

MAKING RIGHTS-RESPECTING BUSINESS DECISIONS IN A COVID-19 WORLD

May 2020

Everywhere, human rights are at risk from the impacts of **COVID-19**. People around the world fear for their **life** and **health, livelihoods**, civil **liberties** and **privacy**, to name just a few issues. At the same time, many businesses are facing **existential threats**, as they seek to survive or adapt to a new and unprecedented reality. As they make painful decisions, companies need to bring precision thinking to how their choices will **impact the lives of people** that work for, depend on, or are otherwise connected to their business.

With extensive reports, opinion pieces and guidance available, our aim at Shift is to provide companies with a set of practical and immediately applicable approaches to better understand rising human rights risks related to the pandemic and how to make rights-respecting business decisions in response.



BUSINESSES ARE CHANGING. SO ARE THEIR CONNECTIONS TO HUMAN RIGHTS RISKS.

This crisis is affecting different businesses in diverse ways. Many have seen **their sales reduced** to practically zero; offices, factories and retail sites are shut to workers and customers. Others are experiencing a radical **increase in demand** for life-saving and essential products, technology solutions and services. And many more are needing to rethink their business models, looking at how they can adapt to their new environment. At the same time, businesses are affecting people in equally diverse, and potentially severe, ways.

There is no simple list of ‘COVID-related human rights issues’ that will apply to all companies. Instead, assessments need to be tailored to the new reality of each business. The Annex at the end of this article provides a non-exhaustive list of impacts to help you get started.

MAKING RIGHTS-RESPECTING DECISIONS: FIVE PRACTICAL APPROACHES.

Faced with an array of human rights risks, companies need ways to focus their approach on the fundamentals of rights-

respecting business practice. Some are already committed to doing so in line with the **UN Guiding Principles on Business and Human Rights**. For those who have not yet recognized their responsibility, focusing on respect for people in their decision-making will serve them well as workers, consumers, investors and regulators assess which companies have handled these severe risks to people more or less well. The following are five practical approaches to incorporate into the difficult decisions that need to be made:

1 APPLY THE LENS OF VULNERABILITY TO PRIORITIZE ACTION



While the impacts of COVID-19 are greatly varied, one common feature is that those who are most at risk are in some way vulnerable to human rights impacts – whether they are a migrant worker, on a temporary or precarious contract, elderly, or suffering from existing health conditions. One clear distinguishing factor among businesses that are more likely to get their response right is **they focus first on the most vulnerable people** connected to their business, whether they are in the office next door or several tiers along their supply chain.

For companies that are already working to implement the UN Guiding Principles, ➡➡

this clear-eyed focus should not be new. We see it in company decisions to freeze payments due from hard-hit, family-run business customers. And we see it where companies not only maintain, but speed up payments to existing SME suppliers, improving the likelihood in both cases that workers can continue to be paid and their rights respected. In a growing number of cases, these decisions are explicitly framed as being about supporting “the most vulnerable”.

2

INVOLVE RELEVANT STAKEHOLDERS IN CRITICAL DECISION-MAKING PROCESSES



The companies that are developing the best informed responses to COVID tend to be those that have relationships with organizations that represent the views and experiences of affected people, and who involve those organizations - particularly trade unions - as they make decisions about how to respond to the virus.

Even when they lack those kinds of in-depth partnerships, companies can still try to **see impacts and issues through the eyes of people who might be harmed**. A manager might decide that staff should feel safe coming back to work, but what really matters is whether they feel safe themselves – and if not, what might help them to feel so.

3

USE LEVERAGE WITH GOVERNMENTS ON POLICY RESPONSES



The role of the state is central to the COVID-19 response and the right policies are critical to mitigate its worst effects. One much-needed use of a company's leverage is often to **advocate with governments** – both at home and in sourcing markets – to embed human rights into their own responses. This should include:

- Engaging with the state about addressing the immediate health and financial needs of workers – including establishing clarity on who is deemed “essential” and how to best protect them while dialing up necessary production – as well as the **safety net** that should be in place to support all workers over the longer-term;
- Helping states understand how the government's own procurement decisions can impact workers' ability to work safely in specific supply chains; and
- Providing a clear message that this moment is not an opportunity to enhance repression, surveillance or sweeping invasions of privacy. ➡

4

COMMUNICATING
CLEARLY ABOUT
YOUR ACTIONS

This crisis shows that what we would have imagined impossible only weeks ago, can actually happen. Some CEOs are taking pay cuts in solidarity with the rest of their workforce; responsible companies are continuing to accept goods from suppliers that are already in production and sticking to their existing contract terms; businesses are ruling out structural layoffs across all operations, and individual banks are deferring all payments on loans from SMEs for 6 months. It is essential that companies publicly share these actions - not for the positive PR but because it demonstrates the scope of what is possible and changes the standard to which other businesses are held as well.



