

Joint Committee on Human Rights inquiry on the human rights implications of the Government's response to COVID-19

Submission from: CORE Coalition; Amnesty International UK; Anti-Slavery International; CAFOD; UNISON; Forest Peoples Programme; Traidcraft Exchange; Dalit Solidarity Network UK; ABColumbia; Andrew Lees Trust; Homeworkers Worldwide UK; Fashion Roundtable; Labour Behind the Label.

22 July 2020

Summary

1. This response focuses on (1) the human rights risks arising from corporate activity during the coronavirus pandemic and gaps in measures taken by the Government in response; (2) measures that should be taken by the Government to ensure that pandemic responses protect human rights from harmful business activity.

Introduction

2. The need for well regulated supply chains has been made more evident by the COVID-19 pandemic. It has exposed structural injustices in our society and economy and the burden of risk carried by workers globally in supply chains.¹ All too often, businesses evade accountability for their human rights impacts by transferring their legal obligations to other parties.
3. Voluntary initiatives have failed, and in the absence of strong laws corporate competitive dynamics continue to perpetuate a 'race to the bottom'. The drawbacks of corporate requirements with weak enforcement measures, such as the transparency requirement in the UK's Modern Slavery Act, are well documented.²
4. The UK government must ensure its responses to the pandemic are grounded in its international obligations to protect against human rights abuses by business enterprises, and its commitments under the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.³

Human rights risks arising from corporate activity during the coronavirus pandemic and the gaps in measures taken by the Government in response

5. The continued power imbalances in global supply chains have pushed the impacts of the pandemic onto smaller suppliers and workers. Fashion brands responded to the crisis by cancelling orders and stopping payments for orders, destroying the livelihoods of millions of underpaid garment factory workers in countries like Bangladesh and Cambodia, where there is no adequate social security safety net.⁴

¹ For further detail see: <https://www.business-humanrights.org/en/covid-19-coronavirus-outbreak>

² See, for instance, recent findings from the UK's largest modern slavery case: <https://news.trust.org/item/20200616134021-hx9jn> and examples listed here: <https://www.business-humanrights.org/en/mandatory-human-rights-due-diligence-in-the-uk-to-be-or-not-to-be>

³ See https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf and <http://www.oecd.org/daf/inv/mne/48004323.pdf>.

⁴ Traidcraft Exchange, *Bailing out the supply chain - Covid-19 and the impact for workers in supply chains*, April 2020:

6. Investors are implicated in human rights abuses during the COVID-19 pandemic. An example is the £12million Standard Life Aberdeen investment in Chilean company GeoPark, which was accused of endangering the existence of indigenous people in the Peruvian Amazon by sending workers into the territories during lockdown and has now ceased its operations in the region.⁵
7. The pandemic has highlighted the risks of human rights abuses in public sector supply chains. State contracts worth over £1bn have been awarded to private companies dealing with the coronavirus pandemic without competitive tendering.⁶ This backwards step on responsible procurement has serious implications, such as for exploited foreign workers producing gloves for the NHS in Malaysian factories.⁷
8. The past decade has seen numerous reports detailing abusive working conditions in the UK garment sector, with a recent exposé revealing numerous breaches of COVID-19 guidelines and furlough fraud, ongoing exploitation of vulnerable workers and modern slavery in Leicester factories. Action is necessary to curb abusive purchasing practices by brands such as Boohoo, whose shareholders have profited from a surge in online sales of low-cost, 'fast fashion' products during the pandemic.⁸
9. Economic strain and increased unemployment caused by the crisis will likely deepen the risk of labour exploitation and modern slavery faced by vulnerable workers – including migrants – in other sectors, such as agriculture.⁹ More generally, COVID-19 is likely to exacerbate exploitative working conditions, low wages, lack of income security and lack of statutory sick pay already faced by workers in the 'gig economy'.¹⁰
10. Women, children and primary carers are at heightened risk and are inadequately protected from long-term pandemic impacts. Women are more likely to lose their jobs than men as they are often in temporary or informal employment. Parents and carers are juggling work and care commitments with managing their own wellbeing. A recent UNICEF and ILO briefing warns of the risk of a rise in child labour globally as a result of the pandemic.¹¹
11. The Government must ensure that responses to the pandemic uphold commitments to protect human rights *and* the environment. The right to a safe, healthy and sustainable

