

Teaching Business and Human Rights During the Pandemic

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Keywords: COVID-19, Curriculum, Distance learning, Teacher

‘Observing the [COVID] crisis and its impact through a human rights lens puts a focus on how it is affecting people on the ground, particularly the most vulnerable among us, and what can be done about it now, and in the long term.’ – United Nations¹

I. INTRODUCTION

The novel coronavirus, which has infected more than 32 million people worldwide and killed over 995,000 individuals to date,² affects every dimension of society.

Universities were among the first institutions to cease in-person operations in geographies affected by the COVID-19 pandemic. The *Teaching Business and Human Rights Forum* is a platform for collaboration among individuals teaching business and human rights (BHR) worldwide.³ From the perspective of BHR teachers, the COVID-19 pandemic has changed both how and what we teach. Teachers have scrambled to adapt to online teaching, sought to make sense of the pandemic and its consequences with our students, and experimented with ways to apply a business and human rights lens to the

¶ Conflicts of interest: The authors declare none.

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¹ United Nations, ‘COVID-19 and Human Rights: We Are All in This Together’ (April 2020), https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_human_rights_and_covid_23_april_2020.pdf.

² Data as of 27 September 2020. Johns Hopkins University of Medicine, Coronavirus Resource Center, <https://coronavirus.jhu.edu/map.html>.

³ Founded in 2011 to promote and strengthen business and human rights education worldwide, the *Teaching Business and Human Rights Forum* (TeachBHR.org) connects more than 350 members teaching business and human rights at some 200 institutions in 45 countries. *Teaching Forum* initiatives include a Discussion Board, a Syllabi Bank, multidisciplinary Teaching Workshops, and the online Teaching Business and Human Rights Handbook (BHRHandbook.org).

pandemic in our (now predominantly virtual) classrooms. This piece identifies some of the challenges facing BHR teachers, suggests how teachers can integrate the pandemic into BHR curricula, and reflects on lessons for BHR teachers, students and practitioners moving forward.

II. CHALLENGES OF TEACHING DURING THE COVID-19 PANDEMIC

Many BHR teachers made the abrupt transition from in-person to online teaching in March 2020 as universities worldwide took steps to respond to the global COVID-19 pandemic declared by the World Health Organization. Teaching remotely was an entirely novel experience for many *Teaching Forum* members.

The sudden impact of the pandemic on BHR teachers inspired *Teaching Forum* Co-Director Meg Roggensack to convene a weekly conference call for teachers to share their experiences and support one another. Since 17 March, ‘Teaching in the Time of Coronavirus’ has become a regular space for *Teaching Forum* members to discuss the challenges and opportunities of teaching during the pandemic, and a source of social connection. Participants have included individuals teaching in Europe, North America, Latin America and Asia.

Common challenges identified by BHR teachers include:

- Adapting BHR courses to online teaching;
- Identifying teaching resources; and
- Addressing the pandemic in the classroom.

Early sessions covered the basics – adapting courses to a virtual learning format, best practices for student participation online, and sharing practical information about the various online teaching platforms. Practical issues discussed in the group included the relative merits of synchronous and asynchronous teaching; the use of videos, presentations, and other visual aids; and the value of guest speakers.

In one weekly call, participants invited BHR students to share with teachers the student perspective on the strengths and weaknesses of online BHR teaching. Key student recommendations included: demonstrating enthusiasm; varying teaching formats among lectures, exercises, videos and student discussions; taking advantage of online platform features, such as breakout rooms; creating online spaces for students to interact and connect with one another; and thinking flexibly about expectations for student assignments and evaluation. Breaking up online classes into shorter segments of no more than 20 minutes is best practice, as is using segments for different formats: plenary, breakout, watching a video, etc. or to change topic.

To help teachers respond to pandemic-related challenges, the *Teaching Forum* has assembled a list of resources for teaching remotely;⁴ solicited volunteers among *Forum*

⁴ *Teaching Business and Human Rights Forum*, ‘Teaching Remotely’, <https://teachbhr.org/resources/teaching-remotely/>.

members to form a speaker roster for BHR courses to bring the field's challenges to life in our classrooms; crowd-sourced a list of teaching resources for applying a human rights lens to the COVID-19 pandemic;⁵ and published a teaching note on 'Human Rights and the COVID-19 Pandemic'.⁶ The *Forum's* Syllabi Bank, a longstanding resource for teachers, now includes syllabi of online BHR courses. The *Forum's* Discussion Board communicates highlights of the calls, and other important pandemic-related teaching developments, to all *Forum* members.

The *Forum* is also convening online events on specific topics, and opening these to a wider audience of practitioners as well as teachers. A May 2020 webinar featuring key experts on the French Law on the Corporate Duty of Vigilance attracted over 300 attendees globally. A June 2020 *Forum* webinar examined how companies are responding to COVID, with a focus on the apparel and footwear sector.

