DISSECTING HUMAN RIGHTS DISCLOSURE

A TOOL FOR INVESTORS

DRAWING FROM COMPANY REPORTING ON:

EFFORTS TO TACKLE GENDER-BASED IMPACTS





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Drawing from company reporting on: Efforts to tackle gender-based impacts

Shift, New York. March 2020



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ABOUT SHIFT

Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights.

Shift's global team of experts works across all continents and sectors to challenge assumptions, push boundaries, and redefine corporate practice in order to build a world where business gets done with respect for people's dignity, everywhere and all the time. Shift is a non-profit, mission-driven organization, headquartered in New York City. Visit shiftproject.org and follow us at @shiftproject.

INTRODUCTION

When investors consider companies' disclosure on gender, the information available to them is often limited and surface-level. The tendency we see in both corporate reporting and ESG metrics and indexes¹ is to focus on numbers such as the percentage of women on the board and in senior management, commitments to advance women within the workforce and philanthropic projects to empower women outside the workforce.

Current disclosure often obscures or misses the issue of how various impacts based on gender are connected with a company's operations or value chain and their underlying causes. This can raise questions about whether the company adequately understands where and how these issues arise, or whether it is simply complying with a regulatory requirement or viewing initiatives on gender as a philanthropic matter.

For investors who expect companies to respect the basic dignity of people across their operations and value chains, and know that their clients care about such outcomes, the current information being disclosed therefore tends not to provide a sufficient picture. Gaining better insight about whether and how companies are advancing greater equality across their business is critical to any assessment of long-term value creation and to achieving various of the Sustainable Development Goals (SDGs).²

This resource looks at how investors can apply a people-centered approach to gain deeper insights from gender-related disclosure. It is based on Shift's five years of experience reviewing company disclosure on human rights and analyzing it against the UN Guiding Principles on Business and Human Rights.³ It looks beyond the typical metrics reported, at indicators of how a company understands the treatment of people of different genders in its workplaces. In particular, it looks at:

- Whether a company's disclosure indicates that it sees gender-based impacts as relevant and important for its business;
- Whether a company's disclosure suggests it has real insight into women's experience in the workplace;
- Whether a company's disclosure suggests it is alert to other dimensions of gender-based discrimination.

The resource explains some of the current gaps in disclosure and uses excerpts from some of the better company reports and broader public communication to highlight ways in which information may provide a deeper insight. It offers pointers for assessing this type of disclosure more generally and for engaging with companies to better assess their performance in this regard.

While investors will likely find this resource valuable, the insights can also be useful for businesses looking to improve their disclosure on gender. It should help them identify gaps in their current reporting, consider whether this reflects gaps in their practices and drive conversations internally that can support improvements.

Negative impacts based on gender range from discrimination within and exclusion from the formal workforce to physical and sexual harassment, denial of access to health care and lack of formal land rights. "Gender," as discussed below, is used to describe characteristics that are associated with a certain sex (male or female) through social roles, norms and expectations. Cisgender women (those women whose gender identity matches that which was assigned to them at birth) are the largest affected stakeholder group subject to negative human rights impacts based on gender, but they are not alone. Transgender and nonbinary people and people with intersex characteristics are also particularly vulnerable to gender-based discrimination through stereotypes and expectations about their genders.

Current disclosure and company initiatives on gender, however, rarely reflect this understanding of the scope of gender-related impacts. Instead, they tend overwhelmingly to focus on the inequalities faced by people understood to be cisgender women compared with those understood to be cisgender men. Most of the examples cited below reflect this tendency, while a few point to the experience of LGBTI+ people. One institutional investor has produced guidance on "how investors and asset managers can consider LGBTQI alongside gender equity in their investment analysis," recognizing that "bias and discrimination towards LGBTQI people are related, at least in part, to normative expectations of gender within the workplace."⁴

- Of business leaders surveyed by BSR/GlobeScan in 2019, the number one action company respondents mentioned taking in response to women's empowerment activism was "increased focus on women in senior leadership and governance roles" (54% of all respondents), See: The State of Sustainable Business 2019, FTSE Women on Boards Leadership Index Series, and the Impax Global Women's Leadership Index and the MSCI World Womens Leadership Index
- Particularly SDG 5, 'Achieving gender equality and empowering all women and girls.' The 2030 Agenda for Sustainable Development also frames equality and non-discrimination – 'leaving no one behind' – as key crosscutting principles of the Agenda.
- 3. For more guidance from Shift on human rights reporting, see: The UNGPs Reporting Framework
- 4. See Two Lenses One Vision