Communicating publicly is particularly important when there are severe risks to people involved, and it is likely that trade-offs will have to be made. Businesses can **demonstrate maturity** on human rights by being transparent about these difficult choices, rather than focusing only on their positive contributions, or “social impact” activities, in their public communication.

5

HAVE HONEST
DISCUSSIONS ABOUT
RISKS THAT ARE BAKED
INTO THE BUSINESS
MODEL

Much has rightly been made of companies re-purposing products and supply chains to support the effort against COVID-19. These actions are certainly laudable, yet peripheral to their long-term business model. These kinds of **positive impacts will be short-lived** without consideration of the negative impacts often baked into a company’s way of doing business, and which this crisis is serving to expose and exacerbate.

- The commitments made to temporarily provide healthcare and benefits to contract or ‘self-employed’ workers only exposes their innate vulnerability to economic shocks. They also reveal a company’s dependence on a workforce model that typically **prioritizes cost over the health and well-being of the people** doing their jobs day in day out. ➡➡

- The critical decision by some companies to honor payments to suppliers who have already paid for raw materials and whose workers are on low pay without benefits, underlines the reality that just-in-time supply chains frequently **push significant risk onto suppliers** in countries with weak labor protections.
- That tech companies and mobile operators in some jurisdictions are committed to maintaining privacy while providing anonymous location data to inform social distancing policies, also highlights their **inability to protect privacy** in the same way in authoritarian countries where they continue to do business.

All companies, including those that have made striking short-term commitments to ease the immediate impacts of COVID-19, should take the time to also consider how such vulnerabilities became so ingrained in their business models in the first place and what they can do to change that going forwards.

While this is certainly the most challenging of the approaches we outline here, it is also the one that will make the biggest contribution to reduced vulnerability and inequality in the world we need to re-build. And with regulators, investors and civil society increasingly focused on ‘building back better’, and the changes in business models that will require, this will in turn be a growing factor in companies’ own

sustainability in a post-COVID world.

ABOUT SHIFT

Shift is the leading center of expertise on the UN Guiding Principles on Business and Human Rights. Shift’s global team of experts works across all continents and sectors to challenge assumptions, push boundaries, and redefine corporate practice, in order to build a world where business gets done with respect for people’s dignity. We are a non-profit, mission-driven organization, headquartered in New York City.

Visit shiftproject.org and follow us at on Twitter [@shiftproject](https://twitter.com/shiftproject).



Businesses are changing. So are their connections to human rights risks.

As companies face the global pandemic, they need to assess how their new reality changes the **human rights risks connected to their business**. There is no single way to identify **COVID-19 impacts**. Rather, businesses need to tailor their assessments to their context, industry and value chains. Here are a few issues to get the conversation started.



HEALTH & SAFETY



- Some workers may be exposed to **unsafe conditions**, leading to possible **infection** and even **loss of life**
- **Contractors** (cleaners, catering staff, security guards and other non-direct employees) have **less protections** and thus, are particularly vulnerable
- **Workers** and their families may be facing **mental health issues** such as stress and anxiety due to isolation, uncertainty and financial insecurity
- Women, children and sexual minorities are at increased risk of facing **domestic violence** and/or threats in lockdown situations

CHANGES IN DEMAND

WHEN IT DROPS...

- Severe risk to **jobs** and **livelihoods**
- Low-paid, **temporary workers** and **contractors** may not have access to **sick leave and benefits**
- Small business may face **liquidity challenges** that increase the risk for their employees
- **Cancelled, reduced orders** and the exercise of *force majeure* clauses, put workers in the supply chain at risk
- Support from the government may not be enough to prevent workers from being pushed into **poverty**
- School closures may increase the risk of **child labor**

- Requests to **ramp up production** in order to meet market demand (i.e. essential products) can put pressure on suppliers, leading to **illegal sub-contracting, excessive working hours, forced labor** and severe health and safety **incidents**
- When expanding production rapidly, existing **standards of due diligence** are often not sustained
- **Frontline workers** in retail, their suppliers, distribution centers and in logistics, among others, now face enhanced health and safety risks
- Some **consumers** who are most in need of essential products may not be able to access them

...AND WHEN IT SURGES

INCREASED VULNERABILITY

- **For minorities and journalists**, as governments impose extraordinary measures that allow them to track infection, but also disproportionately curtail rights and invade privacy
- **For LGBT people**, as the pandemic provides cover to increase arrests, roll back protections or use diverted public attention to pass anti-LGBT laws
- **For human rights defenders**, in contexts where governments are using the crisis to gather personal data and persecute them, or failing to apply security protocols that would protect them from armed groups
- **For migrants**, including those in cramped living conditions or with limited access to healthcare or social security. Some may already be in situations of forced labor; others may be at risk of detention or deportation. All are likely facing income insecurity that may exacerbate the impact on the livelihoods of their families