Proposals for Drafting Latin American National Action Plans on Business and Human Rights from a Feminist Perspective

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Abstract

The expansion of transnational corporations in Latin America has deepened dependency on the Global North, exacerbating local inequalities. Neoliberal capitalism reinforces colonial structures, shaping race, ethnicity, and gender, with severe human rights implications for vulnerable groups. However, normative frameworks like the UN Guiding Principles on Business and Human Rights (UNGPs) fail to adequately address gender issues. A quantitative and qualitative bi-metric analysis, using feminist institutional ethnography, reveals that the UNGPs rarely consider gender, and when they do, they adopt a liberal feminist approach misaligned with Latin American realities. As a dominant framework, the UNGPs influence other legal documents, replicating these gender deficiencies. This study examines National Action Plans (NAPs) as a potential tool for advancing women's rights. It follows a monographic approach in three stages. The first chapter, using the deductive method, reviews literature on Latin American women's subjugation in capitalist systems and their intersection with business and human rights. The second chapter employs bibliometric analysis to assess gender representation in Business and Human Rights documentation. The third chapter applies the hypothetical-deductive method to evaluate NAPs' potential. The study concludes that feminist methodologies, such as Situated Knowledge and Action-Research, can help reshape governance to support women's human rights in Latin America.

I.   Introduction

The expansion of globalisation and transnational economic activity has had significant effects on Latin America, and thus, on Latin American women. While the consolidation of transnational corporations in the Latin American subcontinent has promoted local industrialisation, it has also deepened and transformed dependency relations with the

Global North,[1] establishing new and intricate dynamics of coloniality.[2] Developed countries have increasingly relocated their more socially and environmentally aggressive industrial production to the Global South, driven by tax incentives, local political and economic vulnerability—which facilitates regulatory and public policy capture—and weaker enforcement of human rights violations. [3] [4] [5] In this context, the effects on vulnerable populations, particularly women in their various intersectionalities, are especially harmful.

Women represent one of the most vulnerable groups in the face of transnational corporate activity. An analysis of documents produced by international organisations—typically guided by a liberal feminist framework, and thus subordinated to agendas of sexual freedom and labour equity—reveals that, globally, the wage gap between men and women performing the same job is 23%.[6] Women's employment opportunities are nearly 27% lower than those of men.[7] Moreover, women are often relegated to informal work with precarious contracts, placing them at the bottom of the value chain in jobs with lower wages, poorer working conditions, and minimal protections.[8] Access to justice is also more costly and difficult for women: out of 173 countries, 155 have at least one law restricting women's economic equality.[9] In 100 economies, women face

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[1] We acknowledge that the concept of the "Global North" varies depending on the theoretical framework adopted. In this text, we employ the definitions of "Global North" and "Global South" based on Immanuel Wallerstein's world-system theory, wherein the "Global North" comprises those countries that have benefited from capitalist expansion and the exploitation/exhaustion of peripheral territories, which are understood as the "Global South". In this context, colonization played a fundamental role in establishing the exploitative dynamics examined in this chapter. See Immanuel Wallerstein, 'Societal Development, or Development of the World-System?' (1986) 1 International Sociology 3, republished in Immanuel Wallerstein, *The Essential Wallerstein* (New Press 2000) 112–28.

[2] In the body of this text, we adopt the term "colonialism" to refer to circumstances imposed by the existence of an active colonial administration, as was the case during the period of classical colonialism. Conversely, we use the term "coloniality" to describe present-day circumstances in which colonial administrations have been largely eradicated from the capitalist system, yet their consequences remain deeply felt. These conceptual distinctions are drawn from the works of Quijano and Wallerstein.

[3] Richard A Posner, 'The Concept of Regulatory Capture' in Daniel Carpenter and David A Moss (eds), *Preventing Regulatory Capture: Special Interest Influence and How to Limit It* (Cambridge University Press 2014).

[4] AC Santano, 'La Captura de Políticas Públicas como Obstáculo a la Buena Administración en Brasil' in Almudena Fernández Carballal, Federico Morandini and Marco Aurelio González Maldonado (eds), *La Buena Administración y la Ética Pública en el Derecho Administrativo* (Ibáñez 2020).

[5] Rhys Jenkins, *Transnational Corporations and Industrial Transformation in Latin America* (The Macmillan Press 1984) 5.

[6] United Nations Women, *Progress of the World's Women: Transforming Economies, Realizing Rights* (2015).

[7] Francesca Rhodes, Rowan Harvey and Anam Parvez, *An Economy that Works for Women: Achieving Women's Economic Empowerment in an Increasingly Unequal World* (Oxfam Briefing Paper, March 2017) <https://oxfamilibrary.openrepository.com/bitstream/handle/10546/620195/bp-an-economy-that-works-for-women-020317-en.pdf?sequence=1> accessed 12 August 2019.

[8] Linnea Kristiansson, *Embedding Gender in the Business and Human Rights Agenda* (Lund University, 2017) 14.

[9] World Bank, *Women, Business and the Law 2016: Getting Equal* (2016) <https://openknowledge.worldbank.org/handle/10986/22546> accessed 1 August 2019.

gender-based employment restrictions, and in 18 countries, husbands are legally permitted to prevent their wives from working outside the home.[10]

However, it is essential to move beyond generalisations about women's marginalisation and the commonly employed liberal feminist analysis. In the Latin American context, the expansion of neoliberalism as an ideology has significantly influenced economic and legal policies, becoming hegemonic in a Gramscian sense.[11] Thus, neoliberal expansion has also facilitated the perpetuation of colonial structures established since the 16th century, materialising global designs of modernity and coloniality in terms of gender, race, and ethnicity. Anti-colonial struggles have historically been led by men, reinforcing violent masculinities while frequently oppressing women involved in such movements and denying them the multiplicities of female identity.[12]

In this regard, colonial discourse positions Latin American women within a foreign and monolithic framework, as if they constituted a homogeneous group.[13] Analysing certain expressions used in developmentalist literature and even in the context of international law, one encounters terms such as "primitive", "native", and references to "Third World women" or "women from underdeveloped countries", positioning these women as the "other" within the academic and legal discourse.[14]

The effects of transnational economic activity in the subcontinent become particularly significant when analysed through an intersectional lens. Coloniality functions not only as a logic imposed between the Global North and South but also as an internal dynamic replicated within colonised spaces.[15] This operates within the dichotomous logic of Western metaphysics, relegating women to a position of gendered subalternity within the broader colonial subalternity. Thus, despite the growing prominence of feminist discourse in various ideological and cultural spaces, the difficulty in recognizing the importance of the intersectional approach outlined here persists across different domains—including the field of Business and Human Rights.

There appears to be a certain resistance from the Global North in acknowledging that the Global South—specifically Latin America, as analysed here—has its own dynamics that diverge from the documents and frameworks developed by Northern feminists.

This study, a condensed version of a dissertation submitted for the master's degree in Socio-environmental Law at the Pontifical Catholic University of Paraná,[16] adopts a

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[10] World Bank (n 9).

[11] Enrique Rios Prieto, 'Neoliberalismo y El Derecho Internacional de la Inversión Extranjera' in L Ibarra and MO Rojas (eds), *La privatización de lo público: el manejo y la ampliación de los recursos del Estado* (UMSNH, Colectivo Emancipaciones, Red de Sociología Jurídica en América Latina y el Caribe) 65–85, 82.

[12] Raewyn Connell and Rebecca Pearse, *Gênero: uma perspectiva global. Compreendendo o Gênero – da esfera pessoal à política no mundo contemporâneo* (Marília Morschkovich tr, 3rd edn, nVersos 2017) 71.

[13] Julieta Paredes, *Hilando fino desde el feminismo comunitario* (Plural Editores 2014).

[14] Simone de Beauvoir conceptualises woman as "the Other" in relation to man, arguing that throughout history, man has positioned himself as the absolute Subject — the Self — while woman has been defined only in opposition, as the relative, inessential Other. This ontological hierarchy, she contends, forms the foundation of women's social, political, and intellectual subordination. See Simone de Beauvoir, *The Second Sex* (trans. Constance Borde and Sheila Malovany-Chevallier, Vintage Books 2011) 6–17.

