IOE INPUT

**to the Working Group on Business and Human Rights'
Report to the 50th Session of the Human Rights Council on**

"COVID-19 pandemic: lessons learnt and moving forward"

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1. What were the most significant challenges and obstacles during the pandemic and the recovery period related to implementing the corporate responsibility to respect human rights abuses in the context of business activities? What were the most important lessons learnt from the crisis and how can these lessons help in addressing business-related human rights abuses linked to other future crises?

The Covid-19 pandemic has disrupted business around the world and amplified existing human rights, employment, economic and social challenges such as deficient health systems, high informality, lacking social protection, weak governance, and poor labour market frameworks. The pandemic has shed greater light on persistent and systemic human rights issues, notably the continuous lack of government leadership in addressing governance gaps and the non-fulfilment of the government's "duty to protect" by failing either to pass legislation or enforce it. On the business side, despite the disruptions caused by the pandemic, many companies did not wait for the pandemic and the new mandatory human rights due diligence (mHRDD) regulations to act and adapt their human rights policies, codes of conduct and initiatives. On the contrary, to be continuously fit-for-purpose, the private sector has taken proactive corporate measures that more often than not go beyond the UNGPs' requirements.

Preventive and protective measures implemented by governments, including complete or partial lockdown and social distancing measures, have been key to curtail the spread of the Corona virus. However, these measures have heavily impacted the private sector and have had profound effects on the society as a whole. Since all economic elements are intricately interrelated, businesses have had to manage significant disruptions to their working methods, supply chains and operations. For some companies, these disruptions have posed **significant challenges and obstacles** to implementing the corporate responsibility to respect human rights in the context of their business activities.

One of the biggest challenges companies have had to face during the pandemic was related to the difficulty in **reaching out to suppliers** and to **engage with potential affected communities** such as migrant workers and other stakeholders. Difficulty in identifying possible human rights violations due to the temporary suspension of business operations' activity as well difficulty in information sharing have also been reported. An additional difficulty has been to maintain close contact with local suppliers, as for some companies this accounts for more than a thousand. The centrality of maintaining and further develop capacity building as well as traceability also represented a challenge in times of crisis.

The new developments in mHRDD happening simultaneously with the pandemic made it hard for companies to continuously monitor and remain aware and up to date with new national and local

compliance requirements. In terms of engagement, a significant challenge for companies and EBMOs has been to engage with the informal sector, and even more so during the pandemic.

Covid-19 has not only disrupted the economy and impacted business through different levels but has also led to the acceleration of the **digitalisation of human rights**. Digitalisation of human rights tools used by companies, such as digital audits due to travel restrictions, has provided new avenues of opportunities for companies and allowed a greater human rights outreach and roll-out. Other examples include company resorting to technology advances for an ESG radar tool which helps screening all business opportunities and assess levels of risks by crossing external and internal data.

Despite these significant challenges and obstacles, the Covid-19 pandemic has also provided important **lessons learnt.** Companies have needed to find practical ways to **adapt** to this pandemic. For the majority, this has entailed changes in their internal structures, updates of their human rights policy and supplier code of conduct as well as the launching of new digital tools to better implement the UNGPs across business operations. Despite the difficulty in reviewing the process of their BHR policy to adapt to the pandemic reality, initially due to the rapid spread of the virus and unexpected impact on their business operations, the pandemic has outlined the **long-standing experience** and interest of companies in due diligence. In most cases, this experience provided the companies with the necessary know-how and has allowed them to be structurally fit-for-purpose and responsive to the adaptations needed to remain compliant and face the "**new reality**". The majority of companies had internal human rights structures mature enough to be able to cope with Covid-19 disruptions. As an example, IOE launched a survey among its members in 2020 and found that 87 per cent of respondents confirmed that they had internal procedures to track implementation or compliance with company's human rights policies.

The Covid-19 pandemic has also shed light on the need to provide employees and suppliers with **targeted human rights training** tailored to specific function and responsibility of the employees. Trainings in human rights remain essential not only to know what it means for the workforce, but also because their understanding, implementation and application are **context oriented**. In addition, these trainings in conjunction with the use of digital tools such as for instance an application on smartphones that gives direct trainings in human rights and access to grievance mechanism, represent potential new practical ways to raise awareness and roll out human rights across the entire company.

The pandemic has reinforced the dual key role played by the private sector in ensuring business continuity and protecting the human rights of workers and people associated with supply chains. Also, the pandemic has opened-up opportunities, including much stronger focus on addressing underlying root causes, particularly the importance of **good governance** and **rule of law** as well as highlightening the need for greater **public-private cooperation** in implementing the Business and Human Rights agenda.

