

SOLIDARIDAD CON LAS COSTURERAS de GUATEMALA



WAS YOUR SHIRT MADE
BY GUATEMALAN WOMEN
EARNING \$ 3 a DAY ?

Credit: Solidaridad con las Costureras de Guatemala Marilyn Anderson US/Guatemala Labor Education Project Offset, circa 1992, 61 x 46 cm. Center for the Study of Political Graphics, Los Angeles, California. www.politicalgraphics.org

Guatemala, 1992: Was your Shirt Made by Guatemalan Women earning \$3 a day?

Markets

“My name is Shamima, I am from a remote village in Bangladesh. My husband was a farmer. He had a piece of agricultural land. He used to cultivate rice and vegetables on that land. We had a hardship to run our family. We couldn't profit from agriculture anymore because we had to buy seeds, fertilizer, insecticides at a higher cost from companies. My husband discussed the possibilities for him to work [abroad]. My relative suggested sending me instead... He said if I go abroad the cost will be less than that of my husband. My husband agreed and send me. I used to work hard from dawn to dusk. I was not allowed to rest and had no leave. Moreover, my mistress always treated me badly. I was not given food and was mistreated by the children. I decided to run away. When I came back to my country I was offered training from a migrant organisation. There I met many women with different stories of exploitation. I got back and learnt to stand up again. Now we are more than 200 women working together so that no more women face the same conditions. We are also running a collective income generation project to earn money for ourselves.”¹

Women engage in a wide range of markets in the course of their economic lives. From local markets where they buy and sell food for their families, to jobs in the city or overseas, women join global chains of production and exchange that stretch from micro-enterprises to large factories. Economic activity has been a crucial means by which women, particularly poor women, have gained access to the public domain and have been empowered to take on new roles.

There are markets for goods and services, capital and labour, and in each of these women face important accountability challenges if their rights are abused. The expanding range of markets on which today all countries depend for economic survival is challenging the ability of states to meet their commitments to social development and human rights, including women's rights. Gender biases in labour markets have meant that women's productive potential is less

effectively tapped than men's (Figure 4.1) and that women have been more concentrated than men in informal, subsistence and vulnerable employment (Figure 4.2). In the last decade, more than 200 million women have joined the global labour force. In 2007, there were 1.2 billion women in paid work, compared to 1.8 billion men.² An indicator of the accountability challenge they continue to face in formal employment is the gender wage gap, standing at a global average of about 17 per cent (Figure 4.3), and which tends to be higher in private than in public sector employment (Figure 4.4).

This chapter examines how women have mobilised in order to make governments, employers and businesses more accountable for protecting their rights so that markets are managed in the interests of gender and social equality. It looks at the contradictions between human rights legislation that is meant to protect women's rights and the uncertain status of gender equality in trade legislation. It argues that if women's rights are to be upheld, then both the public and private sectors must make commit-

FIGURE 4.1 Men's Productive Potential is Tapped to a Greater Extent than Women's

Across all regions, employment-to-population ratios are significantly higher for men compared to women, particularly in South Asia and the Middle East & North Africa.

Employment to Population Ratios by Sex (%)



Notes: The employment to population ratio is defined as the number of employed persons, calculated as a percentage of the working-age population. This indicator provides some information on the efficacy of the economy to create jobs. Weighted regional averages were calculated by ILO using UNIFEM's regional groupings. The value labels shown are for 2007.

Sources: ILO (2008); ILO Key Indicators of the Labour Market database; and estimates provided by ILO to UNIFEM on request.

FIGURE 4.2 Women are a Smaller Proportion of Salaried Workers than Men

In most developing regions, about one half to two thirds of women hold vulnerable employment. Although the percentage of women in vulnerable employment has dropped since 1997 in most regions, a disparity between men and women exists, specially in the Middle East & North Africa and Sub-Saharan Africa.

Status in Employment as Share of Total Employment (%)



Notes: Wage and salaried workers are also known as "employees" or persons in paid jobs, where the incumbent holds an explicit or implicit contract and receives a basic remuneration that is not directly dependent on the revenue of the unit for which they work. Own-account workers are persons who are self-employed with no employees working for them. Contributing family workers are own-account workers who work without pay in an establishment operated by a relative living in the same household. Vulnerable employment is calculated as the sum of own-account workers and contributing family workers. Weighted regional averages were calculated by ILO using UNIFEM's regional groupings. The value labels shown are for 2007.

Sources: ILO (2008); ILO Key Indicators of the Labour Market database; and estimates provided by ILO to UNIFEM on request.

ments to gender equality that are monitored and enforced. The challenges of remaining competitive in the world economy must not become an excuse for governments to suppress women’s labour rights.

Market forces and women’s rights

Accountability and globalisation

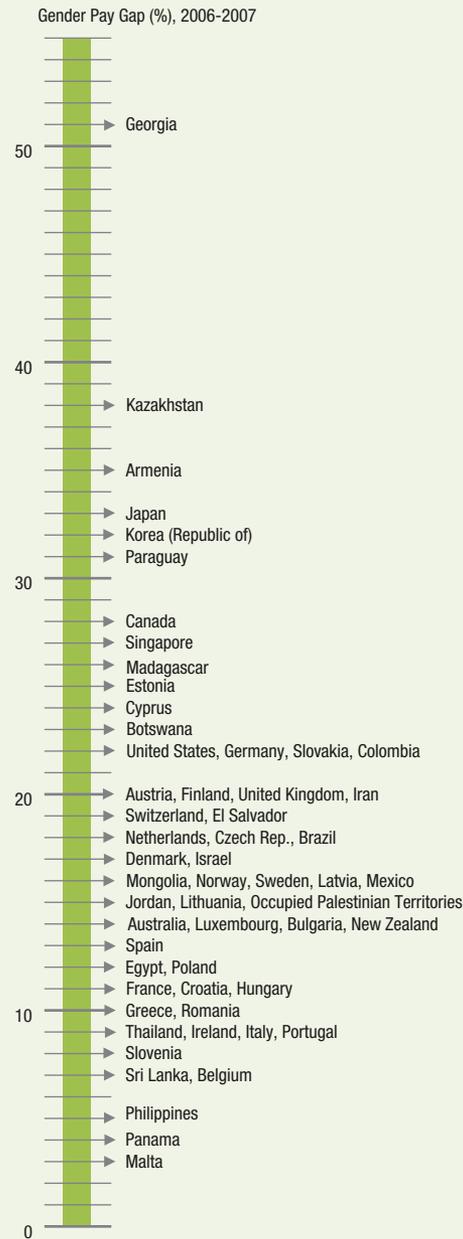
Accountability mechanisms in private sector markets are based on different principles than those in the public sector. In the public sector, as we have seen in earlier chapters, a social contract between the state and its citizens governs the rights and obligations of both parties. In the market, by contrast, accountability is based on individual contracts between the employee and the employer or between service providers and clients. As noted by Kurt Hoffman, Director of Shell Foundation: “Corporations are accountable to the market. If they don’t succeed in providing their customers what they want, they go out of business... that’s the model. You find out what the customer wants and then they respond by voting for what you provide.”³ Where demand is not met or contracts are not honoured, the theory goes, individuals may choose an alternative provider or employer.