For the reader of corporate disclosure, it can be instructive to see whether companies demonstrate that they are addressing discrimination against women and LGBTI+ individuals because it is both relevant and important to their business. Companies that report only mandated data points regarding women in their workforce provide little confidence that they view the issue this way, leaving an investor uncertain about whether discrimination may persist in their corporate culture. Even disclosure of the existence of a diversity and inclusion program or training may give only limited confidence that the company is serious about the value of tackling gender-based discrimination, since such programs have become so standard in large western companies while the results remain frequently unclear or unconvincing.⁵

RED FLAG: Gender-related disclosure appears to be mostly driven by the need to meet external benchmarks, requirements or demands, rather than the issue's relevance/ value to the business.

Notice how in its 2018 Sustainability Report, Anglo American discusses the challenge of increasing the number of women within its own workforce and observes that:



"While we made good progress in 2018, we recognise that there is still much to be done. Gender equality is a prevalent social issue – and a business imperative."⁶ On International Women's Day in 2018, the company profiled women in the workforce and stated that:

"To change outcomes, we first need to change mindsets, both within the industry and in broader society. [...] In the words of Anglo American South Africa Deputy Chairman Norman Mbazima: 'Employment equity is made real by people who understand that growing the role of women at all levels of their organisation contributes not only to the health, capability and competitiveness of a company, but also to its bottom line.""⁷



- 5. See: Designing a Bias-Free Organization and Why Gender Diversity Is Stalled
- 6. See: Unlocking Our Full Potential, p. 78
- 7. See: Meet Our Women In Mining

In 2009, the mining company Rio Tinto issued a stand-alone report entitled "Why Gender Matters: a resource guide for integrating gender considerations into communities work at Rio Tinto", in which it states that:

"Rio Tinto has a responsibility to ensure that adverse impacts and social risks are minimised and do not fall disproportionately on any one section of the population. There is clear evidence that in certain contexts women are particularly vulnerable to mining development."⁸

The company further set out the rationale for paying attention to gender-based impacts on women across their business:

"For Rio Tinto, gender matters in order to:

- minimise negative impacts of mining;
- gain and maintain a social licence to operate;
- support local and Indigenous employment opportunities;
- uphold corporate commitments to human rights;
- advance Rio Tinto's sustainable development objectives; and
- improve access to finance."9

This type of disclosure suggests that there is a recognition, at least at the level of management, that tackling gender inequality and impacts is not a philanthropic activity or merely responding to external regulatory or stakeholder demands, but represents value to the business. Investors can use engagement with companies to explore the evidence for how such assertions carry through in practice, and how top leaders maintain consistent messaging and behaviors regarding the treatment of women, to build further confidence that this is being embedded into the corporate culture.

Microsoft also reflects how ensuring equality for employees in same-sex partnerships is important to its business:

"[W]e're committed to treating all of our employees equally. In 1993, Microsoft became the first Fortune 500 Company to provide samesex domestic partnership benefits. Our commitment to treating all our employees equally has helped our business grow as well as being the right thing to do.... In short, marriage equality as a legal right makes good sense for business and for people. That's why we've advocated for marriage equality in places where we have facilities and employees."¹⁰

Beyond simply expressing that treating all employees equally is important for its business, this disclosure demonstrates this commitment by reporting that the company is acting on that belief by taking an advocacy stance with governments in support of equality.

8. See: Why Gender Matters, p. 81

9. See: Why Gender Matters, p. 81

10. See: The business case for marriage equality



RED FLAG: The company fails to clearly show how its genderrelated actions are connected to the company's core business. Many companies report on initiatives to address impacts on women in the context of their supply chains, but the basis for these activities is often not articulated, making it unclear whether the company views them as a "nice-to-do" largely philanthropic activities or part of its core responsibility for addressing impacts on women connected with its business. Where these initiatives are not seen by a company as a necessary part of doing business responsibly, they may be siloed in operational terms, fail to either inform or reflect corporate culture and be vulnerable to termination in economic downturns.