In terms of trust and reliable information-sharing, the pandemic has provided important lessons learnt. First, various studies have confirmed the role business can play as a source of reliable and timely information in times of crises. Similarly, the pandemic has highlighted the centrality of the **trust relationship** between companies and their suppliers in implementing human rights. In this regard, digitalisation can help advancing human rights, but this does not replace monitoring the situation on the ground. Engagement and support in building trust with local suppliers on the ground remains key to make communities and suppliers comfortable with both human rights and technology.

There is also a new openness for collaboration and **collective action**, such as the [Call to Action in the Garment Industry](#) which provides an example for collective action in which a broad alliance of companies, federations and trade unions under the umbrella of the ILO aims to mitigate the impact of the pandemic on the garment industry by supporting business continuity and workers income as well as the development of social protection systems.

2. How did business associations and business organisations support businesses to identify the most salient human rights issues in their sectors and their operating contexts and then prevent and mitigate the impacts that proved to be the most severe?

Actively engage in promoting human rights and responsible business conduct, IOE's support has been translated into the publication of various guidance reports and advocacy material aimed at providing important information to EBMOs and businesses. Notably, IOE made available in May 2021 "[Frequently Asked Questions for Companies](#)", a general guidance document directed to companies and SMEs where key expectations of the UNGPs have been translated into responses to the most frequently received questions. This document also includes some tips that are based on IOE's experience of working with a wide range of companies in a variety of forums and other settings, such as workshops. Similarly, IOE published "[How can employer organisations support business respect for human rights?](#)", a guidance document that explains four practical steps EBMOs can undertake to identify, prevent and mitigate. Four general and important measures businesses can take include:

1. Making global standards feel real and relevant to business at a local level
2. Supporting businesses to build practical human rights know-how
3. Promoting respect for human rights when engaging with legal and policy developments
4. Using your convening power to support partnerships and collaboration to advance business respect for human rights

In addition, IOE held several meetings with its members and partners to exchange peer learning and experiences in human rights and Responsible Business Conduct. Lastly, IOE has been publishing a quarterly [newsletter on Business and Human Rights](#) that compiles the latest developments on these issues and provide key insights and information to its network.

3. How did business associations and business organisations support businesses in implementing the UNGPs e.g., in relation to the development of human rights due diligence policies, and to help businesses to identify, prevent, mitigate, and account for how they addressed their adverse human rights impacts during the pandemic and when emerging from the crisis? Did companies increase and use their leverage over business relationships that could be causing or contributing to harm?

EBMOs as umbrellas are well positioned to impact and know the challenges companies face in relation to the development of human rights due diligence policies. They have a unique role in influencing government legislations to have the employers' voice heard in the interest of the wide society. IOE has helped businesses of all sizes and EBMOs to play a powerful role by disseminating information about key standards, guidance, and expectations in a way that will be more accessible to, and better resonate with, their members. Examples include:

- Translating key international standards, guidance, and resources into local languages
- Conveying complex concepts in simple and practical terms – especially for smaller businesses
- Using concepts and terms that will resonate with companies in a defined country – with sensitivity to the local context and culture

To meet their responsibility to respect human rights, IOE has also helped EBMOs and enterprises to develop the practical knowhow to create a rights-respecting culture and implement policies and processes that will enable them to identify and address human rights issues effectively. EBMOs in turn have supported this capacity building process across their network by offering practical training opportunities and developing guidance materials to their business members.

As legal and policy developments at the national, regional and international levels can affect business respect for human rights, IOE and EBMOs have played an important role in helping members understand the human rights implications of legal and policy developments and promote laws and policies that support companies to operate with respect for human rights, while at the same time taking into account business realities. For instance, IOE closely monitors the UN Business and Human Rights Treaty Process as well as the EU proposal on the Mandatory Human Rights Due Diligence Directive and national developments.

By making the most of their convening power, EBMOs have also been instrumental in enabling relevant businesses and other stakeholders to work together to address complex or systemic issues that cannot be tackled by one company alone. As an example, IOE Member *Asociación Nacional de Empresarios de Colombia* (ANDI) has partnered with the Confederation of Danish Industry (DI) to deliver a series of workshops in 2020 and 2021 to build the capacity of more than 300 companies on sustainable development and human rights. A key goal of the workshops is to create a space for ANDI's members to learn from what other companies are doing and to exchange good practices and lessons learnt.

4. Please provide examples of remediation efforts undertaken where businesses identified that they caused or contributed to adverse human rights impacts during the pandemic. Which of those remediation efforts proved to be the most successful and how can they serve as examples to follow in the future at times of crisis?

For access to grievance mechanism during the Covid-19 pandemic, digital tools have allowed to open additional channels where people can express concerns and bring up their grievances. In this endeavour, digitalisation has been a catalyst for stepping forward and will likely continue offering new solutions. Digital heat maps registering complaints has been another tool used by companies to identify trends and address any potential human right grievance.

Despite all these efforts, companies alone cannot address human rights challenges. **Collective action and partnerships** as well as **multi-stakeholder collaboration** will be required to make this engagement sustainable and effective in the long term. Implementing human rights must be a collective effort undertaken not only by the company but also addressed by the suppliers across their own supply chain.