There are well-known flaws in this logic. Women may get paid less than men for the same work, or be denied access to better-paid jobs because of entrenched attitudes that incorrectly assume men are the main breadwinners and need to earn more. Or women may not be able to compete equally with their male colleagues because they cannot invest an equal amount of time in work when they remain responsible for the greatest share of household and child-rearing tasks. In other words, women’s unequal status can restrict their ability to choose to leave a job as an accountability strategy if their rights are infringed.

Whether as farmers, factory employees or home-based workers, women’s employment increasingly takes place as part of ‘global supply chains’ that stretch from the

FIGURE 4.3 | Women are Paid 17% Less Than Men

According to public information collected by the International Trade Union Confederation (ITUC), the gender pay gap ranges from 3% to 51% with a global average of 17%. Information available only for selected countries.



Notes: This graph includes only information for those countries included in the regional groupings used throughout this report. For this reason, the global average of 17.03% is slightly different from the 15.6% reported by ITUC (2008). The graph does not show the information corresponding to Costa Rica and Qatar, where a negative gender pay gap of 2.2% was reported — these numbers were, however, included in the average estimations. Finally, information from Bahrain was not included.

Source: ITUC (2008).

FIGURE 4.4 | The Gender Pay Gap is Higher in the Private Sector

Women tend to earn less than men, and the gender pay gap in the private sector tends to be wider than in the public sector.



Notes: ITUC also reports information for employment in the non-profit sector and "other"; however, information for the private and public sector only is reported here, since these represented 90% or more of the sample.

Source: ITUC (2008).

woman sewing a skirt in South Asia or Latin America to the consumer buying it in an up-scale department store in one of the world's metropolises, with many steps in between for bringing a product from conception to final consumption. Yet while supply chains are spread across vast geographic spaces, they are also socially embedded. Production occurs within national markets that are shaped by social norms and gender inequalities that can systematically disadvantage women.⁴

Supply chains therefore reflect women's lower status in the labour market, while at the same time illustrating the reasons why companies find it so attractive to rely on female labour in the new global economy. They capture two important, parallel trends in the labour market: *feminisation* and *informalisation*.⁵ As we shall see, both trends have consequences for accountability.

The feminisation of the labour force

Globalisation has led to an unprecedented demand for women workers in certain key sectors. For instance, women now make up 60 to 90 per cent of the fresh produce and clothing labour force at the labour-intensive stages of the supply chain in developing countries;⁶ they are also a major presence in the new tertiary outsourced service sectors, for example, call centres and financial services.⁷ As one economist observed, "Women have emerged as the flexible labour force *par excellence* for the highly competitive labour-intensive sectors of the global economy."⁸

There are at least three reasons why women are attractive to employers.⁹ First, they are often free of the 'fixed costs' of an organised labour force — namely, employer-provided benefits and social security contri-

PANEL | Women Seeking Accountability in the Bangladeshi Garment Industry

The first wave of women to enter the garment industry in Bangladesh in the early 1980s was driven by circumstances outside their control: poverty, dispossession, male unemployment, widowhood and abandonment.ⁱ These women were generally unaware of their rights and grateful for jobs that paid far more than they could hope to earn elsewhere. From an employers' perspective, they were an ideal workforce for an industry that sought to compete in the global economy on the basis of cheap labour. They could be paid much less than men with equivalent skills and be treated as a largely informal workforce to whom employers had no obligation aside from paying their wages.ⁱⁱ

Today, things are beginning to change. Female education has gone up steadily; there has been widespread dissemination of ideas about women's rights through non-governmental organisations (NGOs), state pronouncements and the media, while microfinance has increased and diversified employment opportunities in the countryside. Women enter the industry not just because of poverty, but also for the prospect of improving their family's standard of living, sending their children to school, saving for their dowries or supporting ageing parents. They have been able to leverage their earnings into increased decision-making power within their families and independent purchasing power in the market place.ⁱⁱⁱ They have also become increasingly visible in collective actions in support of their rights, which have linked local and global movements.

At the global level, campaigns have drawn attention to abuses of workers' rights in global supply chains and put pressure on international corporations to take greater responsibility for employees through corporate codes of conduct. Local employers in the Bangladesh gar-

FIGURE 4.5 | Women Tend to be Employed in Agriculture or Services

In most regions female employment is concentrated in either services or agriculture, with fewer women than men employed in industry (ranging from 7 to 23% in all regions, compared to 12 to 34% for men). The only region where men and women have similar patterns of employment by sector, both in relative composition and in trend, is East Asia & Pacific.



Notes: Weighted regional averages were calculated by ILO using UNIFEM's regional groupings. The value labels shown are for 2007.

Sources: ILO (2008); ILO key indicators of the Labour Market database; and estimates provided by ILO to UNIFEM on request.

ment industry must now demonstrate compliance with these codes to win orders from international buyers. The Bangladesh Garment Manufacturers and Exporters Association (BGMEA) has formulated its own code of conduct for the industry, in collaboration with the major trade unions, and has set up a compliance unit that monitors labour conditions in members' factories.^{iv} It has been known to freeze licenses of members whose factories have made headlines for violations. Legal success in winning favorable verdicts for workers in the labour courts also led BGMEA to set up its own conciliation and arbitration cell, with equal representation of employers and trade unions. This is intended to provide a less expensive and time-consuming mechanism for settling disputes between employers and workers.

In 2006, the Government passed a new labour code, after 12 years of deliberation and activism. It applies to all workers, and the new sections relevant to the garment industry include written contracts and identity cards, timely payment of wages, revised minimum wage, paid maternity leave and explicit laws against sexual harassment.

Despite this progress, there is still much to be done to improve women worker's rights. In May 2006, tens of thousands of workers, men and women, took to the streets to protest irregular wage payments and demand a higher minimum wage. The government agreed to a new rate, though it falls short of the 3000 takas (US\$44) per month regarded as a minimum living wage. As Shefali, a female garment leader, said: "Earlier it used to be much more difficult to make the workers understand about different issues. But now they understand the importance of organizations...about the ILO convention and the law, and they ask for information."^v

Almost 100 million of the world's migrants are women, and as Figure A shows, they form nearly half the total migrant population.ⁱ Evidence shows that women now dominate the categories of migrants with tertiary educationⁱⁱ (Figure B), and this represents a feminised brain drain that can undermine the female leadership base of affected countries. For some women, whether migrating for domestic or professional work, migration offers the chance of economic independence and empowerment. But for many, migration can involve loss of means of holding abusive employers accountable or demanding redress for violations of their rights.