Companies such as Nestlé, H&M and Unilever articulate the relevance to their business of tackling gender inequality in their supply chains. Nestlé observes both the risk to women in their coffee supply chain and the opportunity from tackling these risks in terms of the sustainability of the products they sell.

"Gender equality can positively drive sustainability in coffee. However, because inequality remains a key concern across the industry, Nespresso has developed a gender equality strategy for its AAA Sustainable Quality[™] Program."¹¹ In their 2018 sustainability report, H&M similarly highlights the imperative for the company of addressing gender inequality given the prevalence of women in their workforce and supply chain and the relevance for achieving the Sustainable Development Goals:

"In a global society, there is still work to be done to achieve gender equality. It is an explicit priority for the world, through the sustainable development goals, and it is a priority for us. As a large company where the majority of people employed by us directly or indirectly are women, we need to ensure that we address both structural and unconscious inequalities."¹²

Unilever's human rights reporting is even more specific and evidencebased regarding the relevance of addressing gender-based impacts on women for their business – both in their own agricultural workforce and their extended supply chain:

"We know that a culture of sexual harassment is endemic in agriculture in many parts of the world and therefore that the likelihood of this existing in our own locations and our extended supply chain is high. In 2014, harassment was our highest internally reported salient issue with a high number of recorded code breaches coming from East Africa and Brazil with substantially more women reporting harassment than men."¹³

11. See: Working Together for Gender Equality, Executive Summary

12. See: H&M Group Sustainability Report 2018, p. 85

13. See: Enhancing Livelihoods, Advancing Human Rights, p. 35

Again, this kind of disclosure – particularly when backed up by data as to the extent of the issue and how it manifests – can provide the reader with some level of confidence that the company genuinely recognizes the relevance and importance of addressing gender-based impacts on women for its own success as a business. This can provide a basis for further engagement with the company about the evidence of progress both in tackling root causes and in the results experienced by women.

Where a company's disclosure indicates the longevity of initiatives to address risks to women, this can be another indicator that gender-related efforts go beyond philanthropy. For example, Adidas reports that:

"To complement our work on fair wages, our close engagement with suppliers has resulted in consistently high levels of compliance in fulfilling female workers' employment rights and benefits, such as maternity leave allowance, restricting overtime for pregnant women, menstrual leave, provision of day-care and nursing facilities. For example, as early as 2001 we engaged with Phulki, a Women and Child Rights NGO in Bangladesh, to promote improvements and access to day-care facilities, which are essential for young mothers re-entering the workforce."¹⁴

POTENTIAL QUESTIONS FOR EXAMINING DISCLOSURE AND ENGAGING WITH COMPANIES:

Why exactly is the company undertaking initiatives related to gender equality? Is there evidence that the company is addressing risks to women as a value proposition for its business? Does the company's leadership articulate the relevance and importance of equal treatment of women in its internal and external messaging and behaviors? Does it relate this to the company's core strategy and sustainability? If so, does it go beyond general assertions to show the evidence for this view?

14. See adidas on sustainability and factory workers

Does a company's disclosure suggest it has real insight into the experiences of women in the workplace?

The most common form of information related to gender we see companies provide in annual disclosure is data on women in the workforce, on the board and in top leadership positions. This type of data is often disclosed in order to comply with regulations or reporting frameworks. On its own, it only tells us whether women are present at certain levels of the organization. It does not convey how the company treats women and whether it understands the effects that gender may have on their experience and well-being in the organization. Where companies demonstrate through their disclosure that they understand the perspectives of women seeking to progress within the company, this can be an indicator that they will ultimately be more successful in improving and sustaining women's representation in senior ranks.

RED FLAG: The company limits its disclosure to numerical data on gender balance, rather than providing insight into the actual treatment and experience of women.