[15] Françoise Vergès, *Feminismo decolonial* (Jamille Pinheiro Dias and Raquel Camargo trs, Ubu Editora 2020) Kindle edn, pos 70.

[16] Juliana Bertholdi, Danielle Anne Pamplona and Enrique Prieto-Ríos, *Propostas de redação aos planos nacionais de ação latino-americanos desde uma análise feminista* (Master's dissertation, Pontifícia Universidade Católica do Paraná 2021) 252

decolonial feminist theoretical framework to examine the particular impacts of globalisation and transnational corporations on the lives of Latin American women, understood here in their multiple expressions. It seeks solutions within International Human Rights Law to mitigate these harmful effects, focusing on countries that have initiated the development or planning of their National Action Plans on Business and Human Rights.

With this feminist and decolonial awareness, the study critically reviews key documents in the field of Business and Human Rights, particularly the National Action Plans (NAPs). These documents serve as the legal embodiment of the UN Guiding Principles on Business and Human Rights (UNGPs), translating them into public policies and legislative frameworks that replicate, at the national level, the three foundational pillars: "protect", "respect", and "remedy".[17]

It is argued that, despite the foundational studies that underpin these documents, the UNGPs have failed to adopt sufficiently robust and targeted measures to protect women. As a result, women's rights have been relegated to a hierarchically inferior normative space. This normative omission has been reproduced throughout the broader legal framework of Business and Human Rights, shaping governance structures around documents derived from the UNGPs, including the NAPs.

The study was conducted in three methodological stages. The initial analysis, covered in the second section, consisted of a literature review of national and international scholarship. This review moved from a broad theoretical axiom—the reality of Latin American women's subjugation and exploitation within capitalist society—to the specific field of Business and Human Rights.[18]

The third section employed both a bibliographic review through a monographic approach and bibliometric research methods. This stage aimed to assess the extent and quality of gender-related discussions in Business and Human Rights documentation, particularly the UN Guiding Principles on Business and Human Rights. A quantitative bibliometric analysis was conducted to map references to gender within these materials, focusing on the frequency of terms such as "women" and "gender". Additionally, a qualitative analysis was performed, employing institutional ethnography to examine the context in which gender was referenced.

Finally, in the fourth section, the study used a hypothetical-deductive method to propose an approach for constructing National Action Plans, testing it against the hypotheses presented, and integrating the monographic and literature review techniques employed in the earlier chapters.

<https://archivum.grupomarista.org.br/pergamumweb/vinculos/00009c/00009cf4.pdf> accessed 4 December 2024.

[17] United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (2010).

[18] We will adopt Wallerstein's conceptualisation of "capitalism", which presents at least two central notions for this study. Initially, capitalism is defined as "a mode of production aimed at generating profits in the market." Subsequently, in his more complex world-system theory, he describes capitalism as the system through which interventions are carried out "with the aim of expanding capitalist accumulation." These succinct definitions are sufficient to understand that this study is guided by the issue of national states' interventions in markets to enhance capital accumulation—this being the form of "capitalism" under discussion. See Immanuel Wallerstein, 'The Three Instances of Hegemony in the History of the Capitalist World-Economy' in Immanuel Wallerstein, *The Essential Wallerstein* (New Press 2000) 253–263 (originally published in *International Journal of Comparative Sociology*, vol 24, no 1–2, Jan-Apr 1983, 100–108).

II. The activity of transnational corporations in Latin America and its impacts on the lives of Latin American women

This chapter aims to concisely present investigations that have sought to understand the relationships between transnational corporations (TNCs) and Latin American women through bibliographic and documentary analysis.[19] The objective is to examine the local specificities that shape the experiences of women, their structural and systemic implications, and their consequences. This analysis demonstrates the necessity of both theoretical and practical approaches that are context-specific, enabling critical reflections on the creation and implementation of National Action Plans (NAPs) at the local level.

In Latin America, the process of corporate transnationalisation has resulted in the region becoming a destination for subsidiaries of industries from economically and industrially developed countries,[20] a phenomenon commonly associated with globalisation.[21] This dynamic has been significantly encouraged by Latin American governments, which have undertaken neoliberal legal reforms to position their economies as attractive markets for transnational corporations.[22] International corporations headquartered in Europe and North America have increasingly relocated their more socially and environmentally harmful production activities to the Global South, taking advantage not only of neoliberal tax incentives but also of "the benefits derived from economic vulnerability and weaker regulatory oversight in cases of potential human rights violations".[23]

The expansion of transnational corporations has deepened and diversified Latin America's dependence on the hegemonic core of the global economic system.[24] This dependence has maintained an economic structure rooted in extractive and agrarian foundations, while industrial and technological infrastructures have been shaped primarily by corporate interests, often at the expense of internal development needs.[25] Socially, the proliferation of transnational corporations has reinforced and perpetuated colonial relations established in the 16th century, where global designs of

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[19] In this study, transnational corporations will be understood as non-centralised entities structured within a productive network spanning multiple states, with interdependent actions driven by an economic rationale. See Aline L C Lima, *Globalização Econômica e Política e Direito: Análise das Mazelas Causadas no Plano Político-Jurídico* (Sérgio Antônio Fabris 2002) 148–149.

[20] Lima (n 19) 146.

[21] This study will adopt the concept of globalisation as coined by Boaventura de Sousa Santos: "the process by which a certain local condition or entity extends its influence across the globe and, in doing so, develops the ability to designate another social condition or rival entity as local." Boaventura de Sousa Santos, 'Uma concepção multicultural de direitos humanos' (1997) 39 *Lua Nova: Revista de Cultura e Política* <http://dx.doi.org/10.1590/S0102-64451997000100007> accessed 12 January 2021.

[22] JH Zubizarreta, *Las Empresas Transnacionales frente a los Derechos Humanos: Historia de una Asimetría Normativa* (Hegoa e Omal 2009) <http://publicaciones.hegoa.ehu.es/uploads/pdfs/79/Empresas_transnacionales_frente_a_los_derechos_humanos.pdf?1488539221> accessed 5 January 2020.

[23] Ana Carolina Olsen and Danielle Anne Pamplona, 'Violações a Direitos Humanos por Empresas Transnacionais na América Latina: Perspectivas de Responsabilização' (2019) 7(13) Revista Direitos Humanos e Democracia 129, 131 <http://dx.doi.org/10.21527/2317-5389.2019.13.129-151>

[24] The expression "center" or "core countries" is used by authors such as Santos, Schoultz, Sawaya, and Furtado to refer to Global North countries and is employed as a synonym in this study.

[25] Teotonio dos Santos, *Imperialismo y Dependencia* (Fundación Biblioteca Ayacucho 2011) 377–378.

modernity or coloniality have historically been structured around race, ethnicity, or both—a framework widely recognised in decolonial feminist scholarship.[26]

When specifically analysing the gendered impacts of transnational corporate activity in Latin America, it becomes evident that the challenges faced by Latin American women possess distinctive characteristics not adequately addressed by the predominantly liberal-feminist and Eurocentric literature. This study focuses on industries identified by Cantú as particularly significant in the region.[27] The full research on the extractive industry, maquiladora sector and privatized public services can be found in the dissertation that gave rise to this article. The research applies a simplified version of the Moser Framework,[28] analysing the following key dimensions: gender roles and the sexual division of labour, practical and strategic gender needs, and women's access to and control over resources and benefits. Due to the brevity of this article, only the main conclusions from the monographic study will be highlighted.

As Latin American feminist theory has long demonstrated, the category 'woman' cannot be treated as neutral or universal. Lélia Gonzalez shows that, in Latin America, gender is inseparable from the racial and colonial hierarchies that emerged from slavery and conquest. Her concept of *Amefricanidade* reveals that Black and Indigenous women have historically been positioned as 'non-subjects'—figures imagined not through gender alone but through a racial-sexual grammar produced by colonial domination.[29]

Building on this, María Lugones argues that colonialism imposed a new gender system in the region: the 'coloniality of gender'.[30] For Lugones, Latin America's gender order is not a local variation of the European patriarchal model; rather, it is a system in which gender itself was racialised, establishing Indigenous and Afro-descendant women as inherently subordinate, exploitable and sexually violable. Consequently, the forms of violence experienced by Latin American women are qualitatively distinct from those seen in the Global North, where gender oppression was not historically forged through the same mechanisms of enslavement, forced labour and ontological dehumanisation.

