

Joint Statement Calling on Governments to Ensure Corporate Accountability in Covid-19 Response

May XX, 2020

The undersigned organizations, who are committed to advancing corporate accountability and business respect for human rights, have come together to urge immediate action from governments in response to the Covid-19 pandemic that promotes respect for human rights and the environment, and will ultimately contribute to a more just society. Beyond immediate actions, governments must ensure that efforts to rebuild from the upheaval caused by the Covid-19 pandemic are focused on transitioning to a more just economic and social order.

Governments need to ensure that their responses to the Covid-19 pandemic are in line with their obligations under international law to respect, protect, and fulfill human rights. Within this broader rights-based approach, governments must ensure that they are meeting their obligation to protect against human rights abuses by business enterprises, as affirmed by the [UN Guiding Principles on Business and Human Rights \(UNGPs\)](#) and the [OECD Guidelines for Multinational Enterprises](#) (OECD Guidelines). Specifically, governments must “prevent, investigate, punish and redress” such abuses through “effective policies, legislation, regulations and adjudication.” This duty to protect requires governments to take additional action when a “State-business nexus” exists, including when a government owns or controls a company; when a government contracts or otherwise engages with companies to provide services that may have an impact on the enjoyment of human rights; and when a government engages in commercial transactions, including through public procurement. As part of the duty to protect against business-related human rights abuses, states must take appropriate steps to ensure that when abuses occur, victims have access to effective remedy through judicial and non-judicial State-based grievance mechanisms and should consider ways to facilitate access to effective non-State based grievance mechanisms.

As the crisis continues, and to offer immediate relief to those suffering as a result of Covid-19, it is imperative that all governments meet their duty to protect against business-related human rights and environmental abuses in the context of this pandemic. **We call on governments to take the following immediate measures:**

Human Rights and Environmental Due Diligence

- 1) **Ensure that businesses adhere to internationally recognized standards of responsible business conduct.** At all times (not just during a pandemic) governments should ensure that businesses adhere to internationally recognized standards of responsible business conduct. This includes pushing companies to conduct human rights and environmental due diligence as contained in the UNGPs and OECD Guidelines, and as further developed in authoritative guidance such as the OECD Due Diligence Guidance for Responsible Business Conduct. To this end, governments should pass mandatory human rights due diligence laws to ensure that these standards become the norm globally. In relation to Covid-19 specifically, governments should ensure that through these due diligence processes companies are identifying, preventing, mitigating, and redressing potential and actual human rights and environmental harms that have newly arisen or may arise as a result of the Covid-19 pandemic.

Government Bailouts

- 2) **Ensure government stimulus packages prioritize those most at risk.** Governments need to ensure that stimulus packages issued to mitigate the effects of Covid-19 target and benefit those most at risk from the social and economic impacts of the crisis, prioritizing workers and their families regardless of their immigration status. Government bailouts to companies in response to Covid-19 *cannot* be blank checks, rather, they should come with clear, transparent, and enforceable conditions, including, for example: 1) mandatory human rights and environmental due diligence; 2) compensation and benefits guarantees for workers; 2) reduction in carbon emissions; 3) bans on stock-buy backs; 4) limits on CEO compensation; and 5) meaningful worker participation in corporate governance and decision-making. More broadly, government bailouts to companies should include robust transparency and independent oversight measures to ensure relief and recovery funds are reaching those who need it most.

- 3) **Discourage corporate payouts to shareholders and executives at the expense of workers.** Governments should take steps to discourage, disincentivize, and/or prohibit corporations from paying dividends (and prohibiting passing disincentives on to recipients), increasing executive compensation (for example, through pay raises, cash and other bonuses, or stock-based compensation), and engaging in share buy-back activities during the pandemic. At a minimum, governments should condition receipt of government aid through corporate bailouts on suspending these payments and share buy-backs.