World Bank estimates for 2004 indicate that remittances received by developing countries amounted to US\$ 126 billion, almost twice the amount of Official Development Assistance (ODA) and approximately 75 per cent of the total foreign direct investment.ⁱⁱⁱ There is no sex-disaggregated data to show women's contribution to these remittances, but there is evidence that in some countries it is significant. In the case of Dominicans working in Spain, for example, as much as 78 per cent of all remittances were sent by women, even though they accounted for 61.4 per cent of migrants.^{iv} In the Philippines, 97 per cent of migrants send at least some money home, with women sending about 45 per cent of their income on average.^v

Since the 1994 International Conference on Population and Development, governments have addressed international migration at various United Nations conferences, but provisions for the protection of the human rights of women migrants remain inadequate. The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which came into force in 2003, is the most comprehensive instrument for protecting migrant worker's rights; however, as of 2007 only 37 countries had ratified the Convention, none of them among the top 10 migrant-receiving countries in the world.^{vi}

Legislation and policies on migration rarely take into account the specific problems encountered by migrant women. For example, labour legislation rarely considers domestic employment.^{vii} To address this challenge, UNIFEM in the Arab States has worked with 19 recipient and labour-exporting countries to support legal measures to prohibit exploitation of women migrants.^{viii}

Trade unions and non-governmental organisations (NGOs) have also worked to support the rights of women migrants. The Asian Domestic Workers Union (ADWU) in Hong Kong was formed to fight for stronger protection and accountability.^{ix} Filipino women have established NGOs linked to transnational networks, including the United Filipinos in Hong Kong, which monitors the working conditions

butions. Second, the assumption that men are the breadwinners and women just earn 'extra income' is commonly used to justify lower pay to women as 'secondary earners.' Third, gender discrimination forces women to accept jobs in low-paying work such as subsistence agriculture, or gender-specific industries usually involving care taking or services (see Figure 4.5). The panel on p. 68 highlights one example of how women in the Bangladesh garment industry have pushed for better conditions and improved accountability.

Women and informal employment

Because of a growing demand for flexible labour that can be drawn in or dropped depending on market pressures, women's entry into the paid workforce in greater numbers has coincided with trends towards outsourcing, subcontracting or relegating

women's jobs to informal employment with no job security or benefits.¹⁰ There is a strong link between insecure informal employment, especially home-based work, and poverty.¹¹ This has been a powerful driver of women's increased rate of migration for employment (see Panel: The Weakest Voices: Women Migrating in a Globalised World).

'Managing the market' in the interest of women's rights

The economic spheres in which women operate as workers, consumers, entrepreneurs and investors can all be regulated in ways that enhance social well-being¹² in order better to protect women's rights. This involves an array of public actors and institutions. These include officials responsible for monitoring and enforcing labour laws;

of foreign domestic workers and has helped workers from India, Indonesia and Sri Lanka to establish their own unions.^x NGO activity to support women migrants, however, is an insufficient substitute for national accountability. While no one state can contain the negative consequences of globalisation, including the abuse of the rights of women migrants, each has responsibilities to ensure that the rights of those under its jurisdiction are respected.

FIGURE A | Women are Half of the World's Migrants

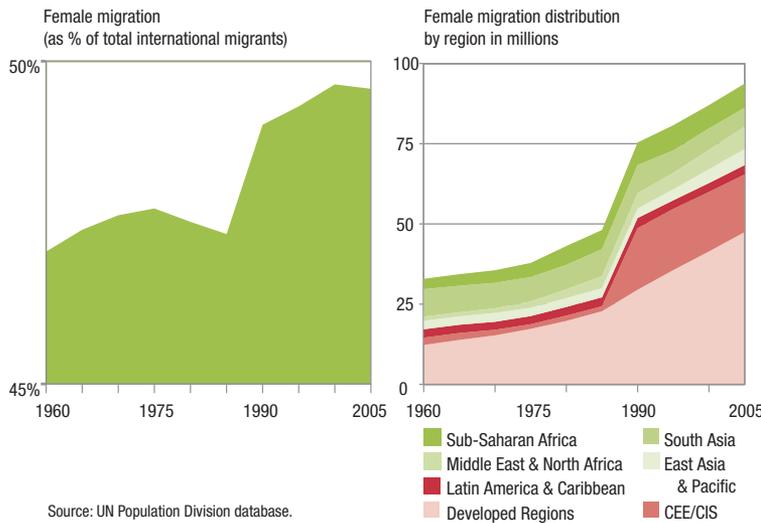
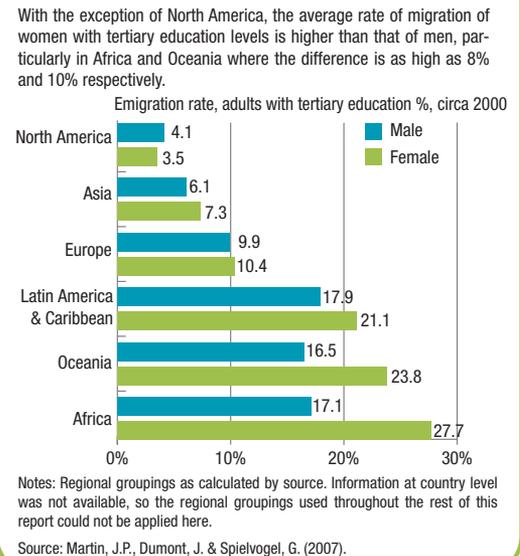


FIGURE B | Women Lead the Brain Drain



factory inspectors charged with implementing workplace safety and operational directives; public-health officers empowered to ensure that minimum environmental quality standards are met; and anti-trust authorities responsible for protecting vulnerable groups from collusive business practices. The recent food crisis, for example, demonstrates the importance of market regulation in the interest of gender equality as a development goal along with other goals, as highlighted in Box 4A.

Efforts to manage market forces, however, are not always driven by social justice agendas. Governments have responded to public demands for regulation by adopting or enforcing labour laws designed to provide a safety net against market failure, or to correct abusive practices such as child labour, environmental degradation or gender discrimination.¹³ They have also tailored economic

policy decisions to support national industries, increase economic growth and enhance private accumulation. In the past, this often took the form of efforts to protect infant industries through, for instance, raising the cost of competing imports. In the current era of open economies and market deregulation, the emphasis has shifted to creating a market environment designed to attract investors.