These theoretical contributions clarify that corporate transnational activity interacts with pre-existing structures of coloniality in ways that disproportionately target racialised women. Thus, the impacts of extractivism, labour flexibilisation and

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[26] Heidemarie Winkel and Angelica Poferl, *Multiple Gender Cultures, Sociology, and Plural Modernities: Re-reading Social Constructions of Gender across the Globe in a Decolonial Perspective* (Routledge 2021) 39.

[27] Cantú identifies the main challenges for the field of Business and Human Rights in Latin America as the following: the extractive industry, production chains, and the privatization of public services. See Humberto Rivera Cantú, *Derechos Humanos y Empresas: Reflexiones desde América Latina* (Instituto Interamericano de Derechos Humanos 2017) 68.

[28] In the dissertation, the analytical components of the Moser Gender Planning Framework, developed by Caroline Moser, were adopted to conduct a broad analysis of key industries in Latin America based on existing literature. This method is structured around three core concepts: the triple role of women, practical and strategic gender needs, and the policy approach employed—either Women in Development (WID) or Gender and Development (GAD). These approaches represent different epistemological perspectives on gender issues: WID frames women as a "special" or "separate" group from the male category, while GAD integrates gender as an essential element of development strategies. Accordingly, through a review of existing literature, this study sought to identify, within the extractive and manufacturing industries, as well as in the privatization of public services, analytical dimensions related to gender roles, practical and strategic gender needs, and access to and control over resources and benefits in economic activities.

[29] Lélia Gonzalez, 'Racismo e sexismo na cultura brasileira' in Lélia Gonzalez (ed), *Por um feminismo afro-latino-americano* (Zahar 2020).

[30] María Lugones, 'The Coloniality of Gender' (2007) 2 Worlds & Knowledges Otherwise 1.

economic dispossession cannot be analysed solely through gender-neutral, class-neutral or race-neutral frameworks.

The extractive industry serves as a particularly illustrative case. From its inception, this sector has been conceptualised as an inherently masculine domain,[31] relegating women to subsidiary roles, in line with the analysis of Simons and Seck.[32] However, a key distinction between Latin American women and those studied by Simons and Seck is their significant participation as household breadwinners, even within extractive contexts,[33] through what is commonly referred to as the "backyard economy".[34]

The social and economic conditions of Brazilian and Canadian women reveal marked contrasts despite certain structural similarities. In Canada, approximately 16.4 per cent of census families are one-parent households, over 81 per cent of which are headed by women. Canadian women's labour participation is predominantly in the formal economy, supported by robust state welfare policies, including paid maternity and parental leave.[35] By contrast, in Brazil, around one in five households is single-parent, and 86.6 per cent of these are female-headed, with many women depending on informal or home-based economic activities for survival.[36] These include sewing, handicrafts, subsistence agriculture.[37]

As extractive industries expand—leading to increased male employment and wages— the limited economic autonomy previously afforded to women through the backyard

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[31] Katy Jenkins, 'Women, Mining and Development: An Emerging Research Agenda' (2014) 1(2) *Extractive Industries and Society* 329.

[32] Sara L Seck and Penelope Simons, 'Resource Extraction and the Human Rights of Women and Girls' (2019) 31(7) Canadian Journal of Women and the Law i-vii (University of Toronto Press).

[33] FGV, *A Situação das Mulheres Atingidas pelo Desastre do Rio Doce a partir dos Dados da Ouvidoria da Fundação Renova* (FGV, 2019) <http://www.mpf.mp.br/grandes-casos/caso-samarco/documentos/fgv/fgv_a-situacao-das-mulheres-atingidas-pelo-desastre-do-rio-doce-a-partir-dos-dados-da-ouvidoria-da-fundacao-renova> accessed 19 July 2020.

[34] The term backyard economy (or economia de quintal in Portuguese) refers to women's home-based productive and reproductive activities—such as subsistence agriculture, food preparation, handicrafts, and informal trade—that sustain families and communities while remaining largely invisible to formal economic systems. Feminist economics interprets it as a site of both resistance and subordination, where women's unpaid or underpaid labour maintains household survival under structural inequality. See Lourdes Benería, *Gender, Development and Globalization: Economics as if All People Mattered* (2nd edn, Routledge 2016) 83–86; Diane Elson (ed), *Male Bias in the Development Process* (Manchester University Press 1995) 47–52; Carolina Milhorance and Andrea Zhouri, 'Gender and the Informal Economy in Post-Disaster Contexts: Lessons from the Rio Doce Basin' (2021) Revista Brasileira de Estudos Regionais e Urbanos 29(2) 34–52.

[35] Statistics Canada, Focus on Geography Series, 2021 Census of Population (2022) <https://www12.statcan.gc.ca/census-recensement/2021/as-sa/fogs-spg/page.cfm?lang=E&topic=4&dguid=2021A000011124> accessed 16 October 2025; Vanier Institute of the Family, Fathers Represent a Growing Share of Parents in One-Parent Families (2024) <https://vanierinstitute.ca/families-count-2024/fathers-represent-a-growing-share-of-parents-in-one-parent-families/> accessed 16 October 2025; Statistics Canada, 'Despite Progress, One-Parent Families Headed by Mothers Continue to Face Labour Market Challenges' (12 December 2024) <https://www.statcan.gc.ca/o1/en/plus/7523-despite-progress-one-parent-families-headed-mothers-continue-face-labour-market> accessed 16 October 2025.

[36] IBGE, '2022 Census: In 12 Years, Proportion of Female Householders Advances and Equals That of Male Ones' (25 October 2024) <https://agenciadenoticias.ibge.gov.br/en/agencia-news/2184-news-agency/news/41675-2022-census-in-12-years-proportion-of-female-householders-advances-and-equals-that-of-male-ones> accessed 16 October 2025.

[37] WIEGO, *Informal Employment in Brazil: Statistical Snapshot 2019–2020* (2023) <https://www.wiego.org/wp-content/uploads/2023/02/Informal-employment-brazil-statistical-snapshot-2019-20.pdf> accessed 16 October 2025.

economy diminishes. This loss exacerbates their economic dependence, intensifies their social and political invisibilisation,[38] and contributes to a range of negative social consequences: the deepening of feminised poverty, increased domestic violence due to greater economic dependency on men, and a reduction in women's decision-making power within the household and community.[39]

Rita Segato demonstrates that, in Latin America, gendered violence cannot be separated from the territorial logics of extractivism and militarisation.[40] In zones of mining, logging and agro-industrial expansion, women face what Segato terms a 'pedagogy of cruelty': a mode of domination in which violence against women functions as a communicative act that enforces control over land, resources and communities.[41] Unlike contexts in the Global North, where corporate activity is less intertwined with militarised territorial disputes, extractive projects in Latin America systematically expose women—particularly Indigenous and Afro-descendant women—to sexual violence, displacement, forced impoverishment and the degradation of local economies of care. This configuration of violence is specific to the region's colonial land regimes and cannot be understood through a generic or liberal feminist perspective.