Worker Protections

- 4) **Enforce labor protections to protect workers' rights.** Governments need to protect the rights of workers during this crisis by continuing to enforce labor and employment laws and regulations, including those related to wages, occupational health and safety, discrimination, and the right to organize and bargain collectively, among others. To this end, governments should make sure that sufficient resources are allocated to government bodies tasked with monitoring and enforcement, and companies that violate labor laws and regulations should be held accountable.

- 5) **Ensure companies honor collective bargaining agreements.** Governments should ensure that companies honor union and collective bargaining agreements (CBAs) and governments should incentivize and encourage companies to use union relationships to engage with workers to best understand worker needs when designing response plans and processes.

- 6) **Ensure that companies keep essential workers safe.** Governments should ensure that companies keep essential workers (both public-facing and non-public facing) safe during the pandemic. Specifically, governments should ensure that companies are: 1) providing adequate

personal protective equipment; 2) facilitating physical distancing in the workplace; 3) providing training on how to mitigate exposure to the virus; and 4) cleaning and disinfecting facilities after confirmed exposure to Covid-19. Additional health and safety requirements tailored to address risks associated with specific types of work (e.g., health care) should also be developed and enforced.

- 7) **Ensure workers have key benefits.** In addition to meeting Covid-19-specific health and safety standards, governments should ensure that workers: 1) have access to benefits including paid sick and family leave and support for childcare; 2) are paid a living wage, with additional premium pay where appropriate; 3) have access to safe and affordable childcare during the crisis while schools are closed; and 4) have the ability to join a union.

- 8) **Incentivize and encourage companies to maintain employment.** Governments should incentivize and encourage companies to take every practicable measure to avoid major layoffs and retain as many of their employees as possible, and continue payment of wages or benefits, especially those necessary for accessing healthcare.

Supply Chains

- 9) **Ensure companies address impacts on workers in their supply chains.** Governments should take steps to encourage, incentivize, and (where possible and appropriate) require companies to identify and address the risks and negative impacts of their responses to Covid-19 on workers and other stakeholders across their value chains and through their business relationships. Specifically, governments should ensure that companies take the following steps:

Honor existing contracts and make on-time payments. Governments should encourage companies to work to avoid upstream worker layoffs and supplier closures. At a minimum this should include honoring existing contracts companies have signed with suppliers, particularly where work has already commenced or been completed, and ensuring payments are made on-time and in line with agreed upon terms.

Mitigate impacts of canceling orders. Governments should ensure companies that have no other option than to disengage or cancel orders take steps to mitigate the negative human rights impacts of that decision. For example, this could include working with suppliers to provide ongoing compensation to workers for the duration of the period of unemployment.

Protect against exploitation in continued production. Governments should ensure companies protect workers in their value chains if production continues. If companies continue production, they should work with suppliers to ensure that adequate safety measures are put in place to protect workers from Covid-19, and that workers have access

to paid medical and family leave and support for childcare. Further, if companies are increasing production to meet rising demand for their goods as a result of the pandemic, they should ensure that this expedited production does not cause or contribute to worker abuses such as unpaid or forced overtime.

Public Disclosure & Transparency

- 10) **Publicly disclose information about government measures to combat Covid-19.** Governments should clearly communicate to the public, in a transparent and timely manner, information related to the government's response to Covid-19 (for example, information about budgetary funds and how they are being spent). This should include information about the measures the government is taking to meet its duty to protect against human rights abuses by business enterprises in the context of Covid-19. Additionally, governments should conduct consultations and enable public participation in decision making about emergency measures and other government responses to Covid-19.

- 11) **Call for increased corporate transparency.** Governments should take steps to encourage, incentivize, and (where possible and appropriate) require companies to: 1) disclose supplier lists; 2) identify and disclose information about salient human rights risks that have newly arisen or may arise as a result of the global pandemic, and 3) provide information about steps the company has taken to prevent those risks as well as steps the company has taken to address any actual human rights impacts.