Efforts to attract investment do not have to conflict with managing the market for social ends. For instance, research has shown that investment in women's education pays off not only for women and their families, but also in terms of a skilled labour force that can attract business investment.¹⁴ However, the costs of labour rights protections, the high state capacity it requires, and the empowered labour force that results, are sometimes seen as a constraint on capital. These con-

cerns are advanced by supporters of economic globalisation and are used to justify measures such as cuts in public services and a weakening of workers' claims to minimum labour standards. For women, the negative impact of these policies is compounded by existing inequalities in gender relations, further eroding women's ability to claim equal rights, whether in the family, society, public decision-making or the economy.

Women, accountability and the global economy

Governments argue that their ability to protect workers' rights and perform a market oversight role is shrinking as corporations become larger and more powerful. They also point to the fact that they are restricted by the terms of bilateral, regional and international free-trade arrangements they have signed. While this is indeed sometimes the case, it is evident that the low cost of labour, especially female labour, is part of the 'draw' that attracts foreign capital. Because there is little transparency, to say nothing of accountability, in some of the arrangements governments make to attract foreign investment,

there is limited opportunity for poor women, or indeed any other social group, to assert their labour rights in investment agreements.

This is especially true for the millions of women who work in Export Processing Zones (EPZs). Export Processing Zones are special enclaves that are exempt from labour and environmental regulations, and as Figure 4.6 shows, they have proliferated in the past 30 years. The range and nature of these exemptions are rarely made public, while accountability measures, including grievance procedures and provisions for sanctioning errant managers, are often obscured in the name of official secrecy or commercial confidentiality. Industries in these Zones often show a marked preference for female labour, as shown in Figure 4.7.

Trade unions

Constraints on independent trade union organising are bad news for women, as they have been able to achieve important gains through collective bargaining agreements between workers and management. Globally, fewer than 40 per cent of employed people join labour unions and women are almost always found in lesser numbers, adding up to

BOX 4A | Women Protesting the World Food Crisis

On 30 April 2008, more than 1,000 women gathered outside Peru's Congress in Lima, banging empty pots and pans, demanding accountability and action from their government to mitigate the food crisis.ⁱ The same crisis led Haiti's poorest women to make biscuits out of mud, salt and vegetable shortening.ⁱⁱ

From the beginning of 2008, in over 34 countries around the globe, there were protests over food prices that were spiralling out of reach even for people with average incomes.ⁱⁱⁱ This represents a long-term shift in food production patterns in developing countries. In 1960, developing countries had an overall agricultural trade surplus of almost \$7 billion per year; by 2001, the surplus had been transformed into a deficit of more than \$11 billion.^{iv} The World Food Programme (WFP) calls this the worst crisis in 45 years, and has flagged countries in which more than 50 per cent of a household's income is spent on food as being especially vulnerable to growing food insecurity.^v

This has had a severe effect on women, who not only assume primary responsibility for feeding their families but also contribute significantly to food production in many regions (see figure 4.5).^{vi} However, while women's involvement in the agricultural sector is critical, their control over the means of agricultural production is weakening with globalisation of the food industry. A recent study by the Institute for Food & Development Policy points out that the lack of women's ownership over the land they farm may well lead to a massive eviction of female subsistence farmers from areas turning to commercial crops.^{vii} Food security will not be achieved without accountability of all the major actors in agriculture markets to the poor in general and to women in particular.

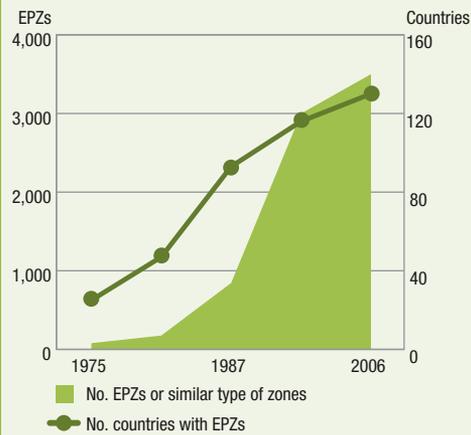
a global average of about 19 per cent of union membership (Figure 4.8). Union membership for women is strongly linked to a lower gender wage gap (Figure 4.9), demonstrating the connection between collective action and better private sector accountability to women.

With ever-growing numbers of women in the paid labour force, unions are intensifying efforts to recruit them. Successful campaigns to organise women workers have been run by the Council of Trade Unions in Australia, the National Organisation of Trade Unions in Uganda, the *Confederación de Trabajadores de Honduras* and the *Confederación Sindical de Comisiones Obreras* in Spain, among others. In each of these cases, the organisation focused on a single issue of importance to women, such as gender gaps in pay, protection for mothers, or child care.¹⁵

Growing numbers of casual and home-based workers are also organising for their rights. In 1996, the International Labour Organisation (ILO) adopted the Convention on Home Work¹⁶ as the result of a long campaign¹⁷ led by SEWA (Self Employed Women’s Association) in India, the world’s largest union of women in informal work, and coordinated by HomeNet, an international network for home-based workers.¹⁸ So far, the Convention has been ratified by only five governments – Ireland, Finland, the Netherlands, Argentina and Albania – but in principle it provides a platform to demand accountability for the world’s estimated 300 million homeworkers.¹⁹

In India, where a large informal economy employs the vast majority of workers, SEWA has developed a model of organising that addresses women’s unpaid work in caregiving as well as their paid work in the labour force. With a membership of almost one million women,²⁰ SEWA is now formally recognised as a trade union and is an affiliate of the International Trade Union Congress.²¹ Elsewhere, on May 1, 2006, organisations of home-based workers in Asia, Europe and Latin America announced the formation of the Federation of Homeworkers Worldwide to demand equal treatment with workers in

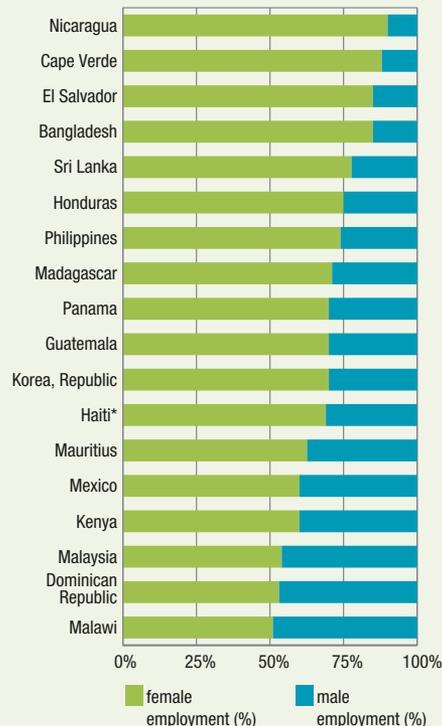
FIGURE 4.6 | Export Processing Zones: An Increasing Trend



Notes: ILO defines EPZs as industrial zones with special incentives to attract foreign investors, in which imported materials undergo some degree of processing before being re-exported.