The situation becomes even more severe in the context of resource extraction-related disasters. A stark example is the Mariana disaster, where the intersection of colonial subjugation and gender subordination resulted in a significant number of women being directly affected but excluded from reparations. For instance, women who worked near affected riverbanks, cleaning fish and shellfish as a means of livelihood, lost their income sources overnight. However, the Renova Foundation's compensation system refused to acknowledge these women as primary household providers—a criterion necessary for victim recognition—thus restricting compensation primarily to male representatives.[42]

Regarding the second topic, the Moser Framework distinguishes between practical gender needs, which arise from women's immediate conditions and daily survival, and strategic gender needs, which address structural inequalities and power imbalances. Latin American feminist discussions highlight issues commonly addressed in Global North contexts, such as recognition of care work, wage equality and labour protections, and job security for pregnant workers. However, Latin American contexts also present distinct challenges, including the need for more assertive policies to promote women's financial independence, especially considering the backyard economy, measures to combat the feminisation of poverty caused by the over-taxation of essential services, policies that support the preservation of women's cultural identities as well as their community and ancestral roles, often affected by transnational companies located in countries in the global north and not easily subject to local legislation, and the protection of traditional territories and cultural heritage.[43] These factors demonstrate how globally recognised gender issues, such as wage equality, intersect with region-specific challenges, such as the feminisation of poverty due to structural inequalities and lack of protection of traditional communities.

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[38] United Nations General Assembly, 'Report of the Independent Expert on the Effects of Foreign Debt and Other Related International Financial Obligations of States on the Full Enjoyment of All Human Rights, Particularly Economic, Social and Cultural Rights' UN Doc A/67/304 (2012) para 40 <https://undocs.org/pdf?symbol=es/A/67/304> accessed 14 January 2021.

[39] FGV (n 33).

[40] Rita Laura Segato, *La guerra contra las mujeres* (Traficantes de Sueños 2016).

[41] ibid.

[42] FGV (n 33).

[43] Bertholdi, Pamplona and Prieto-Ríos (n 16) 252.

The Moser Framework also emphasizes the importance of analysing women's control over and access to economic resources and benefits. The dominance of transnational corporations over Latin America's economic infrastructure has extended beyond the economic domain, shaping political, ideological, and cultural superstructures. This dynamic has resulted in a situation where Global North countries retain control over resources and economic benefits, regardless of their local origins.[44]   Women—particularly Indigenous, Afro-descendant, and rural women—experience greater barriers to accessing and controlling land, income, and economic opportunities. Although such challenges can be faced in the Global North, their prevalence and intensification in the Global South, associated with local subordination, are especially harmful - lethal attacks against defenders were concentrated in four key countries, responsible for more than 70% of murders of human rights defenders involved in land disputes: Brazil, Colombia, Honduras, and Mexico. Of those murdered in 2023, 43% were Indigenous Peoples and 12% murdered were women.[45] The privatization of essential services, such as water, energy, and healthcare, disproportionately affects women, particularly those responsible for household and community care roles.

Indigenous feminist scholarship also reveals dimensions of violence against Latin American women that remain absent from Global North analyses. Lorena Cabnal's concept of *cuerpo-territorio* demonstrates that Indigenous women experience violence not only upon their bodies but simultaneously upon their ancestral territories, as both are conceived as inseparable spaces of life.[46] Likewise, Julieta Paredes's community feminism shows that oppression in Indigenous communities is mediated by colonial dispossession, community fragmentation and extractive expansion.[47] These frameworks highlight impacts—such as territorial displacement, spiritual rupture, and the militarisation of community life—that are not captured by the gender mainstreaming strategies proposed in UN documentation. They underscore that Latin American women face forms of violence that emerge directly from colonial histories of land seizure and racial domination, rather than from patriarchal structures alone.

A more extensive study employing a complex methodology and field research would likely confirm that Latin America exhibits specific patterns of human rights violations against women, distinct from those observed in the Global North. Recognising these context-specific gendered impacts is essential for the formulation of public policies and National Action Plans (NAPs) that effectively address the needs of Latin American women. Thus, an analysis of existing documentation is necessary to assess the need for and feasibility of more assertive public policies for the region.

Understanding women as directly affected by transnational activity in the Latin American subcontinent naturally leads to the conclusion that it is advisable to explicitly and effectively incorporate a gender perspective into documents and regulations related to this issue. Such an approach would enable greater protection and visibility for the gender-related transversal issues that permeate this field. This concern has

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44 Bruno Borja, 'Cultura e desenvolvimento no pensamento de Celso Furtado' (V Encontro de Estudos Multidisciplinares em Cultura, Faculdade de Comunicação da UFBA, Salvador, 2009) <http://www.cult.ufba.br/enecult2009/19127.pdf> accessed 6 January 2020.
45   Global   Witness,   Missing   Voices   (Global   Witness,   undated) <https://globalwitness.org/en/campaigns/land-and-environmental-defenders/missing-voices/> accessed 16 October 2025.
46 Lorena Cabnal, 'Territorio cuerpo-tierra' in A L Miranda (ed), *Feminismos diversos: el feminismo comunitario en Abya Yala* (Colectivo Miradas Críticas 2010).
47 Paredes (n 13).

been reflected in multiple resolutions issued by the United Nations Human Rights Council.

From these perspectives, it becomes clear that the impacts of corporate transnational activity on Latin American women are not merely "gendered"; they are racialised, territorialised, and deeply rooted in the colonial organisation of social, economic and political life. Therefore, any analysis grounded solely in the liberal feminist assumptions of sexual autonomy and labour equality—assumptions embedded in the UN Guiding Principles on Business and Human Rights—fails to apprehend the structural nature of violence in the region. The insertion of a decolonial feminist framework is thus indispensable for interpreting both the omissions of the UNGPs and the possibilities for constructing contextually adequate National Action Plans (NAPs).

III. Women's rights in the context of Business and Human Rights: the importance of express textual provisions in regulatory documents

The central argument in this chapter is that an ethnomethodological and pre-normative understanding of these relations is fundamental. This excerpt investigates how institutional regulations, particularly those promoted by the United Nations (UN), intervene in this dynamic in Latin America, considering the significance of the textuality of these documents. It is argued that the absence of explicit textual provisions generates a cascading effect, whereby subsequent documents (with this study focusing on National Action Plans—NAPs) replicate the omissions and deficiencies of the foundational documents—namely, the UN Guiding Principles on Business and Human Rights (UNGPs) and their ancillary documents.

This analysis is grounded in the theoretical premise that international human rights law documents tend to employ language and methodologies based on an ostensibly objectivist and universalist knowledge system which, upon closer examination, are clearly patriarchal and Eurocentric. [48] [49]

As Ochy Curiel argues, international gender frameworks—particularly those grounded in liberal feminist traditions—export a Eurocentric understanding of womanhood that does not correspond to the lived experiences of racialised and colonised women in Latin America.[50] Such frameworks presume a universal female subject defined by individual autonomy, labour-market inclusion and sexual-liberty discourses, thereby marginalising the structural and community-based dimensions of oppression that shape the region. Yuderkys Espinosa Miñoso extends this critique by showing that development policies and global human-rights regimes frequently reproduce the 'coloniality of modernity', treating Latin American women as backward subjects in need of civilisational correction.[51] This epistemic hierarchy erases the violence produced by racism, colonial extraction, and class stratification—violences that are not merely more intense than those of the Global North, but fundamentally different in

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[48] Penelope Simons and Melisa Handl, 'Relations of Ruling: A Feminist Critique of the United Nations Guiding Principles on Business and Human Rights and Violence against Women in the Context of Resource Extraction' (2019) 31(1) Canadian Journal of Women and the Law 113, 115.

[49] Rebecca J Cook, 'Human Rights of Women: National and International Perspectives' <https://www.google.com/search?q=http://www.law.lu.se/WEBUK.nsf/(MenuItemByDocId)/ID158A9EA8E934AB23C1257DAA004E56F1/$FILE/What%20are%20Women's%20International%20Human%20Rights.pdf> accessed 11 November 2019.

[50] Ochy Curiel, 'Crítica poscolonial desde las prácticas políticas del feminismo antirracista' (2007) 28 *Nómadas* 92.

[51] Yuderkys Espinosa Miñoso, *El feminismo latinoamericano es otra cosa* (En la Frontera 2021).

nature and origin. They thus reproduce some of the characteristics of human rights that have been critically examined by theories of subalternity,[52] Southern epistemologies,[53] decolonial thought,[54] and feminism.[55] These critical perspectives will provide the theoretical framework for documentary analysis as well as reflections on potential starting points for new constructions.