State-Business Nexus

- 12) **Address human rights risks and impacts in government supply chains.** Governments should assess and address changes to or increases in risks of human rights abuses and environmental harm in public sector supply chains that may result from the sudden need to procure large volumes of specific goods (such as medical gloves and other medical supplies) to respond to Covid-19.

- 13) **Exercise adequate oversight of private companies involved in government efforts to combat the spread of Covid-19 through digital surveillance.** Government use of surveillance technology to fight the spread of Covid-19 comes along with significant human rights concerns. In addition to ensuring that any government discussion around and actual use of digital surveillance activities meet strict human rights related criteria, if private companies are to be involved in these activities governments also need to ensure that personal data that is collected is *not* used for any commercial purposes, and should protect against human rights abuses by those business actors. For example, governments should: 1) ensure that companies involved in government tracking and surveillance efforts conduct effective human rights due diligence; and 2) ensure that sufficient firewalls exist to separate the companies' work with the government from the companies' other business and commercial interests.

- 14) **Prioritize human rights and health protections in private prisons and immigrant detention facilities.** Governments should ensure that the human rights (including the right to health) of individuals held in prisons and immigrant detention facilities, including those run by private companies, are upheld. This includes, for example, ensuring that individuals in these facilities have access to essential services, clean water, personal hygiene products (including soap and sanitizer), medical care, and psychological support. Specifically, governments should: 1) lay out clear standards related to Covid-19 protection that private detention companies must meet to protect prisoners and detainees, 2) require contractors to develop compliance plans for meeting those standards, and 3) ensure relevant government bodies have adequate resources to engage in effective monitoring activities. When private companies do not respect the human rights of the individuals detained within their facilities, governments should act swiftly to hold those companies accountable. Where facilities cannot meet these standards and ensure safe social distancing, governments should release vulnerable and low-risk detainees, including those in pre-trial detention for nonviolent or less offenses, or whose continued detention is similarly unnecessary or unjustified.

Support for At-Risk Populations

- 15) **Acknowledge and address the disproportionate impact of the pandemic on marginalized groups.** Certain groups in society face distinct and/or increased risks of having their rights negatively impacted in the context of Covid-19. In particular, this includes groups that are already marginalized or excluded in society, such as Indigenous Peoples, women, minorities, people who are homeless, migrants and refugees, older people, people with disabilities, and people deprived of their liberty. The UNGPs explicitly state that the principles should be implemented in a non-discriminatory manner, with particular attention given to the rights and needs of individuals from such groups. In line with this, all measures adopted by governments to tackle the Covid-19 pandemic, including measures that relate to protecting against business related human rights abuses, should take into account and address the higher risks faced by these groups.
- 16) **Provide additional protections for human rights defenders.** In addition to addressing the trend of governments using the Covid-19 pandemic as a pretext for closing civil space, governments must also address the reality that some corporations are taking advantage of the pandemic to silence their critics. With governments focused on combatting the spread of Covid-19, those standing up for their rights or speaking out against corporate activities or harms are even more vulnerable than usual to threats, harassment, and attacks. Governments should emphasize that the role of a free civil society is as important as ever, dedicate resources to addressing this increased risk, and protect those who speak out against corporate abuse, both domestically and abroad.