Source: ILO (2007).

FIGURE 4.7 | Women Dominate Employment in Most Export Processing Zones



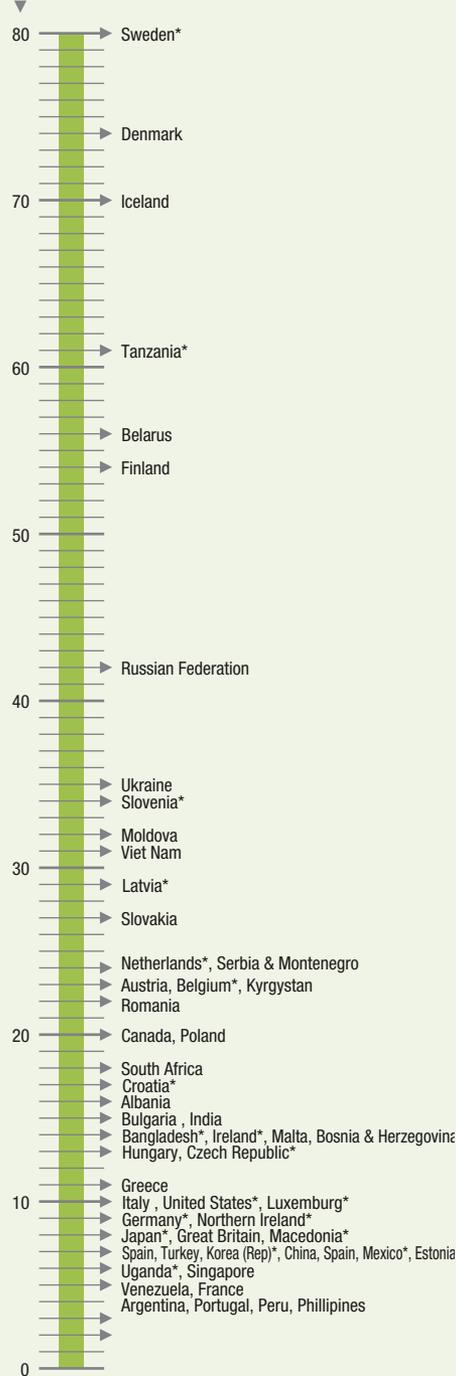
Note: * Data for Haiti is for apparel only.

Source: ILO (2007).

FIGURE 4.8 Female Membership in Labour Unions

In most countries, less than 40% of the employed population belongs to labour unions; women tend to join in lower numbers than men.

% women employed that are members of labour unions (1999-2004)



Notes: Calculations were based on self-identification in the World Values Surveys as member of a labour union and limited to those that declared they were employed. *Countries marked with an asterisk have statistically significant differences for men and women (23 out of 59 countries)

Source: World Values Survey database.

more formal employment.²² Their demands include recognition for home-based workers' rights, including the right to organise and government-provided social protection, particularly for health, maternity and old age.

UNIFEM supported this effort in 2004-2006 through its extended technical and financial support to HomeNet in South and Southeast Asia under a regional program funded by the Dutch Trade Union, *Federatie Nederlandse Vakbeweging* (FNV).²³ The programme offers education and training, access to resources such as credit, skills training, and access to technology and markets.

International human rights law and trade agreements

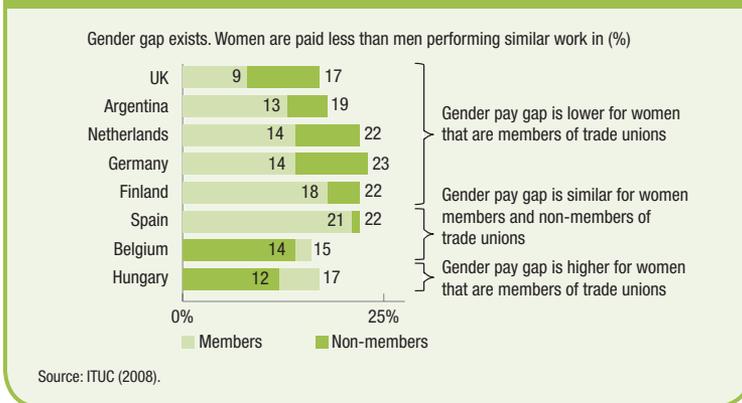
A key path for women to realise their rights in employment is to ensure that companies adhere to national labour legislation and international conventions. These include the International Labour Organisation's (ILO) Declaration on Fundamental Principles and Rights at Work, the Universal Declaration of Human Rights, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), the Covenant on Economic, Social and Cultural Rights (ICESCR) and the Declaration on the Right to Development (DRtD). However, in parallel with international human rights law, there is a body of trade law under the auspices of the World Trade Organisation (WTO), as well as in regional trade agreements and economic partnership agreements. While gender equality is well defined in human rights law, it is on an uncertain footing in trade laws. This leaves women with a major accountability challenge.

International and regional trade regimes often have strong accountability mechanisms, such as the WTO's Dispute Settlement Body (DSB) and the World Bank's International Centre for the Settlement of Investment Disputes (ICSID). Both can punish those in violation of agreed trade rules, but they rarely give adequate emphasis to gender equality.²⁴ The WTO's Trade Policy Review Mechanism, where member states review each other's

trade policy, is also not concerned with the social impacts of trade. Some effort has gone into devising ways of bringing gender equality concerns to both the DSB and the Review Mechanism, for instance by justifying protective measures to encourage women's businesses on the basis of CEDAW.²⁵ However, the significant technical and financial costs of legal processes within trade treaty bodies have been major constraints in fully implementing this initiative.²⁶

Instead, women's groups have focused on amassing data to assess the effects of trade on women. In Jamaica, UNIFEM supported a study in 2004 by Women's Edge Coalition on the impact of free trade agreements.²⁷ It found job losses outweighing job gains for women in agriculture, food processing, garments and services. In Central America, UNIFEM's program 'Women's Economic

FIGURE 4.9 | Gender Pay Gap, by Membership of Trade Unions, 2006-2007



Agenda' focuses on gender analysis of the impact of trade agreements on women's economic opportunities.²⁸ It also develops women's economic planning leadership and influence in new trade negotiations.

BOX 4B

New Equal Treatment Authorities Offer Some Improvement¹

What can a European Union citizen do if she experiences discrimination on the basis of gender? One avenue open to women is to seek help at the Equal Treatment Authority (ETA) in their countries. Since its establishment in 2005, the Hungarian ETA has handled cases of discrimination on the basis of ethnicity, disability, gender and maternity, including the following cases of Ilona and Krisztina.

