



TOPIC FIVE | BUSINESS AND HUMAN RIGHTS IN A JUST RECOVERY

Main Takeaways

- *In line with governments' human rights obligations, and the UN Secretary General's appeal to "build back better," public funds that go to business should be used to build respect for human rights, improve environmental sustainability, and ensure redress when abuse occurs.*
- *Access to corporate bailouts and other public funds should be subject to conditions designed to protect and empower workers, and end the corporate practices fueling inequality, climate breakdown, and human rights abuse.*
- *Proposals gaining traction include requiring net-zero carbon targets, mandatory human rights due diligence, minimum living wages, and avoiding the use of tax havens.*

Why is this topic important in the context of COVID-19?

The pandemic has exposed and exacerbated the deep inequalities of power and wealth between business and the workers and communities they depend on. Many businesses are being hard hit by the economic fallout of the pandemic. But, too often, actions to protect their bottom line abuse the rights of workers and communities. Workers in key services like food processing and manufacturing have been recklessly exposed to the virus. Others bear the brunt of supply chain disruption: like hundreds of thousands of women in Bangladesh and Cambodia who have been laid off without pay for their work after fast fashion brands cancelled orders. This comes on top of what are already low paid and precarious conditions for workers, especially women.

Of course, the survival of companies is essential to protect the livelihoods of workers and their families. But there are stark choices to make regarding the form the economic recovery will take. Some promote a rapid return to business-as-usual. In contrast, a just recovery can catalyze a major shift towards a new social contract which centers shared prosperity, redistribution and solidarity, alongside green new deals that invest in decent work in clean industry and infrastructure. In this scenario, the purpose of business must also be reimagined to prioritize social and ecological value, and people's basic rights.

The pandemic response has demanded a greater role for the state in many countries. In the recovery, governments will set the broad regulatory framework that will define what business can and can't do in terms of workers' and community rights. Crucially, they will also devise business bailouts, forgivable loans, and other publicly funded incentives. These

should be designed to reward responsible business conduct and prevent abuse.

What is being proposed?

Many proposals to strengthen international standards for human rights in business have been put forward by actors including ITUC, ICAR, European Coalition for Corporate Justice and national organizations like Central-Cambodia. These will have greater traction if public funds being offered to rescue businesses are conditional on companies meeting these standards.

Conditions for receiving public funds: Proposals for conditions include that companies must:

- Use the funds to **benefit employees** and enhance worker protections such as paid sick leave, rather than paying dividends to shareholders, and avoid stock buybacks.
- Have a time-bound plan to implement human rights and environmental **due diligence**. This is a way to identify major social and environmental risks in their operations and supply chains and to address or eliminate them.
- Respect **workers' rights**, such as freedom of association, collective bargaining, safe working conditions and ending discrimination.
- End abusive treatment of **vulnerable workers**, including those in supply chains, informal workers and "platform" or "gig" workers, usually misclassified as self-employed. This means reintegrating them as direct employees, shortening supply chains, and ensuring global framework agreements with unions to secure their right to organize.
- Limit **executive pay** and implement a living **minimum wage** for all workers, while ending the gender pay gap.



- **Avoid tax havens and pay their fair share.** Companies should prove they and their subsidiaries do not log profits and stash wealth “offshore” to avoid paying tax.
- Have a time-bound action plan to achieve **net-zero carbon emissions** consistent with the latest science and the Paris Agreement. Without this, public money is being used to drive runaway climate change even faster.

A range of accompanying measures can enhance the transformative potential of bailout conditions.

Strengthen corporate accountability:

Governments should enact laws so companies are liable when they fail to conduct due diligence, meaning they take inadequate action to avoid human rights abuses. The French *Loi de Vigilance* and the European Commission’s plan for a mandatory human rights and environmental due diligence law in 2021 are examples.

Protect governments upholding the common good:

In most trade and investment agreements, there are little-known “Investor-State Dispute Settlement (ISDS)” mechanisms. These allow foreign corporations to sue governments for loss of profit (including future profit) from any actions taken that affect their business – including measures taken to protect public health and human rights. Governments should enact an immediate moratorium on ISDS and permanently restrict ISDS claims against actions taken in the pandemic.

Direct benefit to the majority: Governments should ensure that recovery plans protect those whose lives and livelihoods have been most affected. Support from public funds should prioritize small businesses and informal economies, where most jobs are created. Meanwhile, companies should be supported and incentivized to enact schemes that share ownership with workers, and require worker representation on boards.

Fair corporate taxation: An excess profits tax would help to fund necessary public spending while remedying disparities (see [Topic 3](#) in this series). The global experience of the pandemic also presents a political opening to return to higher corporate tax rates after decades of giveaways; and set a common minimum corporate tax rate (to end the “race to the bottom” as states compete for rootless capital).

How do these proposals advance human rights?

Most of the world’s governments have signed up to binding international treaties that commit them to respect, protect and fulfill people’s human rights.

Protecting rights means taking action to prevent, investigate, and punish human rights abuse committed by other actors—including businesses. The United Nations Committee on Economic, Social and Cultural Rights has called for governments to regulate the real estate market and enact a living minimum wage, for example.

Fulfilling rights means taking concrete steps to guarantee people’s rights using the *maximum of their available resources* (see [Topic 1](#)). It also requires directing the efforts of others towards the fulfillment of rights. This includes ensuring that business incentives promote responsible corporate conduct. Combatting abusive tax practices by corporations is one example.

In 2011, governments and business, by consensus, adopted the United Nations Guiding Principles on Business and Human Rights. These state that companies must respect human rights. This means taking adequate measures to prevent, mitigate, and remedy the negative impacts their operations have on people’s rights. Business should not undermine governments’ abilities to fulfill human rights.

To date, implementation of the Guiding Principles has been slow. Currently, a process is underway to agree on a treaty which would impose binding human rights obligations on businesses. The pandemic has underlined why such a step is long overdue.

In line with governments’ human rights obligations, public funds should be used in ways which improve rights enjoyment, not prop up powerful corporations without requiring them to respect human rights. The proposals above all do this in different ways.

Critical Questions

- ▶ What effect has the business response to the pandemic had on the rights of workers and affected communities in your country?
- ▶ Who will be the main beneficiaries of the recovery plan? How can it be reshaped to direct more funds towards creating decent work with a living wage, and businesses which have positive ecological and social impacts?
- ▶ What conditions has your government placed on access to bailouts or other public funds for business?
- ▶ Which of these proposals would be a priority for your country, and would gain public support?
- ▶ Are there opportunities for strategic collaboration with more enlightened business and investors in your country to promote business regulation and incentives for a just and green recovery?