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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

The coronavirus disease pandemic: lessons learned and moving forward

Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Summary

In the present report, submitted to the Human Rights Council pursuant to its resolutions 17/4, 26/22, 35/7 and 44/15, the Working Group on the issue of human rights and transnational corporations and other business enterprises outlines ways in which various actors addressed the coronavirus disease pandemic and the business-related human rights abuses that accompanied it. It highlights lessons learned and identifies opportunities and challenges for the protection and respect of human rights.



I. Background, aims and objectives

1. The coronavirus disease (COVID-19) pandemic and its socioeconomic consequences have been a test of leadership and human rights compliant responses for Governments and businesses. The pandemic highlighted and exacerbated existing inequalities and resulted in a human rights crisis of immense proportions. It is critical for States, businesses and all stakeholders to learn the lessons of the pandemic and take action commensurate to the challenge, including measures to limit the human cost of future crises, save lives and protect human rights.

2. In the present report, the Working Group outlines how States, businesses, civil society and various other actors addressed the pandemic and the business-related human rights abuses that accompanied it. It highlights lessons learned and identifies opportunities and challenges for the protection and respect of human rights, based on the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework.¹ In its recommendations, it considers how the business and human rights agenda can contribute to “building back better” and address emerging global crises, while ensuring action to prevent business-related human rights abuses and protect human rights.

3. In the report, the Working Group emphasizes that Governments and businesses need to ensure a sustainable people-centred approach while combating the pandemic and other crises, including conflict, climate change, environmental pollution and human rights challenges stemming from injustices and growing inequalities. It underlines what is required under the Guiding Principles to ensure that States and businesses are capable of responding to crises in a manner that protects and respects human rights and prevents future human rights abuses. The Working Group highlights that this requires scaled-up and faster action, through a smart mix of mandatory and voluntary measures, and transformative business models that recognize and respond to human rights and environmental challenges confronting societies and economies at the national, regional and global levels.

II. Methodology

4. In the report, the Working Group builds on contributions received following its call for inputs,² a consultation held during the thirty-first session of the Working Group and the relevant sessions held at the ninth³ and tenth sessions of the Forum on Business and Human Rights.⁴ Other information reviewed includes submissions on good practices in the coronavirus context⁵ and relevant responses to a questionnaire sent out in 2020 in preparation for a road map for the future, a decade after the Council endorsed the Guiding Principles.⁶ The report follows previous work undertaken by the Working Group, such as “A road map for responsible recovery in times of crisis”⁷ and “Ensuring that business respects human

¹ A/HRC/17/31, annex.

² See <https://www.ohchr.org/EN/Issues/Business/Pages/CFI-report-50th-session-HRC.aspx>.

³ See <https://2020unforumbhr.sched.com/event/fD00/addressing-vulnerabilities-of-migrant-workers-covid-19-and-beyond?linkback=grid>; <https://2020unforumbhr.sched.com/event/fD2E/time-for-action-the-role-of-human-rights-defenders-in-defending-rights-during-crisis-and-when-building-back-better?linkback=grid>; <https://2020unforumbhr.sched.com/event/fD2R/building-back-better-to-prevent-climate-crisis-what-states-and-businesses-need-to-do?linkback=grid>; and <https://2020unforumbhr.sched.com/event/fD4e/preventing-conflict-what-role-for-the-guiding-principles-in-peace-and-security?linkback=grid>.

⁴ See <https://10unforumbhr2021.sched.com/event/p7II/covid-19-lessons-learnt-and-moving-forward?linkback=grid> (sched.com).

⁵ See <https://www.ohchr.org/en/calls-for-input/calls-input/states-submissions-good-practices-coronavirus-context>.

⁶ See https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNGPsBHRnext10/inputs/responses_ungps10_have_your_say_compilation.pdf.

⁷ See <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/WG/Responsible-recovery-information-note.pdf>.

rights during the COVID-19 crisis and beyond: the relevance of the Guiding Principles on Business and Human Rights”,⁸ as well as relevant work conducted by the Office of the United Nations High Commissioner for Human Rights (OHCHR).⁹

III. Taking stock of business-related negative human rights impacts during the pandemic

5. By March 2022, over 458 million cases of COVID-19 had been confirmed and over 6 million lives had been lost to the virus.¹⁰ According to the International Labour Organization (ILO), the global labour market recovery from the pandemic stalled during 2021 and global working hours in 2021 were significantly below those in 2019.¹¹ Global unemployment is currently expected to remain above pre-pandemic levels until at least 2023. The 2022 level is estimated at 207 million, compared to 186 million in 2019.¹² According to the Director-General of ILO, “the outlook remains fragile and the path to recovery is slow and uncertain”.¹³

6. In addition to the physical health impacts of the pandemic, in 2020, an additional 53 million cases of major depressive disorders and 76 million cases of anxiety disorders were diagnosed, including due to the combined effects of reduced mobility, daily knowledge of infection rates, lockdowns, decreased public transportation, school and business closures and decreased social interaction.¹⁴

7. The pandemic particularly affected several groups, including young people, older persons, refugees, migrant workers, workers with disabilities, minorities and indigenous peoples.¹⁵ It compounded existing vulnerabilities faced by women and girls, including gender-based violence, and further widened gender and socioeconomic inequalities. Some women and girls found that existing caregiving responsibilities became even more time-consuming during the pandemic, resulting in consequences for their employment and education, and that caring for individuals who had COVID-19 put them at higher risk of infection. The situation has been particularly difficult for indigenous women, who often suffer intersecting forms of discrimination due to being women, indigenous and economically marginalized.¹⁶ ILO highlighted the fact that women were disproportionately affected, accounting for 38.9 per cent of total employment before the pandemic (2019) and 47.6 per cent of employment losses in 2020. Young people were also severely affected, representing 13 per cent of total employment in 2019 and 34.2 per cent of the decline in employment in 2020.¹⁷

8. The pandemic and its socioeconomic consequences occurred contemporaneously with conflicts, climate change, environmental pollution, and human rights challenges stemming from injustices, discrimination and growing inequalities which are inextricably interlinked with global, regional and national economic systems. Decisions made during the pandemic by economic actors contributed to the weakening of protections for workers and wider

⁸ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25837&LangID=E>.

⁹ See <https://www.ohchr.org/Documents/Issues/Business/BusinessAndHR-COVID19.pdf>.

¹⁰ See <https://covid19.who.int/>.

¹¹ See https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/briefingnote/wcms_824092.pdf.

¹² See https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_834081.pdf.

¹³ See https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_834117/lang--en/index.htm.

¹⁴ See [https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(21\)02143-7/fulltext#section-3d6acba1-acea-4be2-8dc9-b7e14e5b6583](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(21)02143-7/fulltext#section-3d6acba1-acea-4be2-8dc9-b7e14e5b6583).

¹⁵ See https://www.un.org/sites/un2.un.org/files/sg_policy_brief_covid_world_of_work_and_covid-19_june_2020.pdf.

¹⁶ See <https://data.unwomen.org/sites/default/files/documents/Publications/glaring-gaps-response-RGA.pdf>; <https://www.oxfam.org/en/research/no-one-safe-coronavirus-until-everyone>; and <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621028/bp-avoiding-ethnocide-210720-en.pdf>.

¹⁷ See https://www.ilo.org/global/topics/coronavirus/impacts-and-responses/WCMS_824092/lang--en/index.htm.

communities. Workplace closures have been ubiquitous. Businesses have faced loss of revenue and insolvency on an unprecedented scale, resulting in millions of jobs being lost or employees being furloughed, often without effective compensation. Threats to human rights defenders, including trade union leaders, have increased.¹⁸

9. The pandemic highlighted many existing problems, including problematic government public procurement practices, notably in the context of purchasing personal protection equipment, and the lack of respect for workers' rights, especially in global supply chains.¹⁹ Some businesses contributed to the deterioration of the situation by responding to the increased demand for medicines, masks, gloves and sterilizers by manufacturing medical supplies that did not conform to the required standards or by increasing disproportionately the price of medical supplies, such as face masks, for example in Iraq and Yemen.²⁰

10. Particularly vulnerable to the worst impacts of the crisis were the millions of workers lower down the supply chain, working in precarious conditions, predominantly women and the primary caregivers in their families and communities. They were often the first to be laid off, but the last to benefit from support, and the people who already faced poverty wages, dangerous and unsafe working conditions, discrimination and very little or no social protection or guarantee of their human rights. People in precarious employment, casual workers, migrant workers and workers in the informal economy were disproportionately exposed to the negative consequences of the pandemic given the lack of protection and the precariousness of their employment relationships.²¹ For example, piece workers (who are paid per unit of production instead of by labour time), such as migrant seafood workers in Thailand, were unable to earn the minimum wage and received little or no support from their employers, pushing them into debt or other precarious situations.²² Migrant farm workers faced increased pressure due to labour shortages following travel and import restrictions.²³ In some States, such as Qatar, thousands of foreign workers were reportedly laid off and deported to their home countries during the pandemic without receiving their financial dues and with salary payments delayed.²⁴

11. Furthermore, workers in certain sectors were exposed to particular challenges during the pandemic, resulting in calls for attention to be paid to their plight. For example, in response to the pandemic-driven humanitarian crisis of seafarers, many of whom were stuck at sea for much longer than would have been usual in non-pandemic times, the Working Group, OHCHR and the United Nations Global Compact released a joint call for action, calling on relevant business enterprises to discharge their human rights responsibilities to address the humanitarian crisis in the shipping industry in accordance with the Guiding Principles.²⁵ Millions of apparel workers lost their jobs due to companies cancelling orders and refusing to pay their suppliers²⁶ (in the face of reports that in 2019, 10 of the world's largest apparel brands paid \$21 billion to their shareholders in dividends and stock buy-

¹⁸ See <https://www.business-humanrights.org/en/from-us/media-centre/attacks-and-risk-to-business-and-human-rights-defenders-worsened-in-2020/>.

¹⁹ See <https://www.ohchr.org/Documents/Issues/Business/UNGPsBHRnext10/inputs/nhris/danish-institute.pdf>.

²⁰ See <https://www.ohchr.org/sites/default/files/2022-03/MAAT.pdf>.