In 2006, Ilona, a 26-year-old Hungarian unskilled blue collar worker, called to apply for a job at a small company that seemed to offer decent hourly wages. She was told that she was not eligible as only men were hired for this particular job, and was instead offered a cleaning job, which would have paid significantly less. Krisztina, a piano teacher in a private music school in a small town in Hungary, was working on a series of fixed term contracts, which had been renewed every year for the previous three years. When she announced that she was pregnant, the director of the school refused to renew her contract and hired someone else for her slot.

In both of the cases above, the Hungarian ETA passed decisions in favour of the employees. In the first case, the company where Ilona wanted to get a job paid a small fine. Although Ilona herself did not get any compensation, when the company opened a new plant six months later, she received the job for which she had originally applied. Krisztina's school was also reprimanded; a bulletin announcing this was posted in the local Town Hall and the ETA prohibited further discriminatory behaviour on the part of the employer. Krisztina, however, did not get her job back or the eligibility for maternity leave she had lost when fired. The ETA recommended that she sue the school, but she was too busy with the new baby to get involved in a lengthy, expensive and emotionally taxing court battle.

The cases of Ilona and Krisztina illustrate the fact that ETA's impact is necessarily limited. Even when a favourable ruling is passed, the women who brought the complaint are not personally eligible for compensation. ETA can mediate between the victim and the company, fine the company and issue a statement reprimanding them and prohibiting further discrimination. It can also prevent the company from receiving state subsidies or funding from European Union sources. But ETA has no resources to monitor whether or not the company stops discriminatory behaviour when asked to do so. While ETA may encourage victims seek compensation or restitution through the local courts, it cannot provide concrete financial or legal assistance.

To overcome resource constraints, women are building alliances with other social justice groups. The Tanzanian Gender Networking Program (TGNP), for example, submitted a brief to the International Centre for the Settlement of Investment Disputes (ICSID) in a case brought by Biwater, a United Kingdom-based water company, against the Government of Tanzania.²⁹ These efforts have yet to yield a major success in changing trade practices and policy in ways that support women's rights; however, women's activism in parallel or shadow trade summits, as well as street protests, has resulted in a greater recognition of gender issues in civil society consultations on trade policy.

Another avenue for promoting accountability to workers, including women, is to demand that labour standards are included in bilateral or regional trade agreements, together with provisions to enforce them. Known as *social clauses*, these can impose punitive trade sanctions through higher tariffs or outright bans on exporters with unacceptable labour standards. There is some evidence that these can make a difference if there are positive incentives for compli-

ance. For example, the 'Better Factories Cambodia' program, developed under the bilateral trade agreement between the United States and Cambodia in 1999, linked market access to improvements in labour standards, and has been supported by several large multinational corporations.³⁰ Two recent International Labour Organisation factory inspection reports indicated that the program has led to better compliance with the minimum wage, 'no forced labour' and overtime provisions, as well as improvements in employers' efforts to raise awareness of labour laws and workplace entitlements.³¹

National and regional labour standards and laws

National, and sometimes regional or local, courts can provide a forum for prosecuting claims against corporations for denying labour rights to women, provided that these rights are embedded in national or local legislation. But national courts may find they have no jurisdiction to address labour abuses by multinational corporations because of the legal separation between the parent company and its subsidiaries

BOX 4C | Quotas for Women on Corporate Boards

On 1 January 2008, it became compulsory for Norwegian companies to have at least 40 per cent female membership on their management boards.ⁱ Publicly listed firms that failed to comply could be closed down. The measure affects 487 public companies, ranging from StatoilHydro ASA, Norway's largest company by stock market value at \$99 billion, to Exense ASA, an Internet consulting firm valued at \$9.5 million.ⁱⁱ

Today, women fill almost 38 per cent of the 1,117 board seats at companies listed on the Oslo stock exchange.ⁱⁱⁱ This is up from under seven per cent in 2002. It is twice as many as in Sweden, four times as many as in Denmark and nearly seven times the number in Iceland.^{iv} It is also well above the average of nine per cent for big companies across Europe, 11 per cent for companies listed among Britain's FTSE 100, or 15 per cent for United States companies listed among the Fortune 500.^v The Government of Norway can proclaim this policy a success, and it has provoked a vital debate about women and work.

However, while supporters believe tough government-enforced measures work better than initiatives from within companies, critics argue that 'playing the numbers game' with gender in business will not succeed in altering entrenched corporate culture.^{vi} The rule, they argue, risks sacrificing qualifications for quotas.^{vii} The Confederation of Norwegian Enterprise, for example, has declared shareholders should pick board members, and measures should be voluntary.^{viii} Supporters of quotas counter that the law on gender equality in business was put into effect because voluntary measures to increase the representation of women in business failed, and decisive legislative intervention was necessary.^{ix}

in a different country, thereby limiting parent company liability. An emerging ‘foreign direct liability’ legal instrument has been used to hold parent companies to account in their home countries in high-profile cases involving dereliction of duty to protect the environment or workers’ health.³² So far, however, foreign direct liability instruments have not been used to prosecute corporate abuses of women’s rights.

Regional oversight bodies

In some instances, governments have been required to honour their commitments to labour and human rights standards through national or regional oversight bodies. In the European Union, for example, member states must adopt legislation that prohibits discrimination and establish agencies to monitor compliance, such as Equal Opportunities Commissions and Equal

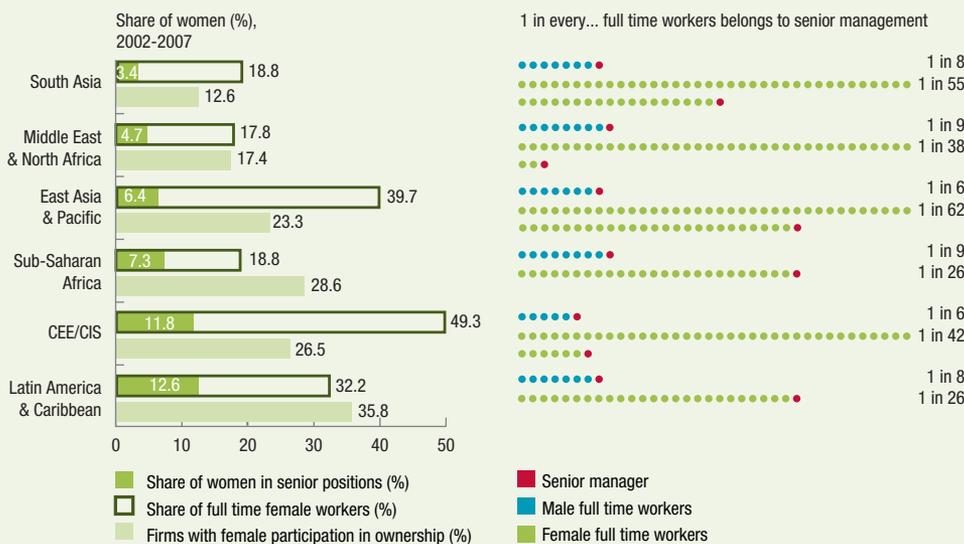
Treatment Authorities, to review cases of discrimination, as Box 4B illustrates in the case of Hungary (see page 63).³³