Anglo American, in its 2018 Sustainability report, discusses its efforts to gain employee perspectives on Inclusion and Diversity (I&D) within the company and what it learned:

"To understand how our employees feel about I&D across Anglo American, we have completed in-depth qualitative research in eight of our global locations, as well as interviewing more than 30 of our most senior leaders. The research highlighted our male-dominated culture, which is constraining career opportunities for women and other groups. [...] Participants also called for an authentic approach to I&D, backed by visible senior leadership involvement, clear principles and a commitment to actions that deliver new ways of working."¹⁵

This excerpt points to some honesty regarding the male-dominated environment and its consequences for women, which are familiar in the mining sector. It recognizes the issues as cultural and points to the need for senior leadership to take an active role in changing these realities. The company further reports that it is seeking to measure and track the behaviors that influence the experience of women and other groups:

"Towards the end of 2018, we conducted a voluntary and confidential global demographicDoes a company's disclosure suggest it has real insight into the experiences of women in the workplace?

diversity baseline survey across 15,000 employees. This also incorporated our inclusion index for the first time to measure key aspects of inclusive behaviour. This index will form part of global and local surveys and will be one method to help us to evaluate progress in the future."¹⁶

This kind of disclosure shows an effort by the company to improve its understanding of the specific causes of unequal representation through engagement with those directly impacted. It suggests the company is not just focused on numbers or the existence of policies and processes, but is also looking at the behaviors that influence the experience and trajectories of women and other minority groups in the company, providing a broader base for the company to evaluate its progress. It provides some confidence that the company's efforts are not just driven by disclosure requirements regarding women's ranks in the company, but by a purpose and commitment to change women's experience in the company.

We quite often see more detailed disclosure from companies about efforts to understand the perspectives of women when it comes to their supply chains, rather than in their own employee base, where disclosure is more often limited to broad commitments, numbers and assertions of progress. In 2018, Nestlé published an assessment report that they produced with the Danish Institute for Human Rights on Nestlé's palm oil supply chain in Indonesia, discussing the means through which they sought to understand the experience of women: "Where women were present, the assessment team ensured they were interviewed, to ensure the team understood challenges faced by this category of workers at all levels. This was specifically done on the large integrated estate, where 13 of the 29 workers interviewed were women. Women interviewed had different roles and responsibilities. Women were interviewed by a female assessor with no men present, to enable them to speak freely in relation to gender-sensitive issues."¹⁷

In another area of its business, Nestlé worked with TechnoServe to develop and test a gendersensitive analysis tool in its coffee supply chain. Their reporting shared that the aim was:

"[T]o collect a comprehensive set of both quantitative and qualitative data, using interviews and focus group discussions with over 250 randomly selected AAA farmers. This approach was designed to maximise the number and accuracy of farmers' responses regarding their preferences, opinions, behaviours, and information as it pertains to the attitudes and decisions related to gender. The survey delved into who makes the decisions in the home and the business, and who controls the coffee production, marketing, income, assets, and labour."¹⁸

This disclosure gives some confidence that the company's efforts to advance equality for women in key areas of their supply chain will be grounded on an understanding of the full context and lived reality of women and insights into the root causes of their inequality with men.

- 17. See: Nestlé's Palm Oil Supply Chain in Indonesia, p. 59
- 18. See: Working Together for Gender Equality, Executive Summary

^{16.} See: Unlocking Our Full Potential, p.78

Does a company's disclosure suggest it has real insight into the experiences of women in the workplace?

In their 2015 reporting cited above, Unilever conveyed their experience of how grievance processes have helped them to gather insights into whether and how women are impacted in their supply base:

"In 2014, harassment was our highest internally reported salient issue with a high number of recorded code breaches coming from East Africa and Brazil with substantially more women reporting harassment than men. [...] [I]t is important to note that an increase in the number of grievances was an essential indicator of our progress, demonstrating growing trust in the effectiveness of the grievance mechanism."¹⁹

This disclosure highlights the relevance of grievance mechanisms as a channel for affected women to raise their voice and seek remedy, and as a means for the company to understand the issues they face, given that it may be hard for women to discuss them through open channels. The disclosure therefore also serves the purpose of warning the reader that, on an issue such as this, an increase in the number of complaints raised can be a positive sign – a point often missed in the application and interpretation of disclosure requirements to report the number of grievances received.