²¹ See https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_834067.pdf; <https://www.who.int/news/item/13-10-2020-impact-of-covid-19-on-people%27s-livelihoods-their-health-and-our-food-systems>; and <https://www.ohchr.org/sites/default/files/2022-03/OXFAM.pdf>.

²² See <https://oxfamlibrary.openrepository.com/bitstream/handle/10546/621193/bp-precarity-pandemic-thailand-seafood-workers-300721-en.pdf>; and <https://www.ohchr.org/sites/default/files/2022-03/OXFAM.pdf>.

²³ See <https://www.fao.org/news/story/pt/item/1268059/icode/>.

²⁴ See <https://www.ohchr.org/sites/default/files/2022-03/MAAT.pdf>.

²⁵ See https://www.ohchr.org/Documents/Issues/Business/Joint_statement_Covid19_and_seafarers.pdf.

²⁶ See <https://www.business-humanrights.org/en/latest-news/major-apparel-brands-delay-cancel-orders-in-response-to-pandemic-risking-livelihoods-of-millions-of-garment-workers-in-their-supply-chains/>.

backs),²⁷ which led to calls for brands to mitigate the impact of the pandemic on those workers.²⁸

12. Global crises, such as the pandemic, provide a chance for Governments and businesses to reshape economies in a rights-respecting way, placing human rights at the centre of recovery plans, and to learn the lessons of the past to “build forward” smarter, better and more equitably.²⁹ One such example was the Socio-Economic Response Plan of the Lao People’s Democratic Republic, which sought to expand access to basic services and increase community participation in decision-making. Using a human rights-based approach, it ultimately aimed to address the root causes of inequalities.³⁰ A group of world leaders stated in February 2021 that: “We should not be afraid of a post-pandemic world that will not be the same as the status quo ante. We should embrace it and use all appropriate fora and available opportunities to make it a better world by advancing the cause of international cooperation”.³¹ The current moment, as the world responds to and charts a course out of the pandemic, is a tipping point. The decisions that government and business leaders make can build a more sustainable and resilient path for global and domestic markets and economies. The Guiding Principles provide the blueprint for States and business when planning a responsible recovery from the pandemic and handling future crises.

IV. Experiences, lessons learned and moving forward to face future crises

A. State duty to protect human rights: protecting against abuses by business enterprises during crises

13. To meet their duty to protect human rights under pillar I of the Guiding Principles, States needed to put the needs of people at the heart of pandemic responses and recovery efforts involving business³² by using a smart mix of legal and policy measures to require and enable business enterprises to respect human rights.

14. States adopted diverse measures to mitigate the impact of the pandemic on business enterprises. This included providing direct and indirect financial assistance to businesses, employees, workers on different contracts and the unemployed;³³ supporting workers’ and consumers’ digital space and connectivity, for example in Cambodia,³⁴ Chile,³⁵ Costa Rica,³⁶ Croatia,³⁷ Mexico,³⁸ Portugal,³⁹ the Russian Federation⁴⁰ and Saudi Arabia;⁴¹ simplifying

²⁷ See <https://assets.oxfamamerica.org/media/documents/bp-power-profits-pandemic-100920-en.pdf>; and <https://www.ohchr.org/Documents/Issues/Business/UNGPsBHRnext10/inputs/oxfam.pdf>.

²⁸ See <https://www.business-humanrights.org/en/latest-news/csos-call-on-govts-brands-suppliers-to-urgently-mitigate-health-economic-impacts-on-60-million-garment-workers-bearing-brunt-of-covid-19-crisis/>.

²⁹ See <https://www.ohchr.org/en/special-procedures/wg-business/stocktaking-10th-anniversary-ungps>.

³⁰ See <https://www.undp.org/content/undp/en/home/news-centre/speeches/2021/high-level-political-segment-of-46th-united-nations-human-rights.html>.

³¹ See <https://www.project-syndicate.org/commentary/multilateralism-for-the-masses-by-emmanuel-macron-et-al-2020-02>.

³² See <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/BusinessAndHR-COVID19.pdf>.

³³ See <https://www.ohchr.org/en/calls-for-input/calls-input/states-submissions-good-practices-coronavirus-context>.

³⁴ See <https://www.ohchr.org/sites/default/files/2022-03/Cambodia.pdf>.

³⁵ See <https://www.ohchr.org/sites/default/files/2022-03/CHILE.pdf> (in Spanish).

³⁶ See <https://www.ohchr.org/sites/default/files/2022-03/COSTA-RICA.pdf> (in Spanish).

³⁷ See <https://www.ohchr.org/sites/default/files/2022-03/Croatia.pdf>.

³⁸ See <https://www.ohchr.org/sites/default/files/2022-04/CFI-HRC50-submissions-Mexico-1.pdf> (in Spanish).

³⁹ See <https://www.ohchr.org/sites/default/files/Documents/Events/GoodPracticesCoronavirus/portugal-submission-covid19.pdf>.

⁴⁰ See https://www.ohchr.org/sites/default/files/2022-02/Russia_3.pdf (in Russian).

⁴¹ See <https://www.ohchr.org/sites/default/files/2022-03/SAUDI-ARABIA.pdf>.

administrative processes relating to applying for social benefits, for example in Iraq,⁴² Mexico,⁴³ Portugal⁴⁴ and the Russian Federation;⁴⁵ opening grace periods in which to meet tax obligations, for example in Mexico;⁴⁶ allowing for flexible work arrangements, for example in the Philippines;⁴⁷ establishing teleworking, such as in Argentina,⁴⁸ Portugal⁴⁹ and Spain;⁵⁰ intensifying rural economic development in Cambodia;⁵¹ providing relief packages for small and medium-sized enterprises in Indonesia,⁵² Mauritius⁵³ and Saudi Arabia;⁵⁴ and supporting particularly harshly hit sectors, such as tourism in Switzerland.⁵⁵

15. Some States provided economic aid and stimulus packages for business enterprises, which stipulated that beneficiaries had to respect human rights throughout their operations. Measures included prohibiting layoffs of temporary contractors and contract terminations in Spain;⁵⁶ conditioning loans to employers on retaining their workforce in Mexico;⁵⁷ conditioning recovery aid upon companies agreeing not to pay out dividends and not to engage in share buy-backs in Denmark;⁵⁸ temporarily banning share buy-backs for companies receiving government relief funds in France and the United States of America;⁵⁹ compelling executives to return bonuses paid out by companies that received federal bailout money in Austria;⁶⁰ and banning companies that utilized tax havens from accessing pandemic-related government financial aid and barring firms registered in offshore tax havens from receiving government bailouts in Denmark, France and Poland.⁶¹ Some States, such as Burundi,⁶² Iraq,⁶³ Portugal⁶⁴ and Saudi Arabia⁶⁵ strengthened their monitoring systems to ensure that business conduct remained consistent with domestic law and international human rights standards.

16. States including Mauritius,⁶⁶ the Russian Federation⁶⁷ and Switzerland⁶⁸ also reached out to groups of vulnerable workers affected particularly harshly by the pandemic. Specific

⁴² See <https://www.ohchr.org/sites/default/files/2022-03/Iraq.pdf> (in Arabic).

⁴³ See <https://www.ohchr.org/sites/default/files/2022-04/CFI-HRC50-submissions-Mexico-1.pdf> (in Spanish).

⁴⁴ See <https://www.ohchr.org/sites/default/files/2022-03/Portugal.pdf>.

⁴⁵ See https://www.ohchr.org/sites/default/files/2022-02/Russia_3.pdf (in Russian).

⁴⁶ See <https://www.ohchr.org/sites/default/files/2022-04/CFI-HRC50-submissions-Mexico-1.pdf> (in Spanish).

⁴⁷ See <https://www.ohchr.org/sites/default/files/2022-03/Philippines.pdf>.

⁴⁸ See <https://www.boletinoficial.gob.ar/detalleAviso/primera/233626/20200814> (in Spanish).

⁴⁹ See <https://www.ohchr.org/sites/default/files/2022-03/Portugal.pdf>.

⁵⁰ See <https://www.landac.com/en/the-remote-working-law-in-spain/>.

⁵¹ See <https://www.ohchr.org/sites/default/files/2022-03/Cambodia.pdf>.

⁵² See

<https://www.ohchr.org/sites/default/files/Documents/Events/GoodPracticesCoronavirus/indonesia-submission-covid19.pdf>.

⁵³ See <https://www.ohchr.org/sites/default/files/2022-03/Mauritius-1.pdf>.

⁵⁴ See <https://www.ohchr.org/sites/default/files/2022-03/SAUDI-ARABIA.pdf>.

⁵⁵ See <https://www.ohchr.org/sites/default/files/2022-03/SWITZERLAND.pdf> (in French).

⁵⁶ See <https://www.ohchr.org/sites/default/files/2022-03/Spain.pdf> (in Spanish).

⁵⁷ See <https://www.ohchr.org/sites/default/files/2022-04/CFI-HRC50-submissions-Mexico-1.pdf> (in Spanish).

⁵⁸ See

https://www.nordicpolicycentre.org.au/denmark_bars_tax_haven_companies_from_covid_19_financial_aid.

⁵⁹ See <https://www.ohchr.org/sites/default/files/2022-03/OXFAM.pdf>.

⁶⁰ See <https://www.reuters.com/article/us-lufthansa-austrian-bonuses/austrian-airlines-execs-topay-back-bonuses-after-bailout-furore-idUSKCN25F2D3>.

⁶¹ See

https://www.nordicpolicycentre.org.au/denmark_bars_tax_haven_companies_from_covid_19_financial_aid; and <https://www.businessinsider.com/france-coronavirus-bailout-tax-haven-registered-subsidies-ineligible-020-4?r=US&IR=T>.

⁶² See <https://www.ohchr.org/sites/default/files/2022-03/BURUNDI.pdf> (in French).

⁶³ See <https://www.ohchr.org/sites/default/files/2022-03/Iraq.pdf> (in Arabic).

⁶⁴ See <https://www.ohchr.org/sites/default/files/2022-03/Portugal.pdf>.

⁶⁵ See <https://www.ohchr.org/sites/default/files/2022-03/SAUDI-ARABIA.pdf>.

