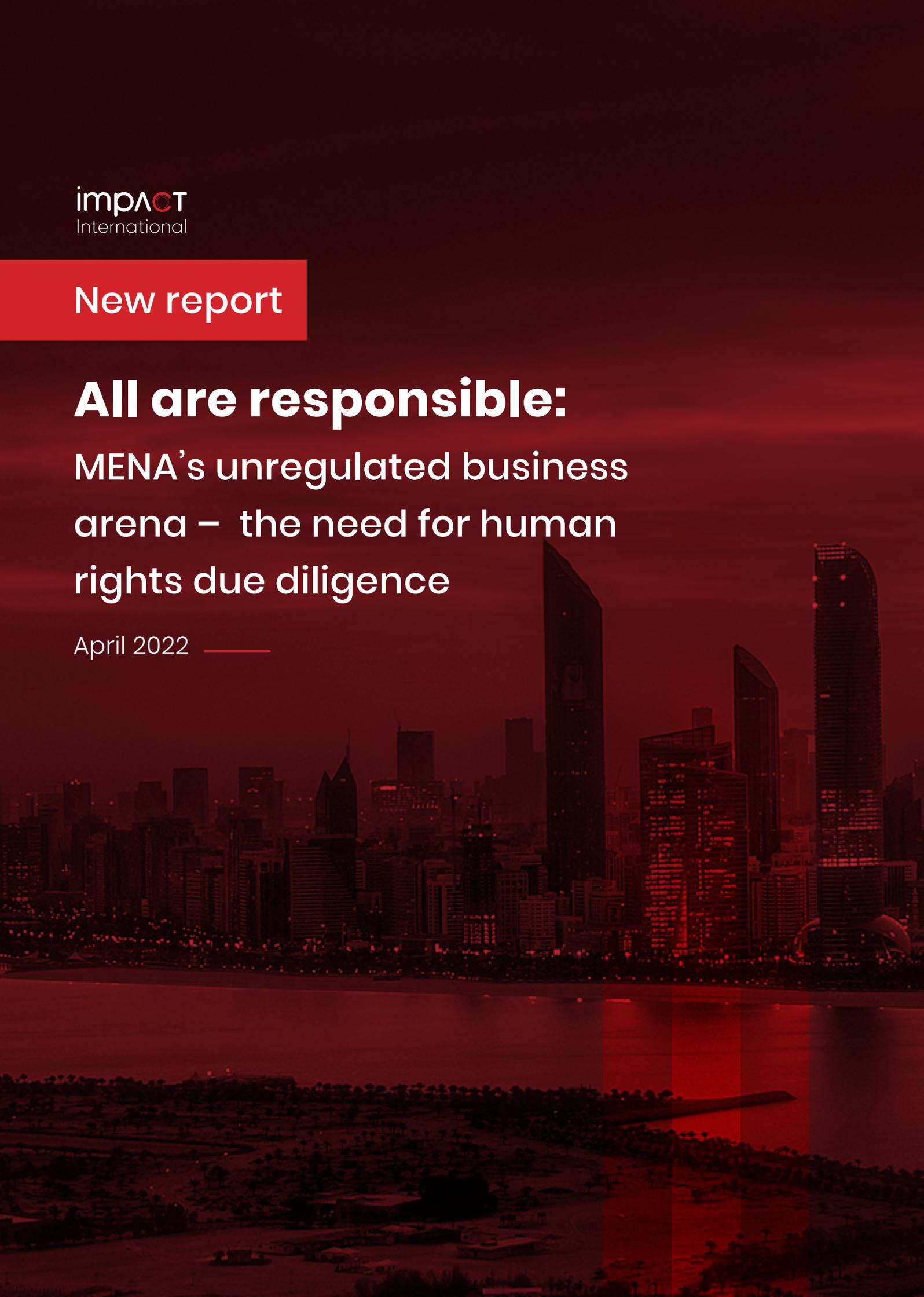


New report

All are responsible:

MENA's unregulated business arena – the need for human rights due diligence

April 2022



ImpACT International monitors and delivers technical advice on business and human rights to governments, international bodies, national institutions, and influential corporations.

