

# From impossible to inevitable: corporate justice in times of COVID-19

The need for supply chain due diligence and conditions on corporate bailouts

*The COVID-19 crisis has laid bare the dire need for better regulating economic globalization to protect human rights and the environment and to **strengthen the sustainability of global value chains**, an objective to which the Council has officially committed the EU.<sup>1</sup>*

*A truly robust and sustainable economic recovery must be based on internationally agreed standards for responsible business conduct and human rights and environmental due diligence,<sup>2</sup> which are essential to preventing and reacting to future global crises.*

## 1) Unsustainable global business conduct has been linked to the outbreak of pandemics.

Although the exact origin of the current pandemic still requires further study, research continues to affirm a worrying link between **zoonotic diseases, such as COVID-19, and deforestation, climate change and biodiversity loss.**<sup>34</sup> These environmental impacts, typically business-driven, generate the conditions for viruses and diseases to arise and spread. Rampant deforestation continues to **reduce the natural barriers between wild animals and humans**, increasing the likelihood of virus transmission (e.g., AIDS and Ebola).<sup>567</sup> Modern **agribusiness practices** have likewise been proved to contribute to the emergence of zoonotic diseases (e.g., Mad Cow Disease<sup>8</sup>).<sup>9</sup>

**Global warming is also expected to accelerate the emergence of new viruses<sup>10</sup> and climate change** has already altered and accelerated the transmission patterns of infectious diseases.<sup>1112</sup> Moreover, research has found a **strong correlation between air pollution and higher mortality rates** for coronavirus SARS, illustrating the harmful compound effects of irresponsible business conduct.<sup>13</sup>

Moving forward, businesses must ensure that they are not contributing to the conditions favourable for the outbreak of future diseases or the renewed outbreak of existing ones.

## 2) EU economies are suffering the consequences of unregulated global value chains.

The spread of COVID-19 has led to **the breakdown of global value chains**: first, the sudden closure of factories in China led to a shortage of raw materials; later, the sharp drop in market demand in the EU led to the closure of factories and the mass laying-off of workers in production countries.

This ripple effect has exposed the **lack of preparedness and resilience** of the globalised economy.<sup>1415</sup> Businesses have lost oversight of their **increasingly complex and intertwined** value chains.<sup>16</sup> There is an urgent need for **better overall due diligence, and in particular better supply chain mapping and risk management**, in order to build more resilient global value chains.<sup>17</sup>

## 3) Disregard for global value chains has put vulnerable workers at extreme health and financial risk.<sup>18</sup>

The crisis has had **devastating impacts on millions of value-chain workers**, revealing the human rights risks of cheap global outsourcing<sup>19</sup> and the joint responsibility of States and businesses in addressing those impacts.

Millions of value-chain workers have been laid off without a social safety net.<sup>2021</sup> Brands and retailers are not only cancelling future orders, but also **refusing to pay for already produced goods**, which has left factories unable to pay the wages of desperate production workers.<sup>22</sup>

Where businesses have continued to operate, **health and safety risks have gotten worse for** lower-tier workers, who continue to face unsanitary working conditions and the lack of personal protective equipment (PPE). Workers in essential sectors, such as health, food and transport<sup>23</sup>, risk their lives and endure untold hardship, such as forced labour (e.g., Top Glove Corporation and the production of medical gloves<sup>24</sup>), to produce the essential goods needed to protect the lives of end users.

Despite all this, there are also positive examples of responsible business conduct: companies securing salaries, donating PPE,<sup>25</sup> taking delivery of orders<sup>26</sup> or granting aid to their global suppliers.<sup>2728</sup> It is now time to mainstream such commendable behaviour.

## 4) The lack of corporate accountability has put the rights to food, water and health of EU citizens at risk.

Either directly, **engaging in<sup>29</sup> or facilitating the hoarding of goods<sup>30</sup> or price-gouging<sup>31</sup>**, or indirectly, **disregarding health risks in their global value chains** and worsening employee contagion and, therefore, aggravating the breakdown of supply chains; **some businesses have jeopardised EU citizens' access to basic food and medical supplies**, thus threatening their human rights, as warned by the FAO.<sup>32</sup>

Based on the above, we can conclude that (a) mandatory Human Rights and Environmental Due Diligence (mHRDD) legislation would significantly contribute to preventing and better reacting to future global crises; (b) improved access to remedy for victims of corporate abuse must be ensured, especially in circumstances like these of heroic sacrifice and commitment; and (c) corporate bailouts must be subject to conditions related to the above purposes.

Bringing forth mHRDD legislation with improved access to remedy for victims of corporate malpractice would entail embedding the United Nations Guiding Principles on Business and Human Rights into law.

#### a) Mandatory Human Rights and Environmental Due Diligence to prevent and respond to future crises.

Businesses must identify, prevent, mitigate and account for human rights and environmental abuses across their supply chains and through their business relationships, as part of the overall process of building resilience into currently vulnerable global value chains, and to ensure that they do not contribute to environmental drivers of infectious disease outbreaks.

MHRDD can help prevent against future pandemics by tackling their environment-related causes, and better react to them by detecting and responding to the many human rights challenges in a crisis situation.<sup>33343536</sup>

#### b) Improved access to remedy for victims of corporate abuse.

Access to effective remedy, including judicial remedy, must be ensured for victims of corporate abuse in global value chains, especially workers and communities in the lower tiers, particularly exposed to the kind of health and financial risks stemming from this crisis. EU businesses must be held liable for failing to adequately identify, prevent and mitigate such risks.

Remedy is even more needed under the current circumstances. Frontline workers, all along global value chains, will get sick, if not die, in the course of ongoing essential work. They and their families must have a right to remedy for failures to undertake preventive measures.

#### c) Conditions on corporate bailouts<sup>37</sup> imposing higher responsibility standards.

Most businesses are facing a major shock to their economy and will need bailouts to deal with the impact of COVID-19. However, although support for struggling businesses – especially small enterprises, generally more vulnerable in times of crisis – must be provided, **rescue packages cannot be a blank cheque.**<sup>38</sup> In return for public money, businesses (particularly multinational enterprises) must accept greater social responsibility.<sup>3940</sup>

Conditions, including mHRDD, must be attached<sup>41</sup> to make sure that businesses rescued with public money transition towards an economic model more respectful of human rights and the environment.<sup>4243</sup>

44



→ Read [ECCJ Legal Brief: EU Model Legislation on Corporate Responsibility to Respect Human Rights and the Environment](#)

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