<https://traidcraftexchange.org/policy-resources/2020/4/6/bailing-out-the-supply-chain-covid-19-and-the-impact-for-workers-in-supply-chains>

⁵ <https://www.sundaypost.com/fp/threatened-people-of-the-amazon-urge-scots-to-pull-millions-from-oil-company-accused-over-lockdown/>

⁶ <https://www.theguardian.com/world/2020/may/15/firms-given-1bn-of-state-contracts-without-tender-in-covid-19-crisis>

⁷ Leigh Day, *Forced labour in Malaysian factories producing medical gloves for the UK*, July 2020: <https://www.leighday.co.uk/Blog/July-2020/Forced-labour-in-Malaysian-factories-producing-med>

⁸ Labour Behind the Label, *Boohoo & COVID-19: The people behind the profit*, June 2020: <https://labourbehindthelabel.org/report-boohoo-covid-19-the-people-behind-the-profit/>

⁹ FLEX, *A Closer Eye: Time for Meaningful Scrutiny in the Agriculture Sector*, May 2020: <https://www.labourexploitation.org/news/closer-eye-time-meaningful-scrutiny-agriculture-sector>

¹⁰ FLEX, *No Worker Left Behind: How might the COVID-19 pandemic impact worker exploitation?*, April 2020: <https://www.labourexploitation.org/news/new-briefing-no-worker-left-behind-how-might-covid-19-pandemic-impact-worker-exploitation>

¹¹ International Labour Organisation (ILO) and UNICEF, *COVID-19 and child labour*, June 2020: <https://www.unicef.org/reports/covid-19-and-child-labour-2020>

environment is essential to the fulfilment of the rights to life, food, health, water, housing, decent work, and other social and cultural rights, and vice-versa.¹²

Recommendations to ensure human rights are protected in the Government's response

A corporate duty to prevent negative human rights and environmental impacts

12. To help to curb abusive purchasing practices by UK companies, the Government must introduce a corporate duty to prevent human rights and environmental abuses, modelled on the duties to prevent tax evasion and bribery found in the Criminal Finances Act 2017 and the Bribery Act 2010. This would create a legal requirement for commercial organisations and public sector bodies to conduct human rights and environmental due diligence, with liability provisions.¹³ The EU's plan to introduce due diligence legislation in 2021 – which could apply to all businesses operating in the EU in addition to those domiciled there – builds on a domestic and international, legal and political consensus on this issue.¹⁴ Such legislation would ensure better identification and responses to human rights and environmental harms past, present and future.¹⁵
13. The inclusion of a proposed amendment to the upcoming Environment Bill – new clause five, requiring the government to bring forward legislation on 'environmental and human rights due diligence' within six months of the Bill receiving Royal Assent – is a vital step towards this legislation.¹⁶

Public sector supply chains

14. The Government must introduce additional measures to assess and address changes to, or increases in, risks of human rights harm in public sector supply chains that may have resulted from its pandemic responses. In particular, we would like to see 'social value' requirements prioritised in public tenders and labour standards compliance by suppliers more effectively monitored. The Government should ensure human rights and health protections in institutions run by private companies, including care facilities, prisons and immigrant detention facilities.

Corporate governance reform

¹² The interdependence of human rights and the environment was recognised in the recommendations of the Global Resource Initiative (GRI) taskforce final report, February 2020: <https://www.gov.uk/government/publications/global-resource-initiative-taskforce>

¹³ CORE Coalition *et al.*, *Proposed UK Corporate Duty to Prevent Adverse Human Rights and Environmental Impacts: Principal Elements*, March 2020: https://corporate-responsibility.org/wp-content/uploads/2020/04/Duty-to-prevent-principal-elements_FINAL.pdf.

¹⁴ See, for instance, British Institute of International and Comparative Law, *A UK Failure to Prevent Mechanism for Corporate Human Rights Harms*, February 2020: <https://www.biicl.org/publications/a-uk-failure-to-prevent-mechanism-for-corporate-human-rights-harms> and Joint Committee on Human Rights, *Human Rights and Business 2017: Promoting responsibility and ensuring accountability*, 2017, s.193: <https://www.parliament.uk/business/committees/committees-a-z/joint-select/human-rightscommittee/inquiries/parliament-2015/inquiry/>.