III. APPLYING A BUSINESS AND HUMAN RIGHTS LENS TO THE COVID-19 PANDEMIC IN THE CLASSROOM

The pandemic presents an opportunity for teachers to apply a business and human rights lens to the impacts of COVID-19. Teachers are using the pandemic to highlight the relevance of human rights to business operations and illuminate how international human rights standards, including the UN Guiding Principles on Business and Human Rights (UNGPs),⁷ can guide business enterprises as they address new challenges presented by the pandemic. Students are critically assessing corporate pandemic responses to better understand the business practices available to manage human rights impacts. Considering the role of the private sector in pandemic response allows teachers to examine the respective responsibilities of government and business enterprises. Analysing COVID-19 provides an opportunity for students to use specific tools and apply a BHR lens to make sense of a phenomenon that is dominating the news and has disrupted the lives of many, if not all of them.

A. BHR Teaching Approaches to COVID-19

BHR approaches to COVID-19 can be taught as a discrete module or integrated throughout an existing BHR course. Teachers may focus closely on one rights dimension of the pandemic, such as its impact on the right to health, or broadly on the full range of rights affected by the pandemic. When considering the rights-compatibility

⁵ 'Teaching Resources: Human Rights and the COVID-19 Pandemic', *Teaching Business and Human Rights Handbook (Teaching Business and Human Rights Forum, 2020)*, <https://teachbhr.org/resources/teaching-bhr-handbook/teaching-notes/human-rights-and-the-covid-19-pandemic/teaching-resources/>.

⁶ Anthony Ewing, Jamie O'Connell and Nina Gardner, 'Teaching Note: Human Rights and the COVID-19 Pandemic' in *Teaching Business and Human Rights Handbook (Teaching Business and Human Rights Forum, 2020)*, <https://teachbhr.org/resources/teaching-bhr-handbook/teaching-notes/human-rights-and-the-COVID-19-pandemic/>.

⁷ Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework, Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, UN doc. A/HRC/17/31 (adopted 21 March 2011), http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

of both public and private pandemic responses,⁸ teachers can introduce international standards addressing permissible restrictions on rights allowed in times of public emergency, such as UN Human Rights Committee General Comments Nos 27 and 29⁹ and the Siracusa Principles.¹⁰

Each of the UNGPs can be applied to the COVID-19 pandemic. How are business enterprises defining their responsibilities during the pandemic? Are human rights commitments reflected in corporate policies governing pandemic response? Are companies carrying out human rights due diligence to better understand the human rights impacts of the pandemic connected to their activities and relationships? What can business enterprises do to prevent and mitigate the human rights impacts of the pandemic? How are companies adapting grievance mechanisms to address pandemic impacts?

Teachers can productively examine any business enterprise, industry sector or geography for human rights impacts. They can also utilize examples and case studies to illustrate in the classroom how businesses are responding to the pandemic in ways that respect, or fail to respect, human rights. Examples from the healthcare, apparel and technology sectors align particularly well with BHR curricula. Focusing on the technology sector, for example, students can assess both the positive and negative human rights impacts of the pandemic responses deployed by internet, software, social media and telecommunications companies worldwide.

Key issues include: protecting the health of employees and communities; considering the privacy impacts of geolocation tracking and facial recognition;¹¹ addressing the discriminatory impacts of artificial intelligence; assessing potential complicity with government actors; ensuring equitable access to online resources and digital education; and advocating for appropriate government policies to protect public health.

Like the historical BHR issues surrounding university divestment from companies operating in Apartheid South Africa or ensuring minimum labour standards in the factories making university-licensed apparel that catalysed previous generations of BHR students, applying a BHR lens to university examples can engage today's students in meaningful ways. The global pandemic presents an issue with clear and immediate impacts connected to university students' own lives. Students have probably experienced the physical closing of educational institutions; concerns over themselves, family and friends contracting COVID-19; and the economic and social

⁸ The Inter-American Commission on Human Rights, for example, has called attention to attacks against human rights defenders in the context of pandemic-related emergency measures taken by countries around the region, noting that 'States . . . have an obligation to protect the lives and personal integrity of human rights defenders when these are at risk, even if such risk stems from the actions of non-State actors'. Inter-American Commission on Human Rights (IACHR), 'IACHR Calls on States to Protect and Preserve the Work of Human Rights Defenders During the COVID-19 Pandemic', Press Release (5 May 2020), http://www.oas.org/en/iachr/media_center/PReleases/2020/101.asp.

⁹ UN Human Rights Committee, General Comment No. 29: Article 4: Derogations during a State of Emergency (31 August 2001), <https://www.refworld.org/docid/453883fd1f.html>; UN Human Rights Committee, General Comment No. 27: Article 12 (Freedom of Movement) (2 November 1999), <https://www.refworld.org/docid/45139c394.html>.

¹⁰ American Association for the International Commission of Jurists, The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights (April 1985), <https://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf>.