⁶⁶ See <https://www.ohchr.org/sites/default/files/2022-03/Mauritius-1.pdf>.

⁶⁷ See https://www.ohchr.org/sites/default/files/2022-02/Russia_3.pdf (in Russian).

⁶⁸ See <https://www.ohchr.org/sites/default/files/2022-03/Switzerland.pdf> (in French).

protection measures were applied for widows and divorced women in Iraq,⁶⁹ a national programme for women entrepreneurs was developed in Costa Rica,⁷⁰ gender pay gap legislation was introduced in the United Kingdom of Great Britain and Northern Ireland and gender-sensitive legislation is forthcoming in Germany and the Netherlands.⁷¹ Young people received special support from, for example, the Organisation for Economic Co-operation and Development (OECD),⁷² and from Iraq⁷³ and Mexico.⁷⁴ Support was also offered to persons with disabilities in Azerbaijan⁷⁵ and Costa Rica,⁷⁶ and to indigenous peoples in Canada.⁷⁷ Migrant worker fishermen and seafarers were repatriated in Indonesia⁷⁸ and the expired residencies of foreign workers were extended in Saudi Arabia.⁷⁹ In the Philippines, temporary employment for displaced workers, underemployed and self-employed workers was introduced.⁸⁰ Iraq⁸¹ and Thailand⁸² launched emergency financial grants and distributed funds for workers in the informal sector.

17. However, the pandemic highlighted some State policies and practices across the world that were not in keeping with the State duty to protect human rights. For example, in a number of countries in North America and Europe, some legislation and measures introduced in response to the pandemic had a severe impact on the environment by reducing the enforcement of environmental laws and access to information relating to the protection of the environment, or by allowing companies from highly polluting industries to receive bailouts.⁸³ Furthermore, some States, such as India, suspended certain aspects of labour laws that protected workers' health and safety.⁸⁴ In Bangladesh, Nepal, Pakistan and Sri Lanka, the Governments attempted to change labour laws with negative implications for workers' freedom of association and collective bargaining.⁸⁵ In Latin America, extractive companies continued to pursue their projects during the pandemic, as Governments considered them to be strategic or essential, putting local indigenous communities at increased risk of catching the virus.⁸⁶ Teleworking arrangements brought with them concerns about inadequate legal protection, including lack of tools for working at home, inadequate occupational health and

⁶⁹ See <https://www.ohchr.org/sites/default/files/2022-03/Iraq.pdf> (in Arabic).

⁷⁰ See <https://www.ohchr.org/sites/default/files/2022-03/COSTA-RICA.pdf> (in Spanish).

⁷¹ See <https://www.ohchr.org/sites/default/files/2022-03/OXFAM.pdf>.

⁷² See <https://www.oecd.org/coronavirus/policy-responses/what-have-countries-done-to-support-young-people-in-the-covid-19-crisis-ac9f056c/>.

⁷³ See <https://www.ohchr.org/sites/default/files/2022-03/Iraq.pdf> (in Arabic).

⁷⁴ See <https://www.ohchr.org/sites/default/files/2022-04/CFI-HRC50-submissions-Mexico-1.pdf> (in Spanish).

⁷⁵ See

<https://www.ohchr.org/sites/default/files/Documents/Events/GoodPracticesCoronavirus/azerbaijan-submission-covid19.pdf>.

⁷⁶ See <https://www.ohchr.org/sites/default/files/2022-03/COSTA-RICA.pdf> (in Spanish).

⁷⁷ See <https://10unforumbhr2021.sched.com/event/p7II/covid-19-lessons-learnt-and-moving-forward?linkback=grid> (session recording, 42:20–47:30).

⁷⁸ See

<https://www.ohchr.org/sites/default/files/Documents/Events/GoodPracticesCoronavirus/indonesia-submission-covid19.pdf>.

⁷⁹ See <https://www.ohchr.org/sites/default/files/2022-03/SAUDI-ARABIA.pdf>.

⁸⁰ See <https://www.ohchr.org/sites/default/files/2022-03/Philippines.pdf>.

⁸¹ See <https://www.ohchr.org/sites/default/files/2022-03/Iraq.pdf>.

⁸² See <https://www.bangkokpost.com/business/1914400/cash-goes-to-13-4m-non-formal-workers>.

⁸³ A/HRC/47/50, para. 67. See also <https://www.business-humanrights.org/en/latest-news/covid-19-polluting-industries-lobby-to-get-bailouts-and-suspend-environmental-protections/>; and <https://www.theguardian.com/environment/2020/apr/17/polluter-bailouts-and-lobbying-during-covid-19-pandemic>.

⁸⁴ See <https://www.ohchr.org/sites/default/files/2022-02/ITUC-ITF.pdf>; and

<https://www.reuters.com/article/us-health-coronavirus-india-workers-trfn-idUSKBN22P00H>.

⁸⁵ See <https://www.industrialunion.org/alarming-attacks-on-labour-laws-during-covid-19-in-south-asia>.

⁸⁶ See <https://www.ohchr.org/sites/default/files/2022-03/OXFAM.pdf>; and

https://www.cepal.org/sites/default/files/publication/files/46698/S2000893_en.pdf.

safety oversight, long working hours and inappropriate working conditions, as well as privacy protection for workers.⁸⁷

18. Various international and regional organizations, including OECD, the European Union and ILO, and civil society organizations, including Human Rights Watch, developed guidance, technical assistance, capacity-building and awareness-raising tools for States on how to support people and companies during the crisis, and on how to better meet their duty to protect against business-related human rights abuse.⁸⁸

19. Lessons learned by States on addressing business-related human rights abuses include the need for stronger multi-stakeholder dialogue and human rights training;⁸⁹ the active involvement of civil society in human rights training and education, and in crisis responses; the need for enhanced supervision of business conduct;⁹⁰ the importance of building economic institutions to ensure rapid crisis response;⁹¹ and the adoption of digital technology tools.⁹² The urgency and resolve with which many Governments reacted to the pandemic indicate that they can act with similar speed, dedication and tenacity on climate change and other issues concerning business-related human rights abuses, should they choose to do so. The willingness to “build back better”, that is, to use the crisis as a transition to a greener and more just world, needs to be leveraged. References to the Guiding Principles in post-pandemic recovery plans are important, but they need to be accompanied by specific requirements and monitoring.⁹³

B. Corporate responsibility to respect human rights, including during crises

20. The independent responsibility that all businesses have to respect human rights, as set out in pillar II of the Guiding Principles, persists even in times of economic hardship and during public health or other crises. This is regardless of whether and how Governments are meeting their own obligations.⁹⁴ Guiding Principle 13 indicates that the responsibility to respect human rights requires that businesses both avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; and seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts. This includes impacts on day labourers, non-contract workers, temporary employees, workers in the so-called gig economy and in other forms of precarious work and those working throughout supply chains, as well as customers and communities.

21. As the Working Group has noted, while some businesses have a special role to play in crisis situations, due to their products or services, all have a responsibility to prevent and address adverse human rights impacts with which they may be involved, and to treat people

⁸⁷ See <https://www.ohchr.org/sites/default/files/2022-02/ITUC-ITF.pdf>; and https://www.washingtonpost.com/world/europe/coronavirus-remote-work-europe/2020/09/04/6e4a19c6-e23e-11ea-82d8-5e55d47e90ca_story.html.

⁸⁸ See https://read.oecd-ilibrary.org/view/?ref=119_119686-962r78x4do&title=Supporting_people_and_companies_to_deal_with_the_Covid-19_virus; https://www.europarl.europa.eu/doceo/document/TA-9-2020-0054_EN.pdf; <https://www.hrw.org/news/2020/06/29/protecting-economic-and-social-rights-during-and-post-covid-19>; https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_771042.pdf; and https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_806092.pdf.

⁸⁹ See <https://www.ohchr.org/sites/default/files/2022-03/COLOMBIA.pdf> (in Spanish); and <https://www.ohchr.org/sites/default/files/2022-03/COSTA-RICA.pdf> (in Spanish).

⁹⁰ See <https://www.ohchr.org/sites/default/files/2022-03/SAUDI-ARABIA.pdf>.

⁹¹ See <https://www.ohchr.org/sites/default/files/2022-03/Iraq.pdf> (in Arabic).

⁹² See <https://www.ohchr.org/sites/default/files/2022-03/Mauritius-1.pdf>.

⁹³ See <https://www.ohchr.org/Documents/Issues/Business/UNGPsBHRnext10/inputs/nhris/danish-institute.pdf>.

⁹⁴ See https://www.ohchr.org/Documents/Events/COVID-19_Guidance.pdf.

with dignity.⁹⁵ Practical steps include undertaking human rights due diligence to identify, prevent, mitigate and account for how they address their human rights impact; taking adequate preventive measures to ensure the health and safety of workers and protect them from risks when working, such as by providing personal protection equipment, and ensuring fundamental guarantees, such as paid sick leave;⁹⁶ and including human rights specialists in crisis management teams.⁹⁷

22. Many businesses encountered challenges during the pandemic in relation to massive shifts in demand, supply chains, transportation, mobility and worker protection. They also had to manage a workforce fearful of being infected by the virus, wary about the prospect of losing their livelihoods and concerned about inadequate social protection coverage, which rendered millions of people worldwide unable to access adequate medical care or social benefits.⁹⁸ Additional challenges included reduced business opportunities, loss of clients, increased operational costs, delayed payments, costs relating to prolonged sick leave of employees, reduced cash flow, difficulties with paying bank loans and lack of or limited government support for small and medium-sized enterprises.