National legislation

Where efforts to bring gender balance into corporate governance have been endorsed by national governments – most strikingly in the case of Norwegian national legislation obliging companies to bring women onto company boards (see Box 4C) – they have been successful. Data on numbers of women in executive posts around the world shows that positive action such as this is essential to breaking the ‘glass ceiling’ keeping women from senior enterprise management. Figure 4.10 shows that the share of women in senior positions around the world remains low and is not correlated with numbers of women in full time jobs. There is, however, an evident relationship

FIGURE 4.10 | There is 1 Woman for Every 9 Men in Senior Management Positions in Firms

While the number of men in senior management positions per total share of full time employment is relatively stable (between 1 in 6 to 1 in 9), the number of women is dramatically lower, ranging from 1 in 26 women in sub-Saharan Africa and in Latin America and Caribbean, to 1 in 62 women in East Asia and Pacific. The percentage of women in senior positions ranges from 3 to 12%, despite the fact that the share of full time female employment ranges from 17% to 49%.



Notes: Unweighted regional averages were estimated. Complete information for developed regions was unavailable. Estimates on the number of persons in senior positions per full time workers are UNIFEM calculations. These estimates were produced using the percentages from the left side graph, and assuming that 10% of the full time employees are in senior positions. If the actual percentage is different from the assumed 10%, the actual number of persons estimated would also change, but the female to male ratio would remain the same.

Source: World Bank Enterprise Survey.

Women are demanding accountability from the world's largest corporation in the biggest civil rights class action lawsuit ever filed in the United States. The case, *Dukes v. Wal-Mart Stores*, was filed by six current and former female Wal-Mart employees in 2001, and certified as a class action suit in June 2004.ⁱ It now represents an estimated 1.5 million female workers employed by Wal-Mart or its affiliates since December 1998. Wal-Mart is the world's largest public corporation, with \$350 billion in revenues in 2006 and 1.2 million employees in 3,500 stores across the United States.ⁱⁱ

The plaintiffs in the Wal-Mart case are asking for punitive damages (no amount has yet been set), recovery of lost wages and benefits, and an order to reform Wal-Mart's employment practices. They claim gender-based discrimination in decisions affecting promotions, job assignments, pay and training. For example, one employee testified that when she asked her manager why men in her position earned more than women, he told her, "Men are here to make a career and women aren't. Retail is for housewives who just need to earn extra money."ⁱⁱⁱ

Statistical analysis of Wal-Mart's personnel database conducted by expert witnesses for the case found that from 1996 to 2002 women represented 65 per cent of hourly employees, but only 33 per cent of management positions. In addition, women earned less than men in the same positions: female hourly workers earned about \$1,100 less annually than men in hourly positions, and female managers earned \$14,500 less than male managers, for an average of \$5,200 less overall in 2001.^{iv}

Since the lawsuit, Wal-Mart has voluntarily established a \$25 million private equity fund to support women and minority-owned small businesses, begun implementation of diversity goals tied to incentive bonuses for managerial positions, and established an Employment Practices Advisory Panel composed of experts to advise senior management on developing and meeting diversity and equal employment opportunity initiatives.^v

In 2005, Wal-Mart appealed the class action decision to a Circuit Court, which upheld the class-action certification. Wal-Mart has since asked a larger panel of judges on the Court of Appeals to rehear the case and issue a new decision on the class certification. For this to happen, all 27 judges must vote for a rehearing. If the court denies the rehearing, or grants it and the rehearing upholds the class-action certification, Wal-Mart is expected to appeal to the U.S. Supreme Court.

Wal-Mart has disputed the certification of the case as a class-action suit on the grounds that it does not meet the requirement of exhibiting common issues and practices, and that the certification hinders the company's ability to respond to defendants' claims individually.^{vi}

between female enterprise ownership and women in senior management.

Class action suits

Women employees in some countries have taken collective legal action against corporations through 'class action' suits. A class action suit is a legal procedure applied in cases that involve large numbers of people whose complaints have enough in common for them to be treated as a group (see Box 4D). However, class-action certification of discrimination cases is rare, because it requires plaintiffs to demonstrate common and systematic patterns of civil rights violations. In the United States in 2007, the Equal Employment Opportunity

Commission resolved nearly 22,000 claims of gender-based discrimination, but only 22 per cent resulted in outcomes favourable to those bringing charges.³⁴

Corporate social responsibility and voluntary labour codes

Given the limited capacities of states to regulate industry, given consumer complaints about the abusive and environmentally damaging conditions under which some services and goods are produced, and given pressure from workers themselves, corporations are offering voluntary self-regulation as a means of addressing a range of concerns about environmental impact, natural resource depletion, and a

range of equity concerns including those linked to gender equality.

What are known as ‘corporate social responsibility’ (CSR) arrangements are varieties of self-regulation by companies, with compliance regimes that vary from fairly lax self-assessment and reporting, to oversight by independent external agencies. Corporate social responsibility regimes have now been adopted by an estimated 10,000 companies.³⁵ Proponents see CSR as a way of supplementing public regulation and fostering a culture of corporate accountability – in effect, a marketised version of accountability.

The test of the value of CSR protecting women’s employment rights, however, is whether it genuinely changes conditions for working women. Evidence on this is mixed. In the United Kingdom, the Ethical Trading Initiative (ETI) – which is managed by companies, NGOs and trade unions – has developed a Base Code grounded in ILO conventions. This allows organisations such as the Kenya Women Workers Organisation (KEWVO) to pressure companies to provide women with more stable and fairly remunerated work in the Kenyan flower industry.³⁶ In collaboration with other workers’ rights organisations, the British-based NGO Women Working Worldwide established clear supply chain links between farms in Kenya and supermarkets in the United Kingdom, and was then able to use ETI grievance procedures to take reports of workers’ grievances directly to British buyers.