Essential Goods and Services

- 17) **Address corporate profiteering.** Governments should take steps to identify, prevent, and address corporate profiteering, including through price gouging, during the pandemic. While many industries have been profoundly negatively affected by the pandemic, some companies, such as those that produce essential household products and medical supplies, have seen a large increase in demand for their goods. This presents an opportunity to unjustly profit during the pandemic by setting exorbitantly high prices (“price gouging”) for in-demand goods. This practice can significantly limit access to much needed essential goods, and disproportionately affects more vulnerable communities. To protect against this, governments should take steps to identify and address attempts to profiteer during the pandemic through price gouging and similar practices.
- 18) **Implement heightened consumer protections.** Governments should ensure that access to essential needs, like housing, food, water, electricity, transportation, and medical care, are not threatened when people cannot afford to pay their bills. Governments should restrict companies and banks from carrying out evictions, foreclosures, utility-shut offs, repossessions, debt collection, and wage and bank account garnishment during the crisis and for several months after to allow for people to secure income.
- 19) **Ensure individuals have reliable and unfettered access to the internet.** As shutdowns cause education, work, and public information on Covid-19 to go online, governments should work with internet service providers to ensure that individuals, particularly those with low incomes, have access to the internet during the pandemic. This could include: 1) halting application of late payment fees; 2) halting service cut-offs for late or missed payments; 3) and increasing overall accessibility and affordability of internet services. Provisions should also be put in place that workers, students, and others who do not have reliable internet access are not penalized by their schools or workplaces.
- 20) **Ensure Covid-19 tests and treatments are available, affordable, and accessible, and that any successful vaccine is provided for free.** Governments must ensure that Covid-19 tests as well as any treatments or vaccines developed for Covid-19 are available and accessible to all. Specifically, governments need to ensure that any successful vaccines that protect against Covid-19 are provided to everyone free of cost, and that Covid-19 tests and treatment are affordable for everyone. In light of this, governments should ensure that pharmaceutical companies and other corporate actors that stand to benefit financially from Covid-19 related health care are not able to take advantage of the pandemic by setting exorbitantly high prices. Examples of measures governments could take in this regard include: 1) suspending or overriding patents; 2) implementing price controls; and 3) incentivizing or directing companies to

shift-production to produce health related goods such as PPE, ventilators, medicines, and Covid-19 tests.

International Coordination

- 21) Ensure multilateral institutions that deal with business-related issues do their part.** Governments should actively support and participate in the efforts of relevant multilateral to address business related human rights risks and impacts connected to the Covid-19 crisis. For example, governments should work through these bodies to provide practical guidance to companies on how to meet their responsibility to respect human rights in the context of the Covid-19 crisis and should support the development of relevant international standards (e.g., a new ILO instrument on protecting workers from biological hazards).
- 22) Ensure development finance institutions respect human rights in their response to Covid-19.** Development finance institutions (DFIs), including multilateral development banks, are committing billions of dollars to combat the Covid-19 crisis. As owners and shareholders of DFIs, governments need to ensure that DFIs are acting responsibly in the implementation of all projects so that these projects do not end up harming the communities that they are intended to benefit. Although the Covid-19 crisis requires a rapid response, DFIs should not forgo obligations for robust due diligence, transparency, community consultation, and accountability.

Access to Remedy

- 23) Ensure effective access to remedy for Covid-19 related human rights abuses.** Governments need to ensure that individuals, including workers and their families, have access to effective remedy for government or business failures to take adequate measures to prevent harm related to the Covid-19 crisis. Governments should identify and address legal, practical, and other relevant barriers that could lead to a denial of access to remedy, with a particular focus on how Covid-19 may have exacerbated pre-existing barriers and given rise to new barriers.

This pandemic has laid bare a reality that our organizations work to highlight every day: societies cannot thrive when our most at-risk groups are exploited. We urge governments to recognize how our economies and systems of government are broken, and to work to rebuild those structures to protect human dignity, promote corporate accountability, and ensure that governments are free from corruption and corporate influence. As long as public actors and private entities prioritize profit maximization over sustainable ecosystems and the rights of individuals and communities, large segments of our society will be left behind.

The current crisis provides an opportunity to transition to a more just economy and social order, guided by the principles of participation, human and environmental rights, and democratic governance. This involves, among other things, promoting forms of business governance that center workers and communities and committing to a social purpose that considers the wellbeing of all stakeholders and maximizes social good, and adhering to international human rights principles, such as the [UN Guiding](#)

[Principles on Business and Human Rights](#), the [OECD Guidelines for Multinational Enterprises](#), and the [Paris Agreement](#).

Going back to business as usual after Covid-19 is not an option. As a community of business and human rights and corporate accountability organizations, we call upon governments to act immediately upon the recommendations above and to their part as we work to rebuild from this pandemic.

Sincerely,