Contents

Introduction	4
Tarnished business environment	7
Business practices in conflict and post-conflict areas	9
What role does the government play?	11
Recommendations	13
Bibliography	16

Introduction

It has been stated that 'in a free society, some are guilty, but all are responsible.' This is especially the case in the world of business, and in its interactions with governments and even in the choices that some consumers make. All have an impact on human rights whether one is aware or not. There are instances when corporations are as to blame as are certain governments in committing, or enabling, infringements of civil liberties.

With many businesses that operate in regions that suffer systematic human rights abuses registered on the stock exchanges of European nations or in the United States there is a moral duty to be concerned with the quality of life of those from which they are drawing their profits. Indeed, in the United Kingdom the Modern Slavery Act 2015 sought to put a duty on companies with an annual turnover in excess of £36 million to ensure that their supply chains do not have levels of excessive exploitation amongst their employees. Even those working, or forced into labour, abroad are subject to the requirement to prevent that abuse.

Whilst those aims are laudable, and it is right to place such legal obligations on companies, there are no penalties for failing to ensure that supply chains are not free from abuse, nor is there an enforcement mechanism to ensure that a business is auditing out such checks and carrying out due diligence. If that were

not disappointing enough there is even less of a responsibility on businesses to make sure that human rights are respected. However, whilst many will be aware of ethical and environmental investment funds; human rights are not paramount in purchasing or business decisions. Some companies are mindful of their corporate social responsibility and the dangers of being associated with negative news stories but still comply with regimes from the United Arab Emirates to Saudi Arabia, and across North Africa.

In such an environment it is the case that there is a need for legislation to enforce the UN Guiding Principles on Business and Human Rights. This would make it mandatory for companies to apply due diligence in their supply chains to make sure they are free from human rights abuses. Regretfully, the current situation is not conducive to protecting human rights. Making it compulsory, backed up by legal sanctions, will transform the present situation. As of 2020 according to the Corporate Human Rights Benchmark nearly half, over 46%, of the largest corporations in the world do not demonstrate that they are lessening or even recognizing human rights problems in their supply chains.

Businesses play a significant role in violating human rights, disrespecting local communities, and overlooking their ethical responsibilities towards their employees. Business-related human rights violations are especially overlooked in the Middle East and North Africa (MENA) region where human rights abuses are regularly occurring which has, ultimately, created a business culture that has led international corporations to neglect peoples' wellbeing.

The UN guiding principles emphasise the need for companies to engage in human rights due diligence, which gives them the responsibility to assess and prevent any harmful impact that their business operations may have. Its guiding three pillars puts pressure on the need for the private sector to respect human rights. Yet, without more awareness of the issues involved and engagement with human rights groups the need to apply due diligence will inevitably become a legal obligation.

Additionally, businesses play a role in the regulation of human rights due to their power and influence they hold across multiple countries. Yet their authority gives some the opportunity to commit violations, however, they too have the duty to promote and follow ethical procedures.

Tarnished business environment

Ultimately, one of the main factors that have led many international corporations to neglect UN Guiding Principles and overlook human rights due diligence in their operations is the unregulated business environment under which they are operating. Alarming, many countries in the MENA region are highly neglected by their governments which has led to increased corruption, poor business, and labour regulations accompanied by fluctuating levels of economic growth. Additionally, there is a direct correlation between human rights abuses and corruption. An increase in bribery and nepotism means that those in power, with strong connections, will be able to abuse the rights of their citizens.

With many governments in the region clouded with corruption, human rights abuses by businesses can very simply be hidden, letting poor corporate activities go unnoticed. Alongside this, many businesses in the MENA region find that they must operate and adapt amidst a weak economy with little concern for human rights regulation. This leaves the business with the choice of choosing to work in the fragmented environment they found themselves in; or alternatively comply with international human rights standards. However, compliance with international human rights standards would decrease the time and resources allocated to growth, development, and market competition.

An example of this has been highlighted recently by [ImpACT International for Human Rights Policies](#), which found that there is a lack of compliance with UN guidelines amongst banks in the region. Out of 42 banks that they had reviewed, only three of them were found to have even complied with the bare minimum of guidelines. A similar issue had been found in [Lebanon's banking system](#) where the reconstruction of that sector left thousands of employees and customers in a crisis.

