governments do:** Governments ratifying the treaty clearly define their extraterritorial obligation to ensure access to justice and remedy to survivors of violations committed by businesses that occur outside their territories and make international agreements to support this. This means in practice that they structure their legal systems in such a way that corporations can be held accountable for the human rights violations linked to their extraterritorial activities and for not taking reasonable steps to prevent suppliers from committing violations, in case there is no effective remedy in the country where the abuse took place.

**Step 7: Governments remove the barriers to justice that womxn experience in holding corporations to account**

* **Rationale:** At this moment in time, it is almost impossible for victims of human rights abuses to take legal action or prevail in court, due to the high costs associated with collecting evidence and lengthy legal procedures. Sometimes it is due to more practical issues, such as (geographical/physical) inaccessibility of the courts, illiteracy and other social and cultural barriers. Many victims come from the poorest communities around the world and simply do not have the time or money for the long and expensive legal battles. Womxn face additional barriers due to their judicial, social and economical exclusion.
* **What should governments do:** Governments ratifying the treaty ensure their legal systems are accessible, efficient, safe and fair to womxn and all affected communities. For example, by revising the high costs associated with court procedures or reversing the burden of proof. States commit to removing barriers to justice for womxn by taking into account existing gender inequality, for example by providing legal aid as womxn are more likely to be financially dependent. Governments also clearly define their extraterritorial obligation to ensure access to justice and remedy to survivors of violations committed by businesses that occur outside their territories and make international agreements to support this.

**Step 8: Governments guarantee that public, private and international complaints mechanisms are accessible to womxn**

* **Rationale:** In addition to, or in place of, legal procedures,governments, corporations or international organizations sometimes have non-judicial grievance mechanisms catering to victims of human rights violations. However, these mechanisms are often set up to protect corporations rather than provide remedy to victims. Complaints are not taken seriously, or victims are offered half-baked solutions. Many mechanisms do not take the needs of womxn into account and are not accessible.
* **What should governments do:** Governments ratifying the treaty ensure that public, private and international grievance mechanisms are accessible, efficient, safe and fair to womxn. They take into account existing gender inequality, for example by making sure to have female interviewers, accustomed with local power dynamics, cultures and languages.

**Step 9: Governments guarantee that womxn have effective access to remedy and redress**

* **Rationale:** Even when victims manage to overcome all before-mentioned obstacles and barriers etc., and succeed in claiming their rights (judicially or through non-judicial mechanisms), womxn still can be disadvantaged with regards to the remedy provided.In some cases of human rights violations, victims are rewarded remedy, for example in the form of financial compensation, a job in the mine that grabbed their land or a replacement plot of land. However, when womxn are not allowed to own land under the national law, are deemed not fit to work in the mine, or financial compensation is only made out to the (male) head of the household, womxn do not equally benefit from the remedy provided by the corporation.
* **What should governments do:** Governments ratifying the treaty should commit to positive measure to ensure effective access to remedy, without discrimination. They commit to taking into account existing gender inequality and the social, legal and economic exclusion of womxn, and their limited access to economic resources, such as land. Governments clearly define their extraterritorial obligation to ensure remedy.

**Step 10: Governments guarantee protection for Womxn Human Rights Defenders and whistleblowers**

* **Rationale:** Womxn and men alike are on the frontlines worldwide to defend their rights against powerful corporations, or act as a whistleblower when corporations violate rights. Both womxn and men experience violence, intimidation, stigma, defamation and dismissal. Yet womxn are impacted in more gravely or in specific ways: they are threatened with sexual or gendered violence, for example, because they are speaking out in a country where it is not socially accepted for womxn to speak out, or they are met with denigrating or misogynistic stereotypes. These violations are used to dissuade womxn and others to defend their rights, endangering the rule of law and democracy.
* **What should governments do:** Governments ratifying the treaty ensure human rights defenders and whistleblowers are protected, including Womxn Human Rights Defenders and whistleblowers. For example, by establishing early warning systems and protection mechanisms, by preventing defamation and slander campaigns by publicly condemning them, and by terminating criminal investigations into human rights defenders.

1. Although to the untrained eye this might seem like a typo, we purposefully use ‘womxn’ throughout this article to make an effort to use inclusive language. Womxn is a definition that explicitly does not only include cis-women. This is in order to underscore inclusivity and intersectionality and to stress that the disproportionate impacts of business activities do not only impact women but all people subjected to intersecting forms of discrimination. [↑](#footnote-ref-1)