23. The significant disruptions to working methods, supply chains and operations posed by the pandemic resulted in challenges for companies in implementing the Guiding Principles and undertaking human rights due diligence. In this regard, companies faced difficulties in identifying possible human rights abuses due to the temporary suspension of business activities, remote (as opposed to in-person) access to situations of concern, and difficulties in reaching out to suppliers and engaging with the informal sector and affected communities.⁹⁹ While restrictions on in-person communication made human rights risk management much harder, some actors suggested ways to manage the challenges presented by the pandemic, such as using videoconferencing technology to conduct a remote factory tour and audit, and asking managers about workers' working hours, family contact and time spent outdoors to garner information about the realities encountered by workers.¹⁰⁰

24. As reported by Oxfam, during the pandemic, many businesses made money but did little to support Governments in responding to the pandemic. Various companies allegedly profited from government relief programmes, but introduced layoffs or cut staff hours and salaries while prioritizing payouts and cash dividends. Some oil, gas and mining companies lobbied Governments to deregulate environmental, tax and social protections. Environmental regulations were weakened by, for example, the airline industry successfully lobbying for a reduction of fees for carbon dioxide output.¹⁰¹

1. Groups at risk and sector-specific human rights challenges

25. Studies have shown that the response by business to the pandemic across multiple sectors was wanting.¹⁰² The pandemic revealed inequalities that allowed companies to operate with impunity, despite human rights and environmental abuses.¹⁰³ These included labour rights abuses in clothing company supply chains, health rights abuses of employees and customers in the hospitality sector, and freedom of information issues particularly concerning misinformation spread through social media.¹⁰⁴ There were reports of workers facing

⁹⁵ See <https://www.ohchr.org/en/statements/2020/04/ensuring-business-respects-human-rights-during-covid-19-crisis-and-beyond?LangID=E&NewsID=25837>.

⁹⁶ Ibid.

⁹⁷ See <https://gbih.org/updates/pandemic-shows-need-to-integrate-human-rights-specialists-in-crisis-managem>.

⁹⁸ See <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25843&LangID=E>.

⁹⁹ See [https://www.ohchr.org/sites/default/files/2022-02/IOE Input OHCHR Covid Biz.pdf](https://www.ohchr.org/sites/default/files/2022-02/IOE%20Input%20OHCHR%20Covid%20Biz.pdf).

¹⁰⁰ See <https://gbih.org/updates/the-impact-of-remote-working-on-companies-human-rights-risk-management>.

¹⁰¹ See <https://www.ohchr.org/sites/default/files/2022-03/OXFAM.pdf>.

¹⁰² See https://assets.worldbenchmarkingalliance.org/app/uploads/2021/02/CHBR-Covid-Study_110221_FINAL.pdf.

¹⁰³ See <https://www.ohchr.org/Documents/Issues/Business/UNGPsBHRnext10/inputs/eccj.pdf>.

¹⁰⁴ See https://blog.twitter.com/en_us/topics/company/2020/covid-19.html#protecting; and <https://www.ihrb.org/focus-areas/covid-19/report-respecting-human-rights-in-the-time-of-covid19>, p. 39.

heightened risks of labour exploitation, including forced labour especially in relation to migrant workers, in the food, personal protection equipment production, and delivery sectors,¹⁰⁵ as well as constraints on workers' freedom of association and collective bargaining.

26. The pandemic led to massive corporate layoffs. In May 2020, out of 100 countries surveyed by the International Trade Union Confederation, 87 reported that companies in their countries were laying off workers.¹⁰⁶ Mass unemployment, even if a temporary measure, results in large sections of the global population being at greater risk of exploitation in forced labour and other forms of modern slavery.¹⁰⁷ Companies also often chose to oblige workers to take unpaid leave or "voluntary" reductions in their salaries, cancel orders, postpone payments and otherwise withdraw from fulfilling contracts with subcontractors and suppliers, or to invoke force majeure clauses in their contracts to prevent delivery and payment for orders.¹⁰⁸

27. When businesses continued to operate, health and safety risks often increased for lower-tier and essential workers, including in the gig economy, who faced unsanitary working conditions and a lack of personal protection equipment. In some countries, courts had to force platform companies to provide personal protection equipment to their workers.¹⁰⁹ Workers in essential sectors, such as health, food and transport,¹¹⁰ risked their lives and endured untold hardship, such as forced labour,¹¹¹ to produce the essential goods needed to protect the lives of end users.¹¹² Companies operating in free-trade zones and remote mining sites sometimes refused to engage with their workforce on health and safety protection, which increased transmission of the virus.

28. The crisis has had devastating impacts on millions of value chain workers, revealing the human rights risks of cheap global outsourcing,¹¹³ the existing gaps in supply chain management and integrity systems of multinational enterprises¹¹⁴ and the joint responsibility of States and businesses in addressing those impacts.¹¹⁵ Brands and retailers cancelled orders at short notice and refused to pay for goods that they had ordered and had already been produced, which left factories unable to pay the wages of production workers.¹¹⁶ Value chain workers, especially in the garment sector, have been kept on low wages or without pay or have been laid off, without a social safety net,¹¹⁷ which has destroyed the livelihoods of

¹⁰⁵ See response from Anti-Slavery International at https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNGPsBHRnext10/inputs/responses_ungps10_have_your_say_compilation.pdf.

¹⁰⁶ See https://www.ituc-csi.org/IMG/pdf/200603_ituc_covid-19_globalsurveyreport_en.pdf.

¹⁰⁷ See response from Anti-Slavery International at https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNGPsBHRnext10/inputs/responses_ungps10_have_your_say_compilation.pdf.

¹⁰⁸ See response from Focal Group of Civil Society Organizations on Business and Human Rights at https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNGPsBHRnext10/inputs/responses_ungps10_have_your_say_compilation.pdf.

¹⁰⁹ See <https://www.ohchr.org/sites/default/files/2022-02/ITUC-ITF.pdf>.

¹¹⁰ See <https://www.cambridge.org/core/blog/2020/04/08/covid-19-and-the-corporate-duty-to-respect-human-rights-its-time-for-the-business-community-to-step-up/>.

¹¹¹ See <https://www.business-humanrights.org/en/latest-news/malaysia-medical-glove-manufacturers-see-surge-in-orders-due-to-covid-19-amid-forced-labour-concerns/>.

¹¹² See <http://corporatejustice.org/wp-content/uploads/2021/04/from-impossible-to-inevitable.-corporate-justice-in-times-of-covid-19.pdf>.

¹¹³ See <https://criticallegalthinking.com/2020/03/27/international-economic-law-covid-19/>.

¹¹⁴ See response from Transparency International at https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNGPsBHRnext10/inputs/responses_ungps10_have_your_say_compilation.pdf.

¹¹⁵ See <http://corporatejustice.org/wp-content/uploads/2021/04/from-impossible-to-inevitable.-corporate-justice-in-times-of-covid-19.pdf>.

¹¹⁶ See <https://www.industrial-union.org/covid-19-an-existential-crisis-for-the-garment-industry>.

¹¹⁷ Ibid. See also <https://www.business-humanrights.org/en/big-issues/covid-19-coronavirus-outbreak/supply-chain-workers/>; <https://www.theguardian.com/global-development/2020/mar/19/garment-workers-face-destitution-as-covid-19-closes-factories>; <https://theconversation.com/the-real-economic-victims-of-coronavirus-are-those-we-cant-see-133620>; <https://www.workersrights.org/issues/covid-19/tracker>; <https://www.theguardian.com/global>

garment factory workers in countries such as Bangladesh and Cambodia.¹¹⁸ Retaliatory measures against trade unionists were also a typical consequence of the crisis in the garment sector.¹¹⁹

29. In addition, as the pandemic and the associated travel restrictions continued, around 500,000 merchant sailors were trapped aboard ships. For road transport workers, occupational risks increased, including violence relating to the theft of cargos of essential products and pharmaceuticals, and shortages of personal protective equipment. Truck drivers faced financial distress as a result of lower freight rates, uncertainty about insurance coverage and inadequate social protection for independent or informal drivers.¹²⁰

30. Research conducted on pandemic-related business behaviour in various places has identified issues in particular sectors. For example, in Mexico, in the agribusiness, extractives and manufacturing sectors, pandemic-related human rights abuses mostly stemmed from a lack of implementation of adequate health measures, exposure to or a lack of support for workers in high-risk situations, either in the workplace or in transport to and from their homes, unjustified, arbitrary or mass dismissals, reduction of wages, “forced vacations” without pay and drops in social benefits.¹²¹ In Honduras, research concerning the garment *maquila* industry showed that the pandemic-related layoffs, suspension of work and health-care services, reduced incomes, lost benefits and vacations and other changes in working conditions caused serious physical and mental health issues for women workers.¹²² Other research, which considered the efforts of the 49 largest global information and communications technology companies to address forced labour in their supply chains, found that the sector’s risks included worker vulnerability to forced labour, excessive overtime, withholding of wages, and vulnerability of workers lacking alternative livelihoods. Migrant workers were at increased risk of exploitation due to their precarious legal status.¹²³ In relation to the spreading of hate speech using social media, large social media companies increased the use of automation and artificial intelligence technologies to automatically moderate content during the pandemic. This exacerbated pre-existing issues with content-moderation technology that requires large datasets of hate and violent speech terms in minority languages and dialects to identify and remove illegal content. These datasets are much less well developed in non-Western languages, resulting in uneven moderation subject to exploitation by those trying to circumvent restrictions, make threats or censor legitimate content. The over-reliance on automated content moderation, as opposed to manual content moderation, disproportionately impacted the global South and moderation of non-Western languages.¹²⁴

31. Indigenous peoples were exposed to a variety of business-related human rights abuses during the pandemic, such as increased land grabs, restrictions on access to their customary lands, territories and resources, and a continued disregard for their rights to self-

development/2020/jun/10/anger-at-huge-shareholder-payout-as-us-chain-kohls-cancels-150m-in-orders; and response from Max Planck Institute for Comparative Public Law and International Law at https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNGPsBHRnext10/inputs/responses_ungps10_have_your_say_compilation.pdf.

¹¹⁸ See <https://www.business-humanrights.org/en/big-issues/covid-19-coronavirus-outbreak/supply-chain-workers/>; and https://www.ilo.org/asia/publications/issue-briefs/WCMS_758626/lang-en/index.htm.

¹¹⁹ See https://media.business-humanrights.org/media/documents/Unpaid_wages_v9.pdf; and <https://www.reutersevents.com/sustainability/millions-garment-workers-face-destitution-fashion-brands-cancel-orders>.

¹²⁰ See <https://www.ohchr.org/sites/default/files/2022-02/ITUC-ITF.pdf>.

¹²¹ See https://media.business-humanrights.org/media/documents/Mexico_COVID-19_Report_EN_Final.pdf.