The complete study undertook a cross-sectional analysis of the main document guiding this topic: the UN Guiding Principles on Business and Human Rights (UNGPs) and their annexes and complementary documents,[56] particularly Report A/HRC/41/43,[57] which was later reissued as the *Gender Dimensions of the Guiding Principles on Business and Human Rights* booklet,[58] both produced by the UN. This article focuses on the UNGPs and the *Gender Booklet*, employing bibliometric and qualitative analysis methods to assess the impact of these documents on the NAPs produced in Latin America.

The analysis employs the Bibliometric Method, conducting a quantitative survey to map the gender approach adopted in these materials, examining the frequency of the terms "woman/women" and "gender" in the analysed documents. The qualitative analysis is carried out using the investigative method known as "Institutional Ethnography", developed by Dorothy Smith and contextualized within Business and Human Rights by Penelope Simons.[59] [60] Applied to this field, the method involves the contextualization of documents in terms of their formation, textuality, and effects, using a feminist lens.

During the early work of the Special Representative of the UN Secretary-General in developing the GPs, the UN Human Rights Council requested, among other things, the "integration of a gender perspective throughout the work".[61] However, this mission was not fulfilled in the subsequent drafting process, with the 2010 guide merely stating that States and businesses should "duly respect gender considerations",[62] without

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[52] GC Spivak, 'Can the Subaltern Speak?' in B Ashcroft, G Griffiths and H Tiffin (eds), *The Postcolonial Studies Reader* (Routledge 1988).

[53] Boaventura de Sousa Santos and Maria Paula Meneses (eds), *Epistemologias do Sul* (Cortez Editora 2010).

[54] Aníbal Quijano, 'Colonialidade do poder, eurocentrismo e América Latina' in Edgardo Lander (ed), *A colonialidade do saber: eurocentrismo e ciências sociais. Perspectivas latino-americanas* (CLACSO 2005).

[55] Simons and Handl (n 48) 113–50.

[56] The dissertation summarized here initially focused on analysing the key documents that shaped its development, particularly the Reports of the Special Representative John Ruggie, aiming to understand the pathways leading to its formulation—an analysis not included in this article.

[57] UNHRC Res 41/43 (2011) <https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/43> accessed 30 January 2021.

[58] United Nations, *Gender Dimensions of the Guiding Principles on Business and Human Rights* (Geneva, 2019).

[59] Dorothy E Smith, 'Texts and the Ontology of Organizations and Institutions' (2001) 7 *Studies in Cultures, Organizations and Societies* 159–198.

[60] Simons and Handl (n 48) 113–50.

[61] UNHRC, *Mandate of the Special Representative of the Secretary-General on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises*, UN Doc A/HRC/RES/8/7 (18 June   2008) <http://www2.ohchr.org/english/issues/globalization/business/docs/A_HRC_RES_8_7.pdf> accessed 10 November 2019.

[62] Kathlyn Dovev, 'Comments on the Draft "Guiding Principles" for the Implementation of the 'Protect, Respect and Remedy' Framework: Integrating a Gender Perspective', Editorial Comment, Institute for Human Rights and Business (2011).

providing any guidance on how such implementation should occur. In a detailed analysis, the word "gender" appears only once in the entire extensive document.[63]

Where it does appear in the body of the text, the term "gender" is used in reference to Pillar I (State Duty to Protect Human Rights) to designate an issue warranting attention in conflict-affected regions (Principle 7 – Encouraging Business Respect for Human Rights in Conflict-Affected Regions),[64] an unacceptable contextual limitation that ignores the many other situations in which women deserve special attention.

Elsewhere, gender is mentioned only in the supplementary commentaries to the UNGPs, relegating it to a clearly subsidiary position: (i) in Pillar I, under the title "Operational Principles – General State Regulatory and Policy Functions", where supplementary commentaries list gender as one of the perspectives to be respected in the application of principles;[65] (ii) in Pillar I – Principle 7 and Pillar II – Principle 20, which provide only generic recommendations regarding the importance of considering gender-specificities.[66] [67] Thus, although an important recommendation is made to States, it is framed in a broad and unsystematic manner.

A systematic examination reveals that the word "woman/women" appears only four times, all in supplementary comments, in equally generic references to minorities. For instance, the commentary on Guiding Principle 3, which concerns the State duty to protect, recommends that States advise businesses on "how to consider effectively issues of gender, vulnerability and/or marginalization, recognizing the specific challenges that may be faced by (...) women".[68] A similar pattern is observed in the commentary on Guiding Principle 18, which states that businesses should integrate human rights due diligence (HRDD) as part of their responsibility to respect human rights.[69] The commentary suggests that when identifying and assessing the nature of "actual and potential adverse human rights impacts", businesses should "take into account the different risks faced by women and men."

Thus, references to women have been largely relegated to supplementary comments, with no prominence or specific concern in the UNGPs. Moreover, gender is addressed

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[63] Juliana Bertholdi, 'Em defesa de uma visão crítica feminista para o Tratado de Empresas e Direitos Humanos' (IV Jornada de Direitos Fundamentais, UNIFOR, Fortaleza, 2019) 5–6.

[64] R Davis, 'The UN Guiding Principles on Business and Human Rights and Conflict-Affected Areas: State Obligations and Business Responsibilities' (2012) 94(887) International Review of the Red Cross 961-979.

[65] The commentary on Principle 3 (General State Regulatory and Policy Functions) states: "(...) Guidance to business enterprises on respecting human rights should indicate expected outcomes and help share best practices. Moreover, it should advise on appropriate methods, including human rights due diligence, and how to consider effectively issues of gender, vulnerability, and/or marginalization, recognizing the specific challenges that may be faced by indigenous peoples, women, national or ethnic minorities, religious and linguistic minorities, children, persons with disabilities, and migrant workers and their families."

[66] The commentary on Principle 7 (Supporting Business Respect for Human Rights in Conflict-Affected Areas) states: "Particular attention should be given to the risk of sexual and gender-based violence, which is especially prevalent in times of conflict."

[67] The commentary on Principle 20 (Human Rights Due Diligence) states: "Companies may draw on tools they already employ for other purposes. These may include contracts and performance assessments, as well as surveys and audits, using gender-disaggregated data where relevant."

[68] United Nations, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (New York and Geneva, 2011) supra note 2 at Annex I(B)(3) <https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf> accessed 17 January 2021.

[69] United Nations (n 17).

in a generic manner, merely acknowledging its transversal nature without detailing its characteristics or how it should be addressed.

This systematic failure of the UNGPs to recognize the pervasive nature of gender-based violence not only disregards the essential role of States and businesses in combating these issues but also fails to acknowledge their central role in maintaining the structures that enable such violence. By addressing violence against women in a limited and inadequate manner, the UNGPs function as symbolic law,[70] serving only to mask their own shortcomings in protecting women.

In this regard, Smith highlights the significance of "lexical suppression" in institutional textual production: institutional textual production dictates nominal forms of organization, information, and communication. When lexical suppression is applied to a given agent, that agent is effectively excluded from the relationships officially enshrined in the documents. This exclusion erases the presence of the omitted agent and all activities and operations associated with them. This erasure is then replicated in other business and human rights documents.

The minimum prescribed content for human rights is defined in the text of the Guide. These instruments comprise what the UNGPs refer to as "a definitive list of internationally recognized core human rights" and are applicable in all circumstances. A second category of rights is addressed only in the commentary on Guiding Principle 12 and includes women, children, Indigenous peoples, and persons with disabilities, along with other minority groups. These rights are termed "additional standards" that businesses "may" need to consider in particular circumstances.

By categorizing women's rights as "additional standards", an organizational structure of subalternisation is established. By textually conditioning standardized categories and specifying situations and locations where certain individuals should be protected and how, the UNGPs construct an institutional discourse that recognizes or denies subjects.[71]

In this regard, Smith argues that texts and documents are essential for the objectification of organizations and institutions, playing a determining role in understanding how their existence is constructed.[72] By suppressing women's rights in their lexical construction—justifying such a decision based on the alleged subsidiarity of these rights—fundamental issues affecting a significant portion of those whose rights they aim to protect are left unaddressed.