¹¹ See, e.g., Human Rights Watch et al, 'Joint Civil Society Statement: States Use of Digital Surveillance Technologies to Fight Pandemic Must Respect Human Rights' (2 April 2020), <https://www.hrw.org/news/2020/04/02/joint-civil-society-statement-states-use-digital-surveillance-technologies-fight#>; OneZero, 'We Mapped How the Coronavirus is Driving New Surveillance Programs Around the World' (9 April 2020), <https://onezero.medium.com/the-pandemic-is-a-trojan-horse-for-surveillance-programs-around-the-world-887fa6f12ec9>.

consequences of the pandemic. Asking students to apply a human rights lens to the often diverse and complex operations of a university can give students new perspectives on business and human rights frameworks and tools. Large universities may include medical schools and hospitals responding to the pandemic. Human rights considerations for educational institutions include: protecting the health of students, faculty and staff; ensuring non-discriminatory access to education and university resources; and balancing the needs of employees and institutional financial pressures.

B. Teaching Approaches to COVID-19 in Different Academic Disciplines

Considering actual company pandemic responses¹² allows students to apply a BHR analysis to the real-time challenge facing business enterprises. Business courses can consider the impacts of the pandemic sector by sector, or across various business functions and disciplines, from human resources, marketing and compliance, to supply chain management, finance and corporate governance. Teachers can use the pandemic example to address the value of conducting human rights due diligence and adding human rights perspectives to corporate risk and crisis management policies.¹³

Policy-oriented courses can assess the human rights impacts of governmental pandemic response, with particular attention to pandemic policies affecting the private sector. What should governments ask of companies during the pandemic? Conversely, when governments fail to respond adequately to COVID-19, what is the role of companies, as advocates or actors, promoting public health policies and human rights protections beyond their own activities and relationships? Finally, a critical issue that will gain attention as the crisis progresses is whether effective remedies are available to individuals affected by the adverse human rights impacts of the pandemic.

C. Learning Objectives

Across all faculties where BHR is taught, learning objectives for students studying the pandemic may include:

- Understanding the actual and potential human rights impacts of the pandemic;
- Considering relevant international human rights standards;
- Applying the UNGPs to the COVID-19 pandemic;
- Critically assessing the response of specific businesses, sectors and government actors to the pandemic;
- Surveying the business practices companies can use to prevent, mitigate and remedy the adverse human rights impacts of the pandemic;

¹² For examples of company pandemic responses, see, e.g., Salil Tripathi, 'Companies, COVID-19 and Respect for Human Rights', *Business and Human Rights Journal* (2020), 1–9. doi: 10.1017/bhj.2020.16. See also Business and Human Rights Resource Centre COVID-19 Action Tracker: <https://covid19.business-humanrights.org/en/tracker/>.

¹³ See, e.g., Anthony Ewing, 'Integrating Human Rights into Crisis Planning', A Good Practice Note endorsed by the United Nations Global Compact Human Rights and Labour Working Group (6 October 2015), <https://logosconsulting.net/wp-content/uploads/2015/11/Integrating-HR-Into-Crisis-Planning-GPN-Oct-2105.pdf>.

- Predicting the impact of the pandemic on future BHR practice; and
- Identifying areas for further research.¹⁴

IV. CONCLUSION

Our virtual teaching experiment will be the reality for the foreseeable future. The current educational upheaval has provided the Teaching *Forum* the opportunity to support its members to experiment with online teaching, creating new teaching resources and reconfiguring BHR course syllabi, curricula and pedagogy. Through the *Forum*, members are actively collaborating in real time on these issues and seeking to use the best aspects of virtual learning – that anyone can be in any classroom at any time, be they guest expert, advocate, policy maker or other – to innovate the best possible learning experience online.

COVID-19 has brought out the best and the worst in business. At one end of the spectrum, we have seen companies taking extraordinary steps to assist in the pandemic, for instance by pivoting from production of their usual inventory to production of personal protective equipment. Some companies have used their best efforts to honour commitments to their global suppliers. At the other end of the spectrum, there are companies that have cancelled contracts with global suppliers, even after products have already been manufactured, shipped and received, with catastrophic repercussions for the supplier workforce. The business world needs future employees to be adaptable to the changing world of business: remote working, the need for innovative and creative thinking about new problems and – crucially for the BHR field – the emphasis that the pandemic has placed on responsible business conduct. The tension between shareholder maximization in the short term and doing what is necessary to make a business socially sustainable in the long term is being placed in sharp relief when worker health and safety hangs so much in the balance, and when the difference between a responsible approach to commitments to foreign suppliers and an irresponsible one is displacement and destitution for workers in the Global South.

Educational institutions are emphasizing resiliency planning – to enable courses to be taught without interruption despite the challenges of this pandemic. BHR students need to be equipped to lead and shape companies that respect human rights, during the health crisis and beyond it in our uncertain economic future. Teachers of BHR play an important role in achieving these goals. Demonstrating resiliency in our BHR teaching models the skills required of our students. We must be prepared to question not just the mechanics of teaching in the short-term changed circumstances, but the substantive content of our lessons and the methods we use for imparting knowledge and understanding to our students. By applying a BHR lens to the pandemic, teachers can help the next generation of business leaders, policymakers and civil society advocates learn to adapt to the changes – both known and unknown – wrought by the current crisis.

¹⁴ Teaching Note, note 6.