¹²² See <https://www.ohchr.org/sites/default/files/2022-02/CODEMUH1.pdf>; <https://www.ohchr.org/sites/default/files/2022-02/CODEMUH2.pdf>; <https://www.ohchr.org/sites/default/files/2022-02/CODEMUH6.pdf>; and <https://www.ohchr.org/sites/default/files/2022-02/CODEMUH7.pdf>.

¹²³ See <https://knowthechain.org/2020-ict-overview/>.

¹²⁴ See response from Tahrir Institute for Middle East Policy at https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNGPsBHRnext10/inputs/responses_ungps10_have_your_say_compilation.pdf.

determination and self-governance.¹²⁵ In Peru, disregarding indigenous peoples' self-protection actions to close access to their territories and to quarantine themselves,¹²⁶ personnel from oil and mining companies entered indigenous territories without the consent of communities that had chosen to isolate themselves, and without adequate protection protocols.¹²⁷ In many places, businesses sidestepped their responsibilities with regard to the environment and human rights, including the rights of indigenous peoples to free, prior and informed consultation and consent, in favour of economic growth.¹²⁸

2. Positive business initiatives taken to mitigate negative impacts on the rights of workers and communities across supply chains

32. There were some good corporate practices during the pandemic. For example, in the United Kingdom of Great Britain and Northern Ireland, some of the major supermarkets announced immediate payments to their smaller suppliers.¹²⁹ Other major buyers, including in Bangladesh, committed to pay for all orders already in production or completed.¹³⁰ Other positive actions included Fairtrade International deciding on strengthened protective measures and equipment for workers,¹³¹ a major multinational consumer goods company granting aid to its global suppliers,¹³² the development of alternative food systems,¹³³ and increased corporate support for the Women's Empowerment Principles.¹³⁴ Other positive initiatives included companies using and increasing their leverage in their business relationships to support hospitals and other health-care providers in respecting human rights during the pandemic, such as by providing free meals and transportation support for health-care workers.¹³⁵ Companies also demonstrated innovation by shifting their production to develop equipment and supplies essential for combating the pandemic.¹³⁶ This not only helped to combat the spread of the virus, but also enabled companies to retain employees. Several companies demonstrated leadership by cutting pay for those at the top to preserve jobs at the bottom of the pay scale.¹³⁷ To address potential harms to vulnerable populations, some companies allowed special shop opening hours for older persons, organized community support networks for the vulnerable or postponed collection of rent for those without an income.¹³⁸ Some 251 long-term institutional investors urged companies to act responsibly

¹²⁵ A/HRC/47/50, para. 56.

¹²⁶ See <https://www.oxfam.org/en/research/averting-ethnocide-indigenous-peoples-and-territorial-rights-crisis-face-covid-19-latin>; and <https://ojo-publico.com/1720/indigenas-y-coronavirus-sentimos-que-el-estado-nos-abandono> (in Spanish).

¹²⁷ See <https://www.ohchr.org/sites/default/files/2022-03/OXFAM.pdf>; and <https://muqui.org/noticias/protocolos-de-salud-con-vacios-y-reactivacion-economica-apresurada/> (in Spanish).

¹²⁸ A/HRC/47/50, para. 56.

¹²⁹ See <https://policy-practice.oxfam.org/resources/power-profits-and-the-pandemic-from-corporate-extraction-for-the-few-to-an-econ-621044/>; and <https://views-voices.oxfam.org.uk/2020/06/which-supermarkets-are-doing-the-most-to-protect-the-rights-of-food-workers/>.

¹³⁰ See <https://www.ohchr.org/sites/default/files/2022-03/OXFAM.pdf>; and <https://www.thedailystar.net/business/news/hm-comes-its-garment-suppliers-rescue-1887454>.

¹³¹ See <https://www.fairtrade.net/news/new-guidance-from-fairtrade-boosts-action-to-protect-farmers-and-workers-during-covid-19-pandemic>.

¹³² See <https://www.sharecast.com/news/news-and-announcements/unilever-announces-euro600m-of-virus-relief-measures--7398120.html>.

¹³³ See <https://www.oxfam.org/en/food-workers-frontline-coronavirus>.

¹³⁴ See <https://www.oxfamamerica.org/explore/research-publications/implementation-of-weps/>.

¹³⁵ See <https://www.pillar-two.com/featured-insights/2020/8/12/how-can-hospitals-and-other-healthcare-service-providers-respect-human-rights-during-covid-19-and-how-can-the-business-community-support-them>.

¹³⁶ See <https://www.un.org/en/coronavirus/never-waste-crisis-corporations-invest-%E2%80%98recovery-better%E2%80%99-covid-19>; <https://www.ihrb.org/focus-areas/covid-19/report-respecting-human-rights-in-the-time-of-covid19>, pp. 39–40; and <https://www.tbsnews.net/coronavirus-chronicle/coronavirus-bangladesh/ms-bangladesh-steps-produce-ppe-60043>.

¹³⁷ See https://finance.yahoo.com/news/48-ceos-taking-pay-cuts-200003563.html?fr=sycsrp_catchall; and <https://www.groundup.org.za/article/covid-19-shows-us-executive-pay-cuts-are-possible/>.

¹³⁸ See <https://www.businessinsider.com/coronavirus-stores-special-hours-elderly-vulnerable-list-2020-3?r=US&IR=T>; and <https://www.ihrb.org/focus-areas/covid-19/report-respecting-human-rights-in-the-time-of-covid19>, p. 27.

amid the pandemic, including with respect to their suppliers.¹³⁹ Companies launched online platforms for migrant workers to allow them to safely store their employment contract to avoid potential unfair recruitment practices, such as contract swapping, conducted multiple impact assessments in at-risk countries and provided training for hundreds of thousands of employees to raise their awareness of their human rights.

33. International organizations and business organizations were active in supporting businesses with guidance on responsible business conduct. For example, OHCHR, the United Nations Global Compact, ILO and the International Maritime Organization, together with the International Chamber of Shipping and the International Transport Workers' Federation, issued guidance for businesses engaged with the maritime industry to uphold the human rights of seafarers during the pandemic.¹⁴⁰ The International Organisation of Employers promoted human rights and responsible business conduct by publishing guidance reports and advocacy material aimed at providing important information to enterprise business management offices and businesses.¹⁴¹ In Uganda, the Federation of Uganda Employers (a member of the International Organisation of Employers) conducted a training session for employers on implementing the Children's Rights and Business Principles.¹⁴²

34. While the pandemic disrupted the economy and impacted business, it brought new opportunities. For example, the digitalization of human rights tools used by companies, such as digital audits, allowed greater review of human rights issues. Another example involved companies using an environmental, social and governance risk radar tool to screen business opportunities and assess levels of risks by assessing external and internal data.¹⁴³ The response to the pandemic also generated collaboration in the form of the ILO-led call to action in the global garment industry. This provides a forum for collective action by companies, federations and trade unions to mitigate the impact of the pandemic on the garment industry by supporting business continuity and workers' incomes, as well as the development of social protection systems.¹⁴⁴

35. Many businesses adapted to the new circumstances during the pandemic by changing their internal structures, updating their human rights policies and supplier codes of conduct and launching digital tools. The pandemic revealed the role that businesses can play as a source of reliable and timely information during crises, and the trust required between companies and their suppliers in implementing human rights at all levels.¹⁴⁵ As the Russian Union of Industrialists and Entrepreneurs noted, during the pandemic the companies that had previously implemented responsible business conduct measures became more sustainable, with lower non-financial (including human rights) risks, and adapted more quickly to new challenges.¹⁴⁶

C. Ensuring access to effective remedy during crises

36. Pillar III of the Guiding Principles – access to remedy for those affected by business-related human rights abuses – is an integral part of the State's duty to protect human rights. The Working Group has previously explored the "bouquet of remedies" that affected rights holders should be able to claim without fear of victimization.¹⁴⁷ Access to effective remedy when abuse has occurred can be ensured through both judicial, administrative, legislative or

¹³⁹ See <https://www.business-humanrights.org/en/latest-news/investor-statement-on-coronavirus-response/>.

¹⁴⁰ See <https://unglobalcompact.org/library/5886>.

¹⁴¹ See <https://www.ioe-emp.org/index.php?eID=dumpFile&t=f&f=155412&token=ecacb4d5fb6d5d841967af719a92365191c5b7d9>.

¹⁴² See <https://www.ohchr.org/sites/default/files/2022-02/IOE%20Input%20OHCHR%20Covid%20Biz.pdf>.

¹⁴³ Ibid.

¹⁴⁴ See https://www.ilo.org/global/topics/coronavirus/sectoral/WCMS_742343/lang--en/index.htm.

¹⁴⁵ See <https://www.ohchr.org/sites/default/files/2022-02/IOE%20Input%20OHCHR%20Covid%20Biz.pdf>.

¹⁴⁶ See https://www.ohchr.org/sites/default/files/2022-02/Russia_3.pdf (in Russian).