Unilever's disclosure further reflected their direct engagement with women to understand how they experienced impacts and what would make a positive difference in their lives, providing some confidence that measures taken may be effective in addressing these risks to the women concerned:

"We asked female workers what would make them feel safe. Their answers included a need for further understanding, more information on what constitutes sexual harassment, and the creation of opportunities for girls to engage in social activities and mentorship. It further revealed that there is a role to play with peer-to-peer, community leaders, external partners and company awareness-building activities."²⁰

POTENTIAL QUESTIONS FOR EXAMINING DISCLOSURE AND ENGAGING WITH COMPANIES:

Does the company look not only at data points of how many women have risen to the highest levels of the organization, but particularly at how women are actually treated? Does the company articulate whether and how it gains insight into the perspectives of women at different levels in the organization and their experience of the workplace, as consumers or in the communities that it affects? Does the company show how it moves beyond policies and processes regarding gender equality to assess the actual behaviors that affect women's treatment in the workplace?

- 19. See: Enhancing Livelihoods, Advancing Human Rights, p. 35
- 20. See: Enhancing Livelihoods, Advancing Human Rights, p. 35

Does a company's disclosure suggest it is alert to other dimensions of gender-based discrimination?

There is relatively limited company reporting at present on gender-based inequality beyond the situation of cisgender women – that is, women whose gender identity coincides with the sex that they were assigned at birth. While some companies have begun reporting on diversity and inclusion with regard to LGBTI+ people, only in rare instances does this suggest an understanding of how people's sexual orientation, gender identity and/or gender expression may result in heightened vulnerability. Furthermore, companies' reporting often gives little sign of understanding and addressing the ways in which vulnerabilities based on gender may intersect with, and be compounded by, risks stemming from other aspects of people's identities and certain situations or cultural contexts.

In their 2018 human rights report, ABN AMRO discuss their efforts to understand risks to LGBT+ people by engaging with potentially affected individuals:

"The LGBT+ statement of the Ethics Committee determined that the bank should not leave countries in which LGBT+ rights are not respected. Instead, we should make a point of finding out what the situation in these countries is, and then discuss with our employees how they can work safely and live a comfortable life there. Our people can then decide for themselves what they want, or don't want to do."²¹ This disclosure reflects an approach by the company that seems not just to promulgate a policy about the treatment of their employees, but to equip their employees facing risks due to their gender identities and sexual orientations with the knowledge and power to make decisions for themselves. It provides some confidence that these risks may be appropriately managed and that the company may be successfully building a culture of respect and empowerment for their staff more generally.

RED FLAG: The company reports on gender in purely binary terms of women distinct from men, without attention to broader dimensions of genderbased discrimination. Does a company's disclosure suggest it is alert to other dimensions of gender-based discrimination?

In its gender pay report, ASOS goes beyond legal reporting requirements, to discuss its approach to addressing the ways in which nonbinary and trans employees may be treated in the workplace:

"We're legally required to report on the gender balance between men and women but we understand that not everyone's gender identity fits comfortably within this binary. At ASOS, we want everyone to feel comfortable expressing their gender identity in the way that's right for them and we're working closely with our partners at Stonewall to make our workplace inclusive for our nonbinary and trans employees. But we believe there's also a bigger purpose: to make ASOS a more diverse, inclusive place to work."²²

More broadly, vulnerability related to gender often intersects with another aspect of an individual's identity, exposing them to further risk of impact. For example, research shows that efforts to increase the gender diversity of boards in the United States have disproportionately benefited white women compared to women of color.²³ Where company disclosure shows an alertness to this "intersectionality" of identities, and how cultural context may further heighten the risks it raises for people, this can provide investors with greater confidence that the company is seeking to understand and respond to the experiences of people affected by their business in more nuanced terms.

22. See: ASOS talks gender pay, p. 14

- 23. See: Too Few Women of Color on Boards: Statistics and Solutions
- 24. See: 2018 Citizenship Report, p. 93

In its disclosure on gender equality, P&G recognizes that different women face different obstacles to equality:

"At P&G, we want a world free from bias – a world with equal voice and equal representation for all individuals.