This represents another issue where banking systems in the MENA region are not able to provide businesses financial security let alone provide them with a model of human rights due diligence. Thus, with a weak banking sector, as seen in the case of Lebanon, respect for human rights is similarly decreased.

With a lack of reliable regulation and limited human rights expectations, companies find that moving their business activities to the MENA region will allow them to use such lax environment to their financial advantage. Certain situations could allow businesses to engage in domestic and international crimes including fraudulent monetary activities.

Business practices in conflict and post-conflict areas

One section in the UN guiding principles of business and human rights emphasises the importance for businesses to respect human rights in heightened situations found in war zones. Conflict and post-conflict countries are unfortunately a perfect opportunity for businesses to operate as they so wish, with no further repercussions. Such countries are predominantly filled with a fragile, deprived, and sensitive population, which opens a door for employers to easily exploit employees who have no safety net or rights.

Businesses operating in such uncontrolled areas usually take advantage of the anarchic situation they may be working in and as a result, turn an obvious blind eye to their commitment to respect and protect human rights under the UN Guiding Principles. Employees in vulnerable positions will be desperate enough to accept low standards and poor terms and conditions in return for a guarantee of some financial stability.

For governments and policymakers in countries recovering from or are amid conflict, economic growth will usually be the highest priority with civilian welfare and compliance to international human rights standards often getting the least attention. Indeed, in such fragile areas, businesses should have an increased ethical role in regulating and adjusting their policies to consider the economic,

political, and social deprivation that populations are enduring in which they operate and draw their labour from. Therefore, in this context businesses will be expected to expand their due diligence. With this comes the responsibility for businesses to implement more sustainable and responsible investments to reconstruct the economy, protect its stakeholders and most importantly respect their employees.

The continuation of business operations in conflict zones comes with many different factors to consider such the increased exposure to forced and child labour, human trafficking, women's rights, honour killings, gender rights, refugee camps, migrant workers and forced migration. With this comes the ethical responsibility to protect the rights of migrant populations and undocumented refugees. An example can be seen in Syria since the start of the Civil War in 2011, where it has been reported that businesses with close relations to the government had been involved in the displacement of communities, and seizing properties whilst additionally financing Syrian militia groups.

A [table talk discussion organised by ImpACT International](#), shed light on the role of the private sector in conflict areas, with a particular focus on Yemen in times of unrest. This discussion highlighted the way that private sector businesses can be highly effective in encouraging a culture of respect and integrity in the working community in times of conflict. This additionally highlights how the private sector in Yemen and Syria has managed to make situations worse for much of the community.

What role does the government play?

Since the start of the pandemic, we have seen a sudden increase in governments in the MENA region, especially the Gulf region, relaxing and deregulating their labour markets to motivate an increase in foreign business investment. This has been to protect businesses from the damage caused by the pandemic.

This can be seen in the case of the UAE, who reformed over 40 employment, copyright, commercial and employment laws., since the start of the pandemic the UAE financial centre and Abu Dhabi Global market worked extensively with local policymakers and policy regulators to ensure businesses continue to work comfortably throughout the pandemic. To those who favour a laissez-faire economic model it was a beneficial crisis. However, at what cost have these business reforms come? Whilst there has been a significant increase in business and investment reforms, human rights policies and regulation of employee rights continue to be neglected.

Overall, a government's role should imitate that of a protector, where businesses violating regulations should face serious consequences. Such regulation is needed in Saudi Arabia where in the past month an estimated 500 thousand migrant workers were evicted from their cramped living spaces with short notice

and no alternative housing. Their expulsion came when the Kingdom desired to redevelop its neighbourhoods, making space for restaurants, shopping malls, museums, an opera house, stadiums, and luxurious beach resorts. All of which can only be enjoyed by the high earning percentage of the country whilst those migrant workers are left to scavenge for new accommodation.

Likewise, the UAE produces many examples of businesses that are exploiting its workers, whilst the government refuses to hold any violators accountable. The [AJAD Facilities Management LLC](#) in Abu Dhabi who have refused to pay many of its workers. Reports confirmed that the state business has unethically inflicted abuse upon its African migrant workers with exposure to abuse, torture, unexplained detaining, sexual abuse, and deportation.