¹⁴⁷ [A/72/162](#).

other appropriate means, such as non-judicial grievance mechanisms. Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (criminal or administrative).¹⁴⁸ As the Working Group has indicated previously, where a business has caused or contributed to adverse human rights impacts, the Guiding Principles clarify that it should provide for or cooperate in their remediation through legitimate processes. This applies equally during ordinary times and during the pandemic or other crises.¹⁴⁹

37. The OHCHR accountability and remedy project has long explored the barriers for rights holders in accessing both judicial and non-judicial mechanisms.¹⁵⁰ However, there were particular challenges encountered during the pandemic. States and businesses needed to strengthen accountability mechanisms and empower affected rights holders to come forward to voice their concerns and sound the alarm about abuses when they occurred. As States moved their courtrooms online and closed government institutions, necessary safeguards needed to be built in to ensure the human rights of those seeking remedy who may not have been able to use the Internet to access court or administrative proceedings. Accountability and remedy are tools for prevention; ensuring remedy for wrongdoings and enhancing corporate accountability are crucial, not only to rectify and remediate the abuses linked to the pandemic, but to prevent future human rights abuses.¹⁵¹

38. The pandemic caused additional sources of conflict between businesses and those negatively affected by their activities.¹⁵² However, victims faced various challenges in obtaining effective remedy for business-related human rights abuses due to a number of pandemic-related obstacles. These included the difficulty for labour inspectorates to conduct effective inspections, delays in judicial and non-judicial remedy mechanisms due to a lack of personnel, and the reliance on online hearings due to pandemic-related restrictions on in-person hearings.¹⁵³

39. Migrant workers were among those who were most affected by the limited access, or lack of access, to effective remedy during the pandemic. For example, in Qatar, the courts were closed during the peak of the epidemic in 2020 and the foreign workers who were laid off by Qatari companies and who could not seek a remedy for non-payment of their wages were obliged to return to their home countries without receiving the wages that were due to them.¹⁵⁴

40. Indigenous peoples also faced constraints in accessing remedy during the pandemic. The Special Rapporteur on the rights of indigenous peoples highlighted that in his 2020 report to the General Assembly, in which he noted that the suspension or restriction of court operations had impeded access to justice or remedy, opening the door for companies or criminal networks to take possession of indigenous peoples' lands without scrutiny or accountability. He also noted that lockdown measures had limited the ability of indigenous rights defenders to mobilize their emergency support network for the protection of members of indigenous communities, while authorities and private actors had continued to gain wider abilities to silence them, for example, by criminalizing them for breaking quarantine as they prevented incursion on their lands.¹⁵⁵

41. While particular groups faced particular challenges in accessing remedy, there were some positive examples showing that, even during crises, it is possible to ensure that those entitled to remedy do not face additional barriers. Examples included having mechanisms

¹⁴⁸ Guiding Principle 25 and commentary.

¹⁴⁹ See <https://www.ohchr.org/en/statements/2020/04/ensuring-business-respects-human-rights-during-covid-19-crisis-and-beyond?LangID=E&NewsID=25837>.

¹⁵⁰ See <https://www.ohchr.org/EN/Issues/Business/Pages/OHCHRaccountabilityandremedyproject.aspx>.

¹⁵¹ See <https://www.ohchr.org/en/statements/2020/04/ensuring-business-respects-human-rights-during-covid-19-crisis-and-beyond?LangID=E&NewsID=25837>.

¹⁵² See <https://www.ohchr.org/sites/default/files/2022-03/COLOMBIA.pdf> (in Spanish).

¹⁵³ See <https://www.ohchr.org/sites/default/files/2022-02/ITUC-ITF.pdf>.

¹⁵⁴ See <https://www.ohchr.org/sites/default/files/2022-03/MAAT.pdf>; and <https://www.hrw.org/report/2020/08/24/how-can-we-work-without-wages/salary-abuses-facing-migrant-workers-ahead-qatars>.

¹⁵⁵ [A/75/185](#), para. 79.

that made use of multiple channels of communication, including videoconferencing and other online methods.¹⁵⁶ For instance, in Singapore, courts expanded the use of video and telephone conferencing to protect court users and staff, and developed a guide for parties to understand how to use these methods.¹⁵⁷ Costa Rica introduced reforms to its legal system to update procedures relating to conciliation hearings and appearances in order to facilitate alternative conflict resolution processes supported by online tools and videoconferences.¹⁵⁸ In relation to in-person hearings, one example of a State taking steps to ensure safe access was in the Republic of Korea, where rules restricted the number of people in each court room, imposed social distancing and mask-wearing, installed thermal cameras at court building entrances and installed transparent screens in front of judges to prevent the potential spread of the virus.¹⁵⁹

42. Extending the scope of admissibility of grievance mechanisms to cover pandemic-specific types of business-related human rights abuses was another way of providing effective remedy. For example, in the province of Sindh, in Pakistan, the labour department and workers' and employers' organizations agreed to activate a tripartite mechanism to receive complaints relating to non-payment of wages during the nationwide lockdown.¹⁶⁰ In Saudi Arabia, the judicial system guaranteed the right to remedy for all citizens and residents,¹⁶¹ and in Portugal, the State regularized the status of non-nationals, including asylum seekers with pending applications, thus entitling them to health care, employment, social support and housing.¹⁶²

D. Civil society participation and collective action: challenges and opportunities

43. Civil society actors have a key role as a voice for affected stakeholders and communities, as watchdogs, advocates and providers of early warnings of human rights risks and adverse impacts.¹⁶³ As noted in the commentary to Guiding Principle 18, on identifying adverse human rights impacts, in situations where consultation with rights holders is not possible, business enterprises should consider reasonable alternatives such as consulting credible, independent expert resources, including human rights defenders and others from civil society. The commentary to Guiding Principle 23 indicates that business enterprises are often well advised to not only draw on expertise and cross-functional consultation within the enterprise, but also to consult externally with credible, independent experts, including from Governments, civil society, national human rights institutions and relevant multi-stakeholder initiatives. The Guiding Principles therefore recognize the critical role of civil society as part of the business and human rights "ecosystem", including its role in human rights due diligence and enabling businesses to understand the concerns of affected stakeholders and in facilitating access to justice and remedy. Engaging in meaningful consultation with civil society representatives, including workers, affected community members and trade unions, as well as national human rights institutions, is essential for States and businesses, both during ordinary times and during crises.

44. This was put into action during the pandemic in Canada, where indigenous communities were significantly affected by the pandemic, including by limited broadband connectivity which had an impact on businesses run by members of indigenous communities, limited education and health services, overcrowded housing, health vulnerabilities, limited

¹⁵⁶ See <https://www.nortonrosefulbright.com/en-ca/knowledge/publications/bbfeb594/covid-19-and-the-global-approach-to-further-court-proceedings-hearings>.

¹⁵⁷ See <https://www.judiciary.gov.sg/attending-court/virtual-court-sessions>.

¹⁵⁸ See <https://www.ohchr.org/sites/default/files/2022-03/COSTA-RICA.pdf> (in Spanish).

¹⁵⁹ See <https://www.ibanet.org/MediaHandler?id=E9A83AEF-6B17-4A54-815F-1C6E0D600163>, pp. 62–64.

¹⁶⁰ See <https://www.thenews.com.pk/print/636776-tripartite-mechanism-activated-to-mitigate-impact-of-covid-19-lockdown-non-workers>.

¹⁶¹ See <https://www.ohchr.org/sites/default/files/2022-03/SAUDI-ARABIA.pdf>.

¹⁶² See https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_826684.pdf.

¹⁶³ Commentary to Guiding Principle 18.

or no access to mainstream business support, and remote or rural geographic locations. The National Indigenous Economic Development Board worked in partnership with several national indigenous organizations to respond to the impacts of the pandemic on indigenous peoples. This resulted in facilitating the supply by indigenous businesses of medical goods and services to address the pandemic, building an entity to provide procurement opportunities for indigenous businesses, developing a business case for infrastructure development such as broadband, and advocating for access to capital for indigenous businesses.¹⁶⁴

45. Furthermore, in Egypt, the Government carried out programmes and projects with international organizations and civil society organizations to further women's economic empowerment and mitigate the business-related human rights abuses that affected working women. For example, a project entitled "Women's Empowerment and Financial and Economic Inclusion in Rural Egypt: COVID-19 Response" was launched in cooperation with the National Council for Women, the Central Bank of Egypt, the European Union,¹⁶⁵ the Embassy of the Netherlands and UN-Women.¹⁶⁶

46. However, as has been widely reported, the pandemic resulted in repression of trade unions and direct attacks on trade unionists. For example, in Bangladesh, in June 2020, some 3,000 garment workers were dismissed as part of a union-busting exercise from three factories owned by the same company.¹⁶⁷ In Brazil, a multinational enterprise closed down its fertilizer plant, violating collective agreements and trade union consultation and laying off a large number of workers.¹⁶⁸ In Peru, a multinational home retailer dismissed 22 warehouse workers who had collectively requested health and safety protections against COVID-19. In South Africa, shop stewards at a car factory were allegedly dismissed for inciting workers to stop work after they brought to light the fact that high numbers of workers had tested positive for COVID-19. The pandemic was also used as an excuse to single out trade union members for forced unpaid leave in Turkey. In Zimbabwe, union leaders were prosecuted after workers took strike action to secure payment of outstanding pandemic allowances.¹⁶⁹ In many places, migrant workers, owing to their lack of effective trade union representation, were often not even aware of the health schemes available to assist them.¹⁷⁰ The right to collective bargaining was also heavily undermined in cases where businesses set aside obligations under collective bargaining agreements without meaningful consultations conducted in good faith.¹⁷¹

47. On a positive note, as reported in 2021 in the ILO Briefing Paper on Social Dialogue, joint statements and agreements were reached through social dialogue between Governments and national, high-level or sectoral-level organizations of employers and workers, which addressed issues such as supporting workers and enterprises and promoting long-term recovery and resilience.¹⁷²

48. A good example of cooperation with unions was an agreement between employer organizations, unions and the Government of Denmark, which provided compensation to businesses that faced making layoffs due to the lockdown, thereby avoiding the need for them

¹⁶⁴ See <https://10unforumbhr2021.sched.com/event/p7II/covid-19-lessons-learnt-and-moving-forward?linkback=grid> (session recording, 42:20–47:30).

¹⁶⁵ See https://eeas.europa.eu/delegations/niger/94949/celebrating-strategic-partnerships-%E2%80%98women%E2%80%99s-empowerment-and-financial-and-economic-inclusion_en.

¹⁶⁶ See <https://www.ohchr.org/sites/default/files/2022-03/MAAT.pdf>.

¹⁶⁷ See https://www.ituc-csi.org/IMG/pdf/union_busting_and_unfair_dismissals_garment_workers_during_covid-19.pdf, p. 14.

¹⁶⁸ See https://www.uniontounion.org/sites/default/files/additional_info_files/ituc_globalrightsindex_2020_english_version4_singlepages.pdf, p. 37.

¹⁶⁹ See https://files.mutualcdn.com/ituc/files/ITUC_GlobalRightsIndex_2021_EN_Final.pdf, p. 4.

¹⁷⁰ A/HRC/47/50, para. 54.

¹⁷¹ See <https://www.etuc.org/sites/default/files/publication/file/2020-06/Covid-19%20Briefing%20Trade%20union%20rights%20and%20COVID-19%20updated%2010062020%20final.pdf>.