It is therefore concluded that the Guiding Principles on Business and Human Rights (UNGPs) represent "a step backward for the protection and empowerment of women": in addition to failing to recognize and address the systemic and structural nature of discrimination against women, they replicate and uphold the androcentric bias embedded in the human rights tradition.[73] This replication, as will be demonstrated, can be explained by the adoption of a dominant epistemology, resulting in an exclusionary textuality that will be easily reproduced in National Action Plans (NAPs) unless special care is taken in their formulation.

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[70] This article adopts the conceptualization put forth in Ulrich Beck, 'A reinvenção da política: rumo a uma teoria da modernidade reflexiva' in Anthony Giddens, Scott Lash and Ulrich Beck (eds), *Modernização reflexiva: política, tradição e estética na ordem social moderna* (UNESP 2012) ch 1.
[71] Smith (n 59) 186.
[72] ibid.
[73] Simons and Handl (n 48) 135.

To address the gaps identified in the UNGPs, in June 2019, the United Nations Human Rights Council (UNHRC) launched Report A/HRC/41/43, titled *Gender Dimensions of the Guiding Principles on Business and Human Rights – Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises*. The objective, as previously outlined in HRC Resolutions 17/4 and 35/7, [74] [75] was to present the differentiated and disproportionate impact of business activities on women and girls. The report aims to develop a gender framework for the UNGPs, proposing a gender-responsive approach for each of the 31 principles. To enhance accessibility, the content was edited and formatted into a booklet, widely disseminated on UN platforms.[76]

The report states that both States and businesses "should consider the gender framework and guidance established in the report and its annex when implementing the Guiding Principles"—highlighting the inefficacy of the UNGPs in constructing the necessary gender lens.[77] After all, additions are only necessary when gaps have been identified.

The report's approach significantly differs from the documents previously analysed, demonstrating a deeper understanding of gender issues and adopting the strategic method of providing practical descriptions of possible actions to integrate a gender perspective into the UNGPs, using various practical examples. The report ultimately functions as an additional tool for implementing the UNGPs, structured into six main sections: I. Introduction; II. Women, Business, and Human Rights: Challenges; III. Selected Standards; IV. A Gender Framework for the UNGPs; V. Conclusions and Recommendations; and Annex: Commentary on the 31 UNGPs.

When contextualizing the discussion, the report establishes three key issues that shape the gender analysis applied to the UNGPs: a) First, it emphasizes that right holders are not a homogeneous group, meaning that the implementation measures of the principles must respect the differences and disproportionate challenges faced by women. b) Second, it underscores that, since women's human rights are an inalienable, integral, and indivisible part of universal human rights, States and businesses must take concrete steps to identify, prevent, and remedy gender-based discrimination and inequalities in all areas of life. Both actors can benefit from practical and specific guidance in implementing the UNGPs. c) Third, it highlights the importance of integrating gender as a cross-cutting issue in the Business and Human Rights sphere.[78]

When stating its primary objective, the report affirms that it seeks to "provide guidance to States and businesses on integrating gender perspectives into the implementation of the UNGPs," which it does through a three-step framework: a) Gender-responsive assessment; b) Gender-transformative measures; and c) Gender-transformative remedies. Additionally, the report aims to raise awareness of the need to integrate a

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[74] United Nations (n 17).

[75] UNHRC, 'Human rights and transnational corporations and other business enterprises' (22 June 2017) UN Doc A/HRC/RES/35/7 <https://undocs.org/A/HRC/RES/35/7> accessed 30 January 2021.

[76] United Nations Working Group on Business and Human Rights, *Booklet: Gender Dimensions of the Guiding Principles on Business and Human Rights – Report of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises* (Geneva, 2019).

[77] UNHRC, Resolution 41/43 on the Gender Dimensions of the Guiding Principles on Business and Human Rights (2011) <https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/41/43> accessed 30 January 2021.

[78] ibid.

gender perspective in the Business and Human Rights field and highlight best practices for gender integration implemented by States and businesses.

In defining the theoretical scope of the report, section 1.d) Scope and limitations defines "gender" as "socially constructed roles and power relations between men, women, and non-binary individuals, all of whom may be differently affected by business activities". It also warns that the gender guidance provided in the report is intentionally broad to ensure applicability to all States and businesses, regardless of their size, sector, location, operational context, ownership, or structure. There is a clear concern with ensuring that the principle-based guidance can be adapted to different business structures, but there is no explicit concern about adapting them to different national frameworks.

To some extent, the report represents an epistemological break from hegemonic documentation, raising the question of whether the UNGPs themselves embody the kind of universalizing and patriarchal normativity that the report advises against.

Thus, it becomes evident that the gender lens must be applied through an intersectional approach. Accordingly, this paper proposes associating the established gender verticalization in Business and Human Rights with decolonial theorization—recognizing that Latin American feminist perspectives demand a unique vision of the mechanisms studied, free from the Eurocentric lens initially imposed, with an emphasis on discussions of race and class, in addition to gender.

It is thus essential to apply an intersectional approach to gender perspectives, incorporating decolonial theorization.[79] The Latin American feminist perspective demands a distinct understanding of these mechanisms, detached from the Eurocentric vision initially imposed, prioritizing discussions of race and class alongside gender. The next step is to examine its influence on Latin American National Action Plans.

IV. The relationship between National Action Plans and the realization of women's human rights in Latin America

National Action Plans (NAPs) can serve as crucial tools for the construction of a cohesive national policy on Business and Human Rights. While it is acknowledged that the mere formation of such plans will not, in itself, resolve the complex consequences resulting from the colonial and patriarchal system established in Latin America, the diagnostic investigations that constitute the initial phase of NAP development, as well as the implementation of a unified and periodically revisable strategy in the field, bring both visibility and comprehensiveness to the issue—essential factors for any meaningful progress.

As previously argued in earlier works, integrating a gender approach within the context of NAPs requires a deep and cross-cutting analysis of the various, disproportionate, and often unforeseen impacts on women's lives, recognizing their different social, legal, and cultural roles and rights based on gender.[80] As Simons and Handl aptly highlight, the mere explicit acknowledgment of the importance of the gender agenda or the simple "blending" of the issue into pre-existing masculinist and neocolonial structures will not yield significant innovations in the field,[81] instead merely reproducing the

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[79] In this work, María Lugones' scholarship is used as a reference for Latin American decolonial feminism, complemented by the theoretical contributions of Françoise Vergès, Fernanda Bragatto, and others.
[80] Bertholdi (n 63) 5–6.
[81] Simons and Handl (n 48) 120.

symbolic law already established in the UN Guiding Principles on Business and Human Rights (UNGPs).

National Action Plans on Business and Human Rights constitute a genuine methodological construction, useful for conducting a national diagnosis—whether of existing legislation and regulations or the local social context in this domain—and for organizing laws and public policies. They facilitate the cataloguing and analysis of existing legal frameworks while providing a scientifically justified basis for establishing future priorities and goals.

Thus, NAPs offer an opportunity to understand and address the ways in which business activities, particularly those carried out by transnational corporations, perpetuate discrimination against women—not only in workplaces but also, and especially, within satellite communities and society at large. Women frequently bear the disproportionate social, economic, and environmental burdens imposed by transnational corporations, as briefly described in section II. These adverse impacts manifest in everyday situations—such as the added difficulty and rework involved in domestic chores due to excessive dust generated by limestone extraction in the cement industry[82]—as well as in exceptional circumstances, such as reported discrimination in accessing compensation following dam-related "disasters".[83]

The implementation of a unified and periodically revisable strategy in the field of Business and Human Rights is imperative for achieving significant advances. However, as consistently advocated, integrating a gender perspective within NAPs transcends mere rhetorical inclusion, requiring an in-depth and cross-cutting analysis of the differentiated, disproportionate, and often unforeseen impacts on women's lives. This perspective entails recognizing the multiplicity of roles played by women and safeguarding their social, legal, and cultural rights intrinsically linked to gender.