Additional examples of actions IOE has seen companies consider and take when faced with a specific impact or risk of impact have included:

- Looking into the root cause of why an impact occurred in the first place and taking steps to tackle this root cause – for example, by making changes to the company's policies and processes, or providing training to colleagues or business partners to ensure risks to people are considered when making business decisions
- Working with an employer or business membership organisation or another independent third-party such as an NGO to convene peer companies to discuss the impact and explore what actions

individual companies or the sector could take to tackle it – for example, to address common issues such as the payment of recruitment fees

- Initiating a conversation with relevant government officials to ask whether they can place greater resources into addressing the issue – for example, a country may have good labour laws, but more enforcement may be needed to ensure they are implemented effectively
- Appointing a trusted civil society organisation to look into the impact further and suggest ways of dealing with it – sometimes, other organisations will have more expertise with a particular human rights challenge, and may already have trusting relationships with affected groups; their expertise may help address a problem better and faster
- Initiating a process to hear from the aggrieved party as to what remedy would be commensurate with the adverse impact caused – sometimes, human rights impacts will affect people in complex ways; it's important to understand people's lived experience in order to fully address and remedy an issue

5. What opportunities would allow businesses to build back better while ensuring action to prevent business-related human rights abuses and protect the human rights of individuals and communities?

While creating numerous challenges, the pandemic has also opened up opportunities. There is now a much stronger focus on addressing underlying root causes, most clearly the importance of good governance and rule of law. To build forward better, opportunities should include:

- Greater collective action at all levels between governments, peers and stakeholders including stronger public-private partnerships.
- Building a better future also means government investment in social protection systems, education, training, meaningfully addressing informality, and providing support for the many small and medium-sized enterprises which make up the majority of the world's businesses and employment.
- Further implementation of international human rights conventions and environmental treaties as well as a strong and efficient supervisory mechanism to strengthen the overall human rights performance.
- More and better opportunities for particularly the marginalised populations to harness the full potential of skills, innovation, and creativity.

6. *What efforts were made by businesses during human rights impact assessment processes to involve constructive and meaningful consultation with potentially affected groups and to pay special attention to any impacts on individuals that may be at heightened risk of vulnerability or marginalization?*

Companies launched online platforms for migrant workers to allow them to safely store their working contract to avoid any potential unfair recruitment practices such as contract swapping. Digital heat maps registering complaints have been another tool used by companies to identify trends and address any potential human right grievance. Similarly, companies have conducted multiple impact assessments in at-risk countries and trained hundreds of thousands of employees in human rights awareness.

As an example of effort provided by an IOE's business organisation member, the Federation of Uganda Employers (FUE) have also conducted a training session for employers on implementing the children's rights and business principles.

7. How should businesses adapt to face global challenges, to avoid human rights risks and harm to people and the planet, and to become more resilient and sustainable overall? How could business associations and business organisations support their affiliates in these processes?

Over the past two years of Covid-19 pandemic and despite its adverse effects, the private sector has made huge efforts and has adapted successfully to implement and respect human rights. Even going further, some businesses have implemented policies and codes of conduct that go beyond the UNGPs framework and provide greater protection against possible human rights violations. IOE has been particularly active in this endeavour and will continue to do so.

However, being proactive, sustainable, and resilient is not enough. For businesses to respond to global challenges, take advantage of the opportunities and avoid human rights risks, some government interventions are needed to correct the negative effects of global crisis restrictions by revitalising the entrepreneurial ecosystem. Businesses will not restart operations spontaneously and economies will not be able to return to previous levels of prosperity without persistent and adequate support, both financial as well as through creating an enabling business environment. Businesses need governments to do what only governments can do – and that is to facilitate and create an enabling environment for private sector growth and resilience and being part of solutions to SME financing partnerships. In the absence of governments creating such an environment growth cannot take place and productive jobs cannot be created. An enabling business environment is essential for creating a stable, predictable and incentivising environment for investment and innovation.

Additionally, a company alone will not be able to make a lasting difference. Governments must ensure legal certainty and clear legal frameworks for companies that take into the local contexts need to be implemented to hinder potential human right risks. A company headquartered in the US, Europe or Japan will on its own not be able to address systemic challenges deep down in its supply chain. Only in collaboration with governments, peers and stakeholders is it possible to achieve change. Employer and business organisations play a particularly important role in this regard, as they can speak-up as the legitimate voice of the entire economy, support the organisation of collective action and jointly engage with governments to demand change.

Through advocacy support and its active engagement in endorsing, promoting and disseminating among its members and networks the UN Guiding Principles on Business and Human Rights (UNGPs), as well as other government-backed instruments on responsible business conduct, **IOE** will actively continue to provide the vital to advance the Business and Human Rights and Responsible Business Conduct agenda.

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