¹⁷² See https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_802527.pdf.

to make personnel reductions.¹⁷³ Other good examples included, in Argentina, the negotiation by a federation of unions representing retail workers of a protocol with the National Hypermarkets Association awarding a special bonus to grocery store workers.¹⁷⁴ In the United States, unionized grocery store employees at several national supermarket chains successfully negotiated temporary hazard pay, 14 days of paid sick leave for COVID-19 cases, authorization for workers to wear masks and gloves at work, and measures to protect employees from customers.¹⁷⁵ In New Zealand, as a result of a campaign by unions, the Government agreed to introduce legislation to double statutory entitlement to sick leave from five to ten days.¹⁷⁶ A good example of a company cooperating with unions is the memorandum of understanding a major supermarket signed with the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Associations, in which both parties committed to “support workers’ rights globally, with a specific focus on how women in global foods supply chains can benefit from effective grievance mechanisms, freedom of association and trade union representation”.¹⁷⁷

49. Threats to human rights defenders and to civic freedoms are of increasing concern globally and they intensified during the pandemic due to lockdowns, which made it easier to trace defenders. There has also been an increase in the number of threats of physical violence against human rights activists, including by armed groups,¹⁷⁸ restrictions on public assembly and in-person campaigning, and the denial of the right to public participation.¹⁷⁹ For example, in Honduras, human rights and environmental defenders continued to face deadly attacks in retaliation for their advocacy work¹⁸⁰ and attacks on human rights defenders took place in, among other places, Brazil, Cambodia and South Africa.¹⁸¹ As the Working Group stated in its 2021 guidance on ensuring respect for human rights defenders, government responses to the pandemic have affected civic freedoms and human rights and the pandemic has heightened the risks to human rights defenders and made their work more challenging, isolating and dangerous. Responses to the pandemic and its economic impact must not be used as a pretext by Governments and business actors to circumvent international human rights and environmental commitments.¹⁸²

E. Role of national human rights institutions

50. The pandemic highlighted the role that national human rights institutions can play in advising and guiding Governments and businesses on responding to crises while protecting and respecting human rights. For example, the Kenya National Commission on Human Rights developed guidance for the Government on applying crisis-related policy and legislative measures to respect the human rights of affected individuals and communities in the business context.¹⁸³

51. National human rights institutions can also issue guidance to Governments on applying specific and targeted measures to protect the most vulnerable in society, monitoring human rights and the implementation of emergency measures, sharing information with

¹⁷³ See <https://www.ohchr.org/sites/default/files/2022-03/Denmark.pdf>.

¹⁷⁴ See https://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/briefingnote/wcms_741342.pdf.

¹⁷⁵ See <https://www.ufcw.org/press-releases/krogercoronavirus>.

¹⁷⁶ See response from New Zealand Human Rights Commission at https://www.ohchr.org/sites/default/files/Documents/Issues/Business/UNGPsBHRnext10/inputs/responses_ungps10_have_your_say_compilation.pdf.

¹⁷⁷ See <https://www.iuf.org/wp-content/uploads/2022/01/MoU-Tesco-and-IUF-Jan-2022-e-signatures.pdf>.

¹⁷⁸ See <https://earthrights.org/media/organizations-urge-governments-to-protect-activists-and-communities-threatened-by-armed-groups-during-covid-19-pandemic/>.

¹⁷⁹ See <https://www.business-humanrights.org/en/from-us/briefings/just-recovery-in-peril-human-rights-defenders-face-increasing-risk-during-covid-19/>.

¹⁸⁰ See <https://earthrights.org/blog/activists-under-attack-in-honduras/>.

¹⁸¹ A/HRC/47/50, para. 80.

¹⁸² A/HRC/47/39/Add.2, paras. 24 and 33–34. See also <https://www.frontlinedefenders.org/en/campaign/covid-19-attacks-hrds-time-pandemic>.

¹⁸³ See <https://www.knchr.org/Portals/0/KNCHR%20Advisory%20on%20Labour.pdf>.

rights holders about the protection of human rights standards during the pandemic, and ensuring virtual access to the services of national human rights institutions during lockdowns.

52. The Working Group has observed that in public emergencies or in conflict settings, national human rights institutions may face additional challenges in discharging their mandate to promote and protect human rights, including in relation to the private sector.¹⁸⁴ The Kyiv Declaration on the role of national human rights institutions in conflict and post-conflict situations addressed this in October 2015.¹⁸⁵ While the pandemic has often been used as an excuse by those in positions of authority to curtail human rights and civic space,¹⁸⁶ national human rights institutions have adopted an important role in requiring justifications for the curtailment of human rights and freedoms¹⁸⁷ and offering guidance to States in ensuring human rights-compliant responses and the protection of groups in vulnerable situations.¹⁸⁸

F. Examples of initiatives taken by some United Nations entities during the pandemic

53. From the onset of the pandemic, various United Nations entities have highlighted the impact of the crisis on workers and other affected groups. They have addressed business-related human rights abuses through multilateral and international cooperation and have supported States in responding to those challenges.¹⁸⁹ The following examples show how two United Nations agencies, UN-Women (which participated in the tenth annual Forum on Business and Human Rights) and the United Nations Educational, Scientific and Cultural Organization (UNESCO) (which responded to the Working Group's questionnaire), dedicated resources to exploring the ways in which the pandemic affected their constituencies and how Governments and the business sector could help to address the issues highlighted by their work.

54. UN-Women conducted research showing how women were among the most affected groups during the pandemic, as their already vulnerable work conditions – earning less, saving less and holding more insecure jobs than men – left them more exposed to labour market disruptions. In addition to the economic burden, the pandemic increased the burden of unpaid care and domestic work, with children not in school, heightened care needs of older persons, and overwhelmed health services.¹⁹⁰ The findings of UN-Women showed that, while both women and men lost their jobs, women experienced more reduced paid work hours, women's earnings plummeted and their recovery is projected to be slower than men's. Prime working-aged women living with children were especially likely to lose their economic security, widowed women were also economically hard-hit and women with limited education were especially vulnerable to economic losses.¹⁹¹

¹⁸⁴ A/HRC/47/39/Add.3, para. 43.

¹⁸⁵ See http://ennhri.org/wp-content/uploads/2019/10/the_kyiv_declaration.pdf.

¹⁸⁶ See <https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/COVID-19-and-NHRI.pdf>.

¹⁸⁷ See <https://www.osce.org/files/f/documents/8/0/465906.pdf>.

¹⁸⁸ See <https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/COVID-19-and-NHRI.pdf>.

¹⁸⁹ See https://www.un.org/sites/un2.un.org/files/sg_policy_brief_covid_world_of_work_and_covid-19_june_2020.pdf; <https://www.unglobalcompact.org/news/4531-03-16-2020>; <https://www.un.org/en/coronavirus/never-waste-crisis-corporations-invest-%E2%80%98recovery-better-%E2%80%99-covid-19>; <https://www.ilo.org/global/topics/coronavirus/lang--en/index.htm>; <https://www.fao.org/policy-support/tools-and-publications/resources-details/en/c/1270457/>; <https://www.worldbank.org/en/data/interactive/2021/01/19/covid-19-business-pulse-survey-dashboard>; and <https://www.enterprisesurveys.org/en/covid-19>.

¹⁹⁰ See <https://www.unwomen.org/en/digital-library/publications/2020/09/gender-equality-in-the-wake-of-covid-19>; and <https://data.unwomen.org/sites/default/files/documents/Publications/glaring-gaps-response-RGA.pdf>.

¹⁹¹ See <https://data.unwomen.org/sites/default/files/documents/Publications/glaring-gaps-response-RGA.pdf>, pp. 4–5.

55. UN-Women documented how, in Chile, a subsidy programme was created to support working caregivers and a national policy on science and technology was designed to boost women's technological skills and employment;¹⁹² in Maldives, nearly 7,500 women informal workers were included in the Government's Income Support Allowance programme;¹⁹³ and in Rwanda, the Government expanded an economic recovery fund to cover small and medium-sized enterprises, where women are concentrated.¹⁹⁴

56. UNESCO addressed the privacy issues associated with the increased use of digital technologies during the pandemic to contain the virus, implement track and trace mechanisms, and collect a massive amount of personal data. It developed the Recommendation on the Ethics of Artificial Intelligence in 2021, a ground-breaking normative instrument adopted by 193 Member States, which includes provisions to understand what is happening with the information that had to be collected in a way that respects privacy and transparency.¹⁹⁵

57. The UNESCO Youth As Researchers global initiative on COVID-19 revealed that young people face obstacles in realizing their right to work and their right to an adequate standard of living. These issues concern business and/or could be addressed with the contribution of business actors. The research highlighted the importance of collaborating with national Governments and the business community in designing and implementing policies and programmes that would institute protection of workers in the workplace, invest in digital infrastructure for young people, improve support for youth-led enterprises and enhance avenues for young people to connect and partner with policymakers.¹⁹⁶

58. At the onset of the pandemic, UNESCO established the Global Education Coalition, an international multisectoral partnership with approximately 180 members from the private sector, including education technology companies, non-profit organizations, foundations, the media and civil society organizations. It provides a collaborative platform to enable the continuity of learning that was disrupted by the pandemic.¹⁹⁷

V. Conclusions

59. The pandemic and the ensuing economic crisis exposed and exacerbated inequalities and vulnerabilities present in most business models. This posed a fundamental challenge to human rights, human dignity and sustainable development, and demonstrated the need for better safeguards for vulnerable workers and consumers across sectors. At the same time, the pandemic provides the opportunity to address inequalities and vulnerabilities, and to build a future of shared prosperity and security, with human rights at the heart of business models. States and business should ensure that pandemic responses contribute to building back better in the longer term, including by tackling poverty, inequalities and underinvestment in health care and public services, to build a more inclusive and sustainable world.¹⁹⁸

60. When the pandemic is over, States and business actors must not revert to business as usual, but should forge a new normal based upon the standard provided by the Guiding Principles. The recovery period provides the opportunity to take a more sustainable path forward, by putting people and planet at the centre. Real progress in

¹⁹² See <https://data.unwomen.org/features/chile-data-womens-paid-and-unpaid-work-prompt-subsidy-working-caregivers-and-inform>.