This study is based on the understanding that NAPs on Business and Human Rights represent a true methodological construction, essential both for diagnosing the national reality—including existing legislation and regulations as well as the local social context—and for structuring intervention strategies. It is important to emphasize, however, that the mere mention of the relevance of the gender agenda or its superficial incorporation into pre-existing masculinist and neocolonial structures proves insufficient to generate substantial innovations in the field, tending instead to reproduce the symbolic law already enshrined in the UNGPs.

An analysis of the gender dimensions within NAPs implemented in Latin America reveals a multifaceted landscape characterized by isolated advancements but also by significant gaps that undermine the effectiveness of women's human rights protections. In Colombia, the first NAP recognized the importance of international norms concerning women's rights and adopted a "differential approach" aimed at

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[82] This information was obtained through a consultation process conducted in the Municipality of Adrianópolis, Paraná, by the Human Rights Clinic of PUCPR, where limestone is extracted for cement production by the Portuguese multinational company Supremo Cimentos. The data gathered during the consultation processes are part of studies aimed at applying the methodology proposed in this work. However, the continuation of the consultation was rendered unfeasible due to political issues, leading to a formal communication to the local public prosecutor's office.

[83] Juliana Bertholdi and Danielle Anne Pamplona, 'A Feminist Analysis of the Legal Mechanisms of Protection and Repair in the Context of the Brazilian Extractive Industry: The Doce River Case' (2022) 7(1) Business and Human Rights Journal 175, <doi:10.1017/bhj.2021.45>.

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addressing minority groups, including women.[84] However, civil society evaluations pointed to its generic nature and the lack of clear, concrete gender-related objectives. Subsequent monitoring reports highlighted initiatives such as the "EQUIPARES" seal, designed to promote gender equity in the workplace and increase female participation in leadership roles.[85] In contrast, Colombia's second NAP (2020-2022) demonstrated notable progress by acknowledging the differentiated impacts of the COVID-19 pandemic on women and incorporating the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women into its regulatory framework.[86] Gender issues were integrated into thematic areas concerning the promotion of inclusion and non-discrimination, the provision of tools to assist businesses in respecting human rights (with guidance from specialized government agencies), and corporate training programs aimed at mitigating gender inequalities and promoting female empowerment. However, the emphasis remains predominantly on women as workers, neglecting other dimensions of their experiences and vulnerabilities.[87]

In Chile, the NAP explicitly addresses gender within the framework of Pillar 1, concerning the state's duty to protect human rights[88]. Outlined actions include implementing equality and equity policies for migrant workers, developing action plans within the mining sector to promote gender equity, encouraging female participation and leadership in cooperatives, fostering best practices in inclusion and work-life balance, and conducting gender-focused training for union leaders and human resources professionals. Despite these initiatives, Chile's approach has faced criticism, particularly regarding its primary focus on labour market equity, reflecting a neoliberal perspective. Moreover, the lack of an effective and comprehensive public consultation process—including the active participation of local women and gender-focused organizations in the initial stages of NAP drafting—represents a significant gap that undermines the plan's legitimacy and effectiveness.

In other Latin American countries, such as Argentina, Mexico, Peru, and Ecuador, the development of NAPs on Business and Human Rights is at varying stages of progress. Argentina, for instance, had already referenced the field in its National Human Rights Plan 2017-2020 and was developing its National Baseline Assessment (NBA) on 2021 - currently, the NBA process is stopped. The Argentine Business and Human Rights Guide, like its Chilean counterpart, dedicates a brief section to women, primarily focusing on labour issues.

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[84] Colombia, 'Conclusiones y Propuestas del Diálogo sobre la Aplicación en Colombia de los Principios ONU de Empresas y Derechos Humanos' 41, <https://www.sustentia.com/wp-content/uploads/2014/01/GT_-Empresa_-DDHH_2013_-SUSTENTIA_AECID_DIS.pdf> accessed 20 February 2023.

[85] Colombia, 'Política Pública Integral de Derechos Humanos' (Diário Oficial Colombiano, August 2013) <http://www.gobiernobogota.gov.co/transparencia/planeacion/participacion-ciudadana/politica-publica-integral-derechos-humanos> accessed 19 February 2021.

[86] Colombia, 'Plan Nacional de Acción en Derechos Humanos y Empresas 2020-2022' (2020) <https://globalnaps.org/wp-content/uploads/2024/01/NAP-Colombia-2020-2022-Spanish.pdf> accessed 24 March 2025.

[87] Colombia, 'Plan Nacional de Acción en Derechos Humanos y Empresas 2020-2022' (n 86).

[88] Chile, 'Guía para la Participación Ciudadana en el Plan de Acción Nacional de Derechos Humanos y Empresas' (Online, 2021) <https://globalnaps.org/wp-content/uploads/2018/08/guia-para-la-participacin-cuidadana-en-el-plan-de-accin-nacional-de-ddhh-y-empresas.pdf> accessed 20 February 2021.

In Mexico, the NAP development process involved civil society consultations, yet gender issues were not given central priority.[89] Peru developed a Business and Human Rights Guide with support from the Danish Institute for Human Rights, which, unlike other guides, explicitly mentions intersectional gender concerns, such as violence against Afro-descendant and Indigenous women.[90] Ecuador announced its commitment to developing a NAP in October 2020, and the process remains in its early organizational phase.

Overall, while Latin American NAPs acknowledge the relevance of gender dimensions and incorporate some actions and references to international human rights instruments concerning women, their approach is often superficial, generic, and excessively confined to labour and economic representation aspects. A recurring critique pertains to the absence of an in-depth intersectional analysis and the scarce application of a decolonial feminist methodology, which would consider the particularities and heterogeneity of women's experiences in Latin America. The insufficient participation of local women and gender-specialized civil society organizations in consultation and drafting processes represents another major limitation that hampers the construction of NAPs that are truly responsive to women's needs and demands.

To enhance gender integration in Latin American NAPs, this study proposes specific recommendations for different phases of the development process, emphasizing the incorporation of Action Research methodology and a decolonial feminist lens. These recommendations focus on ensuring a robust and participatory approach to diagnosing, drafting, and monitoring NAPs, thereby ensuring that they contribute effectively to social justice and gender equality in Latin America.

In this regard, it becomes essential to adopt decolonial feminist epistemologies and methodologies that challenge notions of scientific neutrality and recognize the importance of situated knowledges as legitimate forms of knowledge. Donna Haraway's perspective on situated knowledges emphasizes that all vision is partial and embodied, and that transparency in knowledge production requires making explicit the standpoint from which one speaks.[91]

To enhance the integration of a gender perspective in Latin American National Action Plans (NAPs), this study proposes specific recommendations for the different phases of the construction process, with an emphasis on incorporating Action Research methodology and a decolonial feminist lens. In the National Baseline Assessment (NBA) phase, the centrality of Action Research methodology is advocated, as it enables the production of knowledge through dialogical interaction between researchers and women affected by corporate activities. Action Research, characterized by continuous intervention in the studied reality and reflection upon this intervention, proves particularly suitable for the field of Business and Human Rights, sharing the objective of establishing intervention mechanisms for social problems. The adoption of this methodology in the NBA phase allows the voices and experiences of local women to inform the national diagnosis, mitigating the hierarchical problematizations frequently observed. It is crucial to prioritize qualitative data collection methods, such as

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[89] Chile, Secretaría de Gobernación (SEGOB), 'Plan Nacional de Acción sobre Empresas y Derechos Humanos' (2020).
[90] Peru, 'Plan Nacional de Acción sobre Empresas y Derechos Humanos 2021-2025' (2021).
[91] Donna Haraway, 'Saberes Localizados: A Questão da Ciência para o Feminino e o Privilégio da Perspectiva Parcial' (2009) 5 Cadernos Pagu.

interviews and focus groups, with an intersectional gender perspective, complementing the analysis of secondary data and quantitative indicators.