We believe in gender equality. Equality for women of all races, LGBT+ women, women of high and low economic status, women with disabilities, with more and less education – in however individuals define themselves. We're making progress, but there is more to do."²⁴

Although this lacks detail on what the company is doing to advance equality for people within its own business across these many aspects of identity, it sets out clearly an understanding of identities and factors that can overlap with gender. In doing so, P&G provides some increased confidence that the actions they take are sensitive to these differences.

In their reporting, Inditex demonstrates an understanding of the ways in which gender can intersect with different identities and cultural contexts through an example of the company developing a program that responds to these nuances. Namely, Inditex highlights its work to tackle discrimination experienced by girls in Tamil Nadu where their gender, age and the economic and cultural context from which they come all compound to place them at particular risk:

"Inditex is undertaking exhaustive actions to fight against the illegal practice of Sumangali in India. Sumangali Scheme is a form of illegal labour practice that still persists in parts of Tamil Nadu, southern India. Young girls are sent by their families to work in factories, including cotton Does a company's disclosure suggest it is alert to other dimensions of gender-based discrimination?

spinning mills, under the promise of the payment of a wages after three of five years that is used as marriage dowry by the families. But they often endure poor working conditions, low pay and never see their wages at the end of it."²⁵

In Heineken's disclosure, the company reports on how women who act as "brand promoters" face compounded vulnerability to genderrelated impacts based on their status as contract workers and their particular cultural contexts. In 2018, allegations emerged of sexual harassment of the mostly women "brand promoters" working for Heineken's external sales promotion agencies. Heineken reported on its work with third-party organizations in three regions – Partner Africa in Africa, Impactt in Asia, and ARCHE in the America – to assess the implementation of its Brand Promoters Policy, including by engaging directly with affected women in these regions:

"[I]nstances of sexual or verbal harassment by consumers were found in 22 countries. One of the biggest issues found was that policies and management systems were lacking in many of the agencies. Therefore, we made improvements in the areas of tendering, procurement and contracting agency services to ensure adherence to the Heineken Supplier Code. Because understanding of what constitutes harassment varied widely between cultures and between brand promoters, in some markets improvements were also identified regarding training, safety and situational awareness."²⁶

This disclosure suggests attention to the ways that women who also have the identity of being contract workers with a very particular job profile can face heightened risks, in particular in certain cultural contexts. Notwithstanding that their situation came to prominence through third-party allegations, the resulting disclosure gives a level of confidence that actual practices – not just written processes – may now be improving as a result of this more nuanced understanding of where these women are most vulnerable.

POTENTIAL QUESTIONS FOR EXAMINING DISCLOSURE AND ENGAGING WITH COMPANIES:

Does the company's disclosure demonstrate awareness of people with different gender identities, i.e., beyond cisgender women? If so, what insight does it provide that the company understands that individuals from such groups might be more or less vulnerable to certain impacts? How does the company engage with its workforce, consumers and affected communities to understand the experience and needs of people of different gender identities in the workplace and how to act upon them? Does the company show an awareness and responsiveness to the compounding risks that can arise when gender-based vulnerabilities intersect with other aspects of people's identity or a particular situation or cultural context? If so, how?

25. See: Sowbhagyam Project

26. See: Working with Brand Promoters

CONCLUSION

The examples shared in this resource offer insights into how investors can read a company's disclosure in ways that help them identify how seriously the company is addressing different aspects of gender-based discrimination by considering:

- Poes the company's disclosure indicate that it sees gender-based impacts as relevant and important for its business?
- Does the company's disclosure suggest it has real insight into the experiences of women in the workplace?
- Poes the company's disclosure suggest it is alert to other dimensions of gender-based discrimination, including the experiences of LGBTI+ people, and how other identities and cultural contexts intersect with gender to possibly elevate risk?

The insights and questions provided in this resource can be used by investors in their engagement with companies to advance awareness and action around the full range of gender-based risks and impacts. In doing so, investors can play a critical role in galvanizing action to reduce inequalities based on gender across company operations and value chains. While most companies' disclosure on gender focuses on (cisgender) women, disclosure and action in this area may evolve with the growing understanding of the nonbinary nature of gender and the particular forms of discrimination faced by transgender and nonbinary people, as well as people with intersex characteristics. Thus, investors using a "gender lens" or a "gender-sensitive approach" can bring this broader understanding to their assessment of company disclosure.