Governments in the region should target business activity that engages in discriminatory practices against those less powerful and lower-income workers such as the migrant workers in the Gulf region who experience constant abuse and violations of their basic rights.

Recommendations

Business-related human rights abuses have been documented and discussed across organisations across the globe, more actors must understand the measures they must take to prevent further harm to employees and communities in the MENA region. In the process of mobilising effective change, governments, international organisations, international businesses, policymakers, and local communities must all be considered in the process.

Human rights standards should not differ from region to region, these are basic standards that should be met across all parts of the world.

The solution begins in the, so called western nations. Their governments should implement the following ImpACT International recommendations:

- In conjunction with the United Nations, the UN Guiding Principles on Business and Human Rights should become mandatory.
- The legal obligation to conduct due diligence should be backed up by criminal sanction for any breach and failure to audit and report findings.
- To raise consumer awareness, an ethical league table of companies should be established. And only those that enforce the highest standards should be permitted to compete for government contracts.

- All countries should implement a modern slavery act, and similarly make it mandatory for companies to audit, report, and mitigate exploitation in their supply chains.

Considering this issue, governments in the MENA region are encouraged to:

- Continue improving regulatory policies to ease business investment plans, whilst increasing regulation policies on human rights practices and ethical business activity. Thus, companies who wish to operate in the UAE or neighbouring countries will be obligated to follow strict employee rights laws and respect the community they operate in.
- Apply the same human rights policies to both the private and public sector business, to ensure there is a collaboration between all sectors in the MENA region in tackling human rights abuses caused by businesses.
- Seek assistance from the state in which a business operates during conflict to prevent an escalation of human rights violations. In times of war host governments are often involved in the conflict and are significantly weakened leaving them with a severe lack of control.
- Warn businesses of the elevated risk and ethical concerns when operating in conflict areas.
- Enforce the laws that governments have if human rights are violated. This will help deter businesses from neglecting their ethical responsibility to the community and allow stakeholders to reassess their policies in advance.

Businesses are encouraged to:

- Recognise cautionary signs in conflict areas which will help identify the main political actors and stakeholders that may be involved in a conflict. By identifying the main actors in a conflict, businesses can ensure that they are not associated with those third parties.

- Regularly reflect on their place in a community in conflict and post-conflict areas. This will help recognise and mitigate any human rights violations they may be engaging in. This is especially important in the post-conflict country's resolution and reconstruction phase, where businesses are important in the rebuilding of an economy and give hope to its citizens.

- Pay attention to the discriminatory practices inflicted upon migrant workers in the Gulf region before beginning their business operations. This is unfortunately the harsh reality in countries such as Saudi Arabia and the UAE where labour policies target the lowest income earners and distinguish between different races and nationalities.

- Build a culture of respect and additional training through workshops and classes that will help employees and stakeholders gain a deeper understanding of their effects on communities they work in.

Bibliography

<https://www.ohchr.org/sites/default/files/Documents/Issues/Business/wgbhrconflictproject.pdf>

https://www.ohchr.org/sites/default/files/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

<https://timep.org/commentary/analysis/businesses-in-the-mena-region-what-role-in-human-rights/>

<https://blogs.lse.ac.uk/mec/201927/08//as-mena-states-grow-increasingly-repressive-businesses-should-lead-reform/>

<https://www.business-humanrights.org/en/from-us/briefings/hearing-the-human-ensuring-due-diligence-legislation-effectively-amplifies-the-voices-of-those-affected-by-irresponsible-business/>

https://media.business-humanrights.org/media/documents/2021_Beyond_social_auditing_v5.pdf

<https://www.business-humanrights.org/en/big-issues/mandatory-due-diligence/>

<https://www.migrant-rights.org/202203//out-with-the-old/>

<https://www.oecd.org/mena/competitiveness/PracticesBusinessIntegrity.pdf>

<https://www.migrant-rights.org/202109//we-cried-and-begged/>

https://media.business-humanrights.org/media/documents/2021_Beyond_social_auditing_v5.pdf

<https://www.theguardian.com/sustainable-business/middle-east-qatar-business-human-rights>