In the drafting phase of the NAPs, the first fundamental measure involves integrating diverse women into the drafting team, both in its scientific composition—by including researchers with expertise in Business and Human Rights and gender in Latin America—and in ensuring accessibility of the drafts to the general population and various stakeholders. The second essential measure is the inclusion of dedicated sections explicitly addressing women's human rights, breaking with the tendency to relegate them to a position of exceptionality and subsidiarity. References to women must permeate all Guiding Principles, not only those that explicitly mention them in their original content. The third recommendation for drafting is the explicit reference to all human rights treaties and conventions addressing gender issues, incorporating their normative provisions into the NAPs. Additionally, it is recommended that domestic legislation guaranteeing women's rights be mentioned, reinforcing the binding nature of these rights. The fourth measure in drafting calls for the adoption of an explicit decolonial feminist perspective, which critically examines power relations and structural inequalities affecting women in Latin America. This implies going beyond the mere reproduction of the UN Guiding Principles on Business and Human Rights (UNGPs) and incorporating both binding and voluntary measures that promote gender equality and women's empowerment. The fifth measure for drafting pertains to transparency processes throughout the entire procedure, ensuring broad civil society access to drafts and fostering informed public debate.

Finally, in the review phase (Monitoring and Review of NAPs), the establishment of a monitoring team specifically designated for gender issues is recommended, comprising experts in the field to ensure an effective, consistent, and systematic evaluation of the results and impacts of gender perspective integration in NAPs. The absence of gender-sensitive monitoring has been identified as one of the primary barriers to achieving equality in practice.

In sum, National Action Plans represent promising tools for the consolidation of the Business and Human Rights field in Latin America and for the realization of women's human rights. However, to reach their full potential, it is imperative that their construction and implementation be informed by decolonial feminist epistemologies and methodologies, prioritizing the participation and perspectives of diverse women in the region at all stages of the process. Only in this way will it be possible to break with governance structures that have historically marginalized gender issues and build NAPs that truly contribute to social justice and equality in Latin America.

V. Conclusions

Based on the research conducted, it can be concluded that the Latin American subcontinent, as a destination for transnational corporate activities, faces highly specific challenges concerning Business and Human Rights. The expansion of neoliberal globalization and transnational activity has dictated new colonial dynamics, which have caused significant harm to the lives of Latin American women. While the liberal feminist concern commonly employed at the international level—reflecting "civilizational feminism"—is essentially centered on issues related to sexual freedom and labour equity, colonized and racialized women face a true process of dehumanization. This study has focused on these women, aiming to construct a solution for drafting National Action Plans on Business and Human Rights in Latin America.

Thus, by analysing the historical construction of transnational activity in Latin America, it is possible to understand that the dependency dynamics shaped by exploitative neoliberalism have led to a process of denationalization and "subsidiarization" of the Latin American economy. It is evident that a significant portion of the negative consequences suffered by local social minorities originates from the international division of labour. In its "modernisation" process, which involved the establishment of a neoliberal market dynamic—pro-investor, pro-market, and weakening state structures—Latin America became dependent on large transnational corporations, favouring international capital to the detriment of human rights and socio-environmental concerns. Mignolo even highlights that the European Industrial Revolution was only possible at the expense of peripheral coercive labour, including the subjugated indigenous and Black labour within the European space. While Human Rights emerged in the Global North, the Global South lived under a paradigm of domination and exploitation.

Latin American women are situated within this historical framework, victimized not only by the subjugation stemming from coloniality but also by the imported dynamics associated with it, such as highly internalized patriarchal and racial dichotomies. As observed on chapter II, which includes local analyses of sensitive sectors, patriarchy may have its characteristics exacerbated by the coloniality present in Latin American countries. This is compounded by the characteristics of late and exploitative industrialization promoted by the transnational corporations established in the region.

From this perspective, based on the literature review conducted, it is concluded that defending the Human Rights of Latin American women requires going beyond the gender issues traditionally proposed by "civilizational feminism", which has a sanitizing aspect often employed by international organizations to validate imperialist policies in peripheral countries and render racialized women invisible.

With this concern in mind, Chapter III sought to understand how women have been represented in official documents produced on Business and Human Rights, analysing their applicability through a feminist lens. Drawing on Dorothy Smith's institutional ethnography, adapted to the Business and Human Rights field by Penelope Simons, it can be concluded that the Guiding Principles on Business and Human Rights lack the necessary gender focus, shaping governance relationships with other documents produced in the field, particularly National Action Plans.

Indeed, as demonstrated, the bibliometric analysis of the preparatory reports by Special Representative John Ruggie, the Guiding Principles on Business and Human Rights, and Human Rights Council Report A/HRC/41/43 (Booklet: Gender Dimensions of the Guiding Principles on Business and Human Rights) reveals a low incidence of gender perspectives within documents in this field. Without exhausting the issue, a qualitative analysis of references to gender and women's issues was conducted using the institutional ethnography methodology, revealing that gender-related content is limited to exceptional situations, disregarding the everyday nature of violence experienced by women.

Thus, National Action Plans are presented as a possible solution to the gender gaps identified in the Guiding Principles on Business and Human Rights and their annexes. The structure of these documents, the manuals that serve as development guides, and already developed National Action Plans from other nations were analysed using the Danish Institute for Human Rights' database. It is concluded that, despite the effectiveness limitations of National Action Plans—especially within the political context of Latin America—given the unpredictability surrounding the finalization of

the International Treaty on Business and Human Rights and the need for cohesive policy actions in the region, National Action Plans on Business and Human Rights can serve as important tools for local development. Furthermore, it was concluded that the absence of an intersectional gender approach in the guidance manuals for drafting National Action Plans, as promoted by the UN and ICAR/DIHR, is easily replicated in the development of such plans.

Recognizing the challenge posed by governance relationships established not only by the Guiding Principles on Business and Human Rights but by all documentation produced in this field, questioned whether National Action Plans could indeed supplement the lack of feminist textuality found in the Guiding Principles on Business and Human Rights, particularly in Latin America. In this regard, it was concluded that, from a theoretical perspective, feminist epistemology and textuality can be constructed locally, serving as genuine tools for enabling epistemic disobedience. These tools can be applied with the support of decolonial theorization, recognizing governance relationships.

Given the undeniable fact that the gender gap directly impacts not only women's right to employment but also various other Human Rights of women in Latin America—extending beyond the figure of the woman herself—Chapter IV focused specifically on the subcontinent.

Analysing the gender perspective in Latin American National Action Plans already developed or under development. Institutional ethnography was again employed to qualitatively assess the gender perspective within these documents, concluding that they are insufficient in protecting women's rights.

In this sense, possible methodological solutions for application in the Latin American subcontinent were analysed, drawing from feminist epistemologies and methodologies that can be implemented from the scoping phase of National Baseline Assessments. The research concluded that Action Research is the most applicable methodology, as it allows greater involvement of the women who are the subject of study. This approach enables the disruption of two key problematic characteristics in governance relations defined by the Guiding Principles on Business and Human Rights: (a) the marginalization of female and domestic knowledge, and (b) the hierarchization of human rights, which results in the exceptionalization and/or subsidiarization of women's rights.

Finally, recommendations were made for the phases of National Action Plan development, focusing primarily on ensuring that Latin American women play an active role in constructing their rights. The study proposes the participation of Business and Human Rights researchers, as well as indigenous, Black, quilombola,[92] LGBTQI, and disabled women. These proposed tools represent only a small contribution toward developing a new rationale for Human Rights frameworks in Latin

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[92] Quilombola refers to the descendants of Afro-Brazilian enslaved peoples who, through resistance, established autonomous communities known as quilombos. These communities are recognized for their collective land rights, cultural heritage, and historical struggle against racial and socio-economic oppression. Today, quilombolas continue to advocate for legal recognition and protection of their territories, in line with international human rights frameworks and national legal instruments. See Sales Augusto dos Santos, 'Quilombolas and the Brazilian State: The Meaning of Recognition' (2013) 20(1) Latin American and Caribbean Ethnic Studies 129; UNHRC, 'Report of the Working Group of Experts on People of African Descent on its Mission to Brazil' (2014) UN Doc A/HRC/27/68/Add.1.

America, aiming to recognize Latin American women as protagonists in their struggle for rights.