¹⁵ European Coalition for Corporate Justice, *From Impossible to Inevitable: Corporate justice in times of COVID-19*, April 2020: <https://corporatejustice.org/eccj-publications/16805-from-impossible-to-inevitable-corporate-justice-in-times-of-covid-19>

¹⁶ CORE Coalition *et al.*, *Briefing on the Environment Bill - amendment NC5 on due diligence legislation*, July 2020: https://corporate-responsibility.org/wp-content/uploads/2020/07/CORE-Briefing_Environment-Bill_FINAL_070720.pdf

15. Legislation to enhance accountability for companies' human rights impacts (see 12.) must be coupled with a rebalancing of corporate governance away from a singular focus on shareholder interests and towards a stakeholder model elevating human rights and environmental protection.¹⁷ Steps should immediately be taken to prohibit corporations from making excessive pay-outs to shareholders and executives.

Stimulus packages

16. Stimulus packages must prioritise those most at risk from the social and economic impacts of the crisis. Bailouts should come with clear, transparent, and enforceable conditions, including 1) payment of the living wage to all workers; 2) honouring contracts with all suppliers; 3) worker representation on boards and full trade union recognition; 4) a moratorium on dividend payments, increases to executive pay and share buyback schemes; 5) fair tax practices, including avoidance of tax havens; and 6) a time-bound action plan to achieve net-zero carbon emissions. Where there is evidence that a company has undermined good industrial relations practices, its financial support should be reviewed.

Labour protections

17. The Government must address UK labour law breaches and gaps, and ensure COVID-19 protections for workers. This should include (1) ensuring the provision of adequate personal protective equipment and other necessary protections required for high-risk work; (2) ensuring remedy, including payment of unpaid wages, is provided to those who have been the victims of exploitation and lack of COVID-19 protections in the workplace; (3) ensuring the right to organise and bargain collectively is protected and upheld throughout the crisis and response; and (4) introducing secure reporting of abuses, independent of employers, which do not impact workers' immigration status.
18. Proposals for enhancing labour market inspection and enforcement – including the creation of a single enforcement body for employment rights – are welcome only if they include improved resourcing to address all breaches of labour law and health and safety, and create a firewall between labour enforcement bodies and the Home Office's immigration control function.¹⁸ The Government should also heed calls to extend joint liability laws in to ensure that 'parent companies' are accountable and responsible for maintaining labour law standards in their supply chains.¹⁹
19. The crisis has demonstrated that more flexibility in the workplace is possible and necessary. The Government should review legislation to ensure flexible working as a day one right.

¹⁷ Recent calls for corporate governance reform have come from the Business Roundtable (a US association of leading chief executives); the UK's Financial Times: <https://www.ft.com/content/8b282346-eea3-11e9-85f4-d00e5018f061>; and the British Academy's Future of the Corporation project: <https://www.thebritishacademy.ac.uk/programmes/future-of-the-corporation/>

¹⁸ The criminalisation of illegal working under the Immigration Act 2016 deters people coming forward and means exploitative employers can use the state as a threat, undermining safe reporting.

¹⁹ See calls by the former Director of Labour Market Enforcement: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705503/labour-market-enforcement-strategy-2018-2019-full-report.pdf and civil society organisations (in response to the Government's Consultation on a Single Enforcement Body for employment rights): https://corporate-responsibility.org/wp-content/uploads/2019/10/CORE-and-partners-response-to-SEB-consultation_FINAL_041019.pdf

Trade and investment policies

20. While not representing a response to the pandemic, the Government's ongoing pursuit of trade deals during the pandemic and without a Trade Bill offering full democratic scrutiny of trade and investment agreements by Parliament raises severe concerns for the future impacts on human rights. There must be full scrutiny of trade agreements by Parliament; alongside a termination of Investor-State Dispute Settlement (ISDS) clauses and Bilateral Investment Treaties the UK is party to in order to guarantee the Government retains its right to regulate – to protect human rights and address future crises.

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