¹⁹³ See <https://data.unwomen.org/features/maldives-survey-findings-influence-covid-19-response>.

¹⁹⁴ See <https://data.unwomen.org/sites/default/files/documents/Publications/glaring-gaps-response-RGA.pdf>, p. 20.

¹⁹⁵ See <https://en.unesco.org/artificial-intelligence/ethics>.

¹⁹⁶ See https://www.cepal.org/sites/default/files/presentations/ppt_dia_internacional_de_la_juventud_2020.pdf (in Spanish).

¹⁹⁷ See <https://en.unesco.org/covid19/educationresponse/globalcoalition#:~:text=The%20Global%20Education%20Coalition%20launched,this%20unprecedented%20disruption%20and%20beyond>.

¹⁹⁸ See <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/BusinessAndHR-COVID19.pdf>.

implementing the Guiding Principles will enable better preparation for the next crisis, not least the climate crisis and other human rights challenges stemming from injustices and inequalities.

61. States and businesses have respective duties and responsibilities in ensuring that the measures taken to support the economic recovery are carried out with respect for human rights. Civil society and other stakeholders should be seen as critical partners to achieve this goal, and to help States and businesses to identify, prevent and mitigate human rights harms. With their focus on preventing and addressing the most salient human rights risks, particularly for those at heightened risk of vulnerability or marginalization, the Guiding Principles provide a framework for action by both States and businesses. While the situation created by the pandemic is unprecedented, the response must be grounded in existing human rights standards, including the Guiding Principles.¹⁹⁹ Crises like the pandemic last for years and generate multiple and unforeseen ripple effects across economic and social structures. Workers will feel the effects of the economic damage done well after the reopening of businesses. When choices around financial recovery are made at the expense of people's human rights, welfare and dignity, the human consequences are real, severe and often life-changing. The world has an opportunity to chart a different course that contributes to sustainable business while respecting the rights and dignity of all.²⁰⁰ The following recommendations are applicable to the current pandemic and future crises.

VI. Recommendations

62. States should:

(a) Ensure that measures taken to alleviate the economic impact of crises are human rights-compliant and contribute to advancing the 2030 Agenda for Sustainable Development;

(b) Enforce (or develop where they do not yet exist) labour and employment laws and regulations, including those relating to wages, occupational health and safety, paid medical and family leave, childcare support, discrimination and the right to organize and bargain collectively, including through ensuring adequate capacity of labour inspections and sanctions commensurate to any abuses uncovered;

(c) Ensure that effective legislation and regulation is in place to protect against human rights harm by businesses, including by requiring business enterprises to conduct meaningful human rights due diligence and environmental and climate impact assessments, to disclose all relevant information on impacts on the environment and climate change, and encourage them to prioritize low-carbon and zero-carbon investment;

(d) Consider, when designing and operating State-based grievance mechanisms, alternative ways of enabling safe access to remedy by removing pandemic-related barriers and ensure that the scope of admissible grievances includes harms that arise during crises;

(e) Require business enterprises to honour existing collective bargaining agreements, support unions, prioritize worker safety, grant workers additional premium pay and childcare where appropriate, avoid layoffs, collaborate with workers in corporate decision-making and hold accountable business enterprises that violate labour laws;

(f) Provide an adequate safety net, particularly for groups and individuals that are in the most precarious and vulnerable situations in the labour market,

¹⁹⁹ Ibid.

²⁰⁰ See <https://www.ohchr.org/sites/default/files/Documents/Issues/Business/WG/Responsible-recovery-information-note.pdf>.

including women, young people, persons with disabilities, indigenous peoples, migrant workers and workers in the informal economy;

(g) Stipulate, when providing bailouts or other financial recovery support and stimulus packages, that beneficiaries should implement the Guiding Principles, including by conducting human rights due diligence and by providing access to remedy and grievance mechanisms, and exclude from State support business enterprises with demonstrated records of undermining human rights, those that shield profits in tax havens and direct capital away from workers toward shareholders and management, including through share buy-backs, dividend payments, executive bonuses, salary increases for high earners and layoffs;

(h) Require business enterprises that receive bailouts or other financial recovery support and stimulus packages to identify their salient human rights risks in the context of the post-crisis recovery, and outline steps to prevent, mitigate and address those risks;

(i) Consider the likely climate impacts of financial recovery support, structure aid packages to mitigate these impacts, and resist any weakening of existing emissions standards and environmental regulations;

(j) Give special consideration in a crisis situation to the strain placed on the care sector and unpaid caregivers, including women, by requiring relevant businesses to meet higher standards for worker safety and prohibiting them from penalizing workers who are forced into unpaid caregiver roles;

(k) Protect civic space at all times by ensuring the enjoyment of fundamental freedoms and the protection of human rights defenders, including by creating an enabling legal and policy environment to avoid attacks or reprisals against them by business and third parties, ensuring access to remedy for any such abuse and protecting against reprisals faced by those seeking remedies;

(l) Expand digitization plans and establish advanced technological infrastructures that can be used during crises as alternatives to in-person transactions, and ensure that any technology, including artificial intelligence and facial recognition, is open to scrutiny by independent regulatory authorities and civil society;

(m) Ensure that public procurement is done openly and transparently, on the basis of free and fair competition, and with priority given to companies that operate in line with the Guiding Principles;

(n) Integrate the Guiding Principles and sustainability requirements into the operations and procurement practices of all government entities and State-owned or controlled enterprises, and require the same from those from which they procure goods and services;

(o) Coordinate through multilateral institutions, effectively collaborate through technical assistance, capacity-building and awareness-raising, and support the development of international, regional and national standards and tools in order to promote business respect for human rights, and ensure that development finance institutions implement recovery projects in a manner that does not harm communities;

(p) Ensure that, when multilateral institutions coordinate or facilitate financial recovery support to multiple countries, they incorporate the present recommendations and stipulate that financial support to businesses should be conditional upon human rights commitments;

(q) Build stronger public-private partnerships and invest in social protection systems and support for the self-employed and small and medium-sized enterprises;

(r) Restructure national economies with a focus on environmental sustainability, the green economy and a just and equitable transition to a sustainable, no-carbon economy founded on renewable energy, environmentally sound technology, sustainable resource use, community empowerment, universal social protection and livelihoods based on dignity;

(s) Ensure that, especially during crises, national human rights institutions are properly resourced and given a mandate, broad jurisdiction and the powers necessary to promote responsible business conduct and to facilitate access to remedy for business-related human rights abuses.

63. **Business should:**

(a) Redesign business models to focus on the well-being of people and planet throughout their operations and supply chains, achieving the Sustainable Development Goals and limiting global warming;

(b) Ensure that health and safety standards are respected at all times, especially during times of crisis, provide workers and employees with fair and comprehensive contracts, a living wage, paid medical and family leave and childcare support, respect the right of workers to organize and bargain collectively, honour collective bargaining agreements, support trade unions, avoid layoffs and collaborate with workers in corporate decision-making;

(c) Respect international human rights and labour standards, ensure sustainable practices across their value chains and conduct human rights due diligence to identify, prevent, mitigate and account for how they address their adverse human rights impacts, including in relation to day labourers, non-contract workers, temporary employees, workers in the gig economy and other forms of precarious work situations, those working in supply chains, customers and communities;

(d) Refrain from penalizing workers, including women, who are forced through crisis situations into unpaid caregiver roles;

(e) Ensure the participation of the most marginalized individuals and groups in designing and implementing human-rights compliant responses, including by taking into account gender-specific experiences and needs;

(f) Introduce, in relation to health crises, higher safety standards for workers in the care sector;

(g) Refrain from engaging in business practices that prioritize shareholder value creation at the expense of workers' rights, such as those that redirect capital away from workers toward shareholders and management, including stock and share buy-backs, dividend payments, executive bonuses, salary increases for high earners and layoffs;

(h) Ensure that human rights impact assessments involve meaningful consultation with potentially affected groups and focus on impacts on individuals that may be at heightened risk of vulnerability or marginalization;

(i) Where it identifies that it has caused or contributed to adverse impacts, mitigate such impacts, including through increasing and using leverage over business relationships that may be causing or contributing to harm, and engaging in effective remediation mechanisms;

(j) Ensure, when designing and operating non-State-based grievance mechanisms, that all those entitled to remedy do not face pandemic-related barriers and are protected from reprisals, and ensure that the scope of admissible grievances includes harms that arise during crises;

(k) Adopt a gender perspective when conducting human rights impact assessments and designing operational-level grievance mechanisms, based on the Working Group's guidance on the gender dimensions of the Guiding Principles;²⁰¹

(l) Strengthen the protection of rights holders and human rights defenders, prevent attacks against them and provide remedies for any such attacks;

²⁰¹ See A/HRC/41/43.

(m) **Train employees and suppliers on business-related human rights-related risks and grievance mechanisms;**

(n) **Contribute to global partnerships on transitioning to a more sustainable future by engaging in collective action with States, peers, business organizations and civil society.**

64. **All stakeholders, including civil society and national human rights institutions, should:**

(a) **Contribute to the enhancement of corporate accountability, including through the establishment and maintenance of mandatory and effective human rights due diligence mechanisms;**

(b) **Engage in meaningful consultation with business enterprises developing human rights impact assessments to ensure that the human rights risks of the most vulnerable are understood;**

(c) **Engage in constructive dialogue regarding efforts to enhance effective remedy for business-related human rights abuses and support victims in accessing remedy;**

(d) **Advise Governments on how to respond to crises while protecting human rights and provide guidance concerning measures to protect the most vulnerable in society;**

(e) **Monitor the implementation of emergency measures and their impact on human rights;**

(f) **Share information with rights holders about the protection of human rights during crises, and ensure virtual or online access to their services during lockdowns.**

65. **United Nations agencies, funds, programmes and human rights mechanisms should protect against business-related human rights abuses by:**

(a) **Supporting States and communities in responding to crises;**

(b) **Encouraging States and business to engage in multilateral and international cooperation to build back better in the aftermath of the pandemic;**

(c) **Calling for a new social contract, based on equal rights and opportunities for all.**