By contrast, interviews with *maquiliadoras* in Central America found little evidence that voluntary labour codes made a difference. Women workers felt the codes did not deliver what they needed: higher wages, child care and physical safety for the late night commute home from the factory. They did acknowledge some changes, notably to the working environment, with more fresh air, light, more attention to cleanliness and emergency exits. But inspectors did not talk to women workers or did so only in the presence of employers, and there was no complaint mechanism ena-

bling women to raise concerns between inspections.³⁷ In Nicaragua, where women have been instrumental in the adoption of a code known as “Employment Yes, But with Dignity,” Sandra Ramos and Marie Elena Cuadra of the Nicaraguan Women’s Movement, said: “Of course we know that the code will not solve our problems. It is just a mechanism to help us. The underlying problems of poverty and unemployment are what make workers accept poor conditions and bad wages.”³⁸

In 2007, in response to a request by the Government of Egypt, UNIFEM, in partnership with the World Bank and the International Center for Research on Women (ICRW), launched an enterprise certification program that promotes women’s access to employment, training and career advancement in private firms. The Gender Equity Model Egypt (GEME) project draws on the World Bank-financed Mexico Gender Equity Project (*Generosidad – Generosity*), and addresses gender barriers in the business environment in order to improve the overall management of human resources in private firms. The model enables firms to document inequalities between men and women in the workplace; make efforts to correct gender bias; and promote a better work environment. GEME offers a certification scheme for firms that are in compliance with the GEME system. This enables firms to brand themselves as advocates of women’s rights.³⁹

Consumer awareness and ethical trade

At the retail end, companies often respond to consumers, many of whom are socially aware women, who are concerned about the conditions under which the products they buy are produced. Corporations know that promoting an ethical image is good for business. As Dan Henkle, Senior Vice President for Social Responsibility for the clothing company The Gap, Inc., put it: “Acting in an ethical way is not only the right thing to do – it also unlocks new ways for us to do business better.”⁴⁰ Women have also deployed their consumer power to

On November 19, 2007, the Guatemalan women's shoe company MD launched a series of advertisements in Tegucigalpa. The first ad featured a woman's legs protruding from under a sheet on a coroner's table, her feet clad in bright open-toed heels, a coroner's tag tied to her toe. The second featured a dead woman splayed across a couch, her head and her limp arms dangling out of focus in the background. Across each ad was printed the slogan, 'Nueva colección: Está de muerte' ('New collection: It's to die for.').ⁱ

Guatemala has one of the highest rates of reported femicide in the world — 2,199 reported cases of violent murders of women between 2001 and 2005. In the days that followed the ads' unveiling on buses and billboards across the capital, they fueled a popular outcry against MD's campaign. Articles about the advertisements appeared in major Guatemalan newspapers; letters condemning it appeared in their editorial pages, and internet blogs sizzled with commentary.

During the march to commemorate International Day of Eradication of Violence Against Women on November 26, 2007, activists announced a two-pronged strategy: to persuade MD to retract the campaign through legal routes, and, failing that, to join with other Central American women's organisations to boycott MD products.ⁱⁱ They received solidarity messages from women's networks across Latin America and Spain, and wide support from diverse sectors of the Guatemalan population.ⁱⁱⁱ

The advertising campaign lasted only 13 days.^{iv} Initially, the advertising firm released a statement indicating that their ads' intentions were in no way to suggest violence against women or to defend femicide, but rather to play on the colloquial phrase 'to die for'.^v Ultimately, following a written apology in *El Periódico*, MD pulled the ads, with deepest apologies to all those offended.^{vi}

demand respectful treatment by companies of female consumers themselves. A recent case in Guatemala, described in Box 4E, featured women's protests over inappropriate product advertisements.

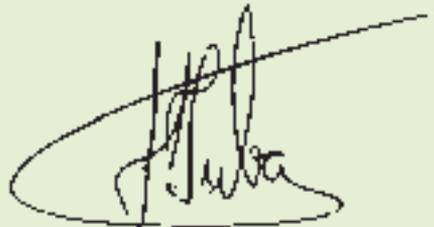
The growth of ethical consumption, coupled with the campaigns of trade unions and NGOs for workers' rights, is obliging more companies to take account of the labour conditions throughout their supply chains, and indeed in their own internal structures, including in the composition of corporate governing bodies. For example, the Global Reporting Initiative (GRI), which has a network involving 30,000 business, civil society, labour and professional organisations in dozens of countries, has developed what is seen as the global 'industry standard' for corporate self-reporting on social, economic and environmental issues. However, it suggests only a limited range of gender equality indicators against which corporations should report. These include the gender composition of the labour force, the ratio of men to women on governing

bodies and the gender wage gaps between women and men by employment category.⁴¹ None of these indicators assess a company's impacts on women's rights.

Conclusion

An increasing amount of evidence suggests that poor women on the margins of formal economies, are falling into an accountability gap between governments and private national and transnational economic actors.⁴² One potential solution is to enhance accountability mechanisms at the international level, but international trade institutions have rarely acknowledged obligations to defend women's rights. As Chapter 6 shows, international financial, development and security institutions are often only as accountable to women as are the member states that make up their governing structures. Accountability to women in the market therefore demands that economic and trade policymakers consult civil society and open up channels for women's participation.

“ In order to tackle inequality in all its dimensions, women must be heard. Hence, under my Government, two National Conferences involving more than 300,000 women in all Brazil were held in 2004 and 2007 to formulate the guidelines of the National Plan of Policies for Women and evaluate its implementation. With participation and commitment we are advancing towards women’s increased economic autonomy, the implementation of their rights and, the fight against gender-based violence. ”



Luiz Inácio Lula da Silva
President of Brazil

- *Governments are responsible for building the market in the interest of social well-being and gender equality and must be held to account for meeting domestic and international labour and other market standards.* Neither women’s activism on its own, nor corporate self-regulation, will achieve this end. In order to protect their human rights commitments to women, governments must apply standards of accountability on market institutions.
- *Those responsible for making policy on trade must reform the mandate of institutional actors explicitly to incorporate gender equality.* Anti-discrimination measures and agreements in human rights treaties must be applied consistently across national and regional institutions responsible for trade policy. Collecting gender-disaggregated data on the gender impacts of trade should become an inherent part of trade policy design.
- *Women’s participation in the negotiation of trade agreements and domestic economic development planning is essential to enable women to assess the value and impacts of these agreements and processes.* The extent to which governments drive a hard bargain in the public interest at the time deals are being struck with multinational firms, or with their trading partners in the World Trade Organisation or other bodies, must be subjected to close public scrutiny by women’s rights groups and civil society.
- *Temporary special measures are needed to build the numbers and influence of women in executive positions in the private sector. This is crucial in order to build a corps of women in economic leadership positions.* Since the proportion of women in senior management does not appear to increase in step with the proportion of women in employment, quotas or other enforceable measures may be necessary. Women’s capacities to take economic leadership roles may be under threat in some countries where the ‘brain drain’ of professionally qualified women is particularly high.