



Call for inputs to the Working Group's report on corporate human rights due diligence (HRDD)

International Alert, 29 May 2018

International Alert welcomes the UN Working Group on Business and Human Rights focus on corporate human rights due diligence ('HRDD').

As a peacebuilding organisation, Alert will focus on the role of HRDD in conflict-affected settings in this Submission.

The UN Guiding Principles state that the risk of gross human rights abuses is heightened in conflict-affected areas. However, little practical guidance is available on how businesses should actionably approach these heightened risks, despite the fact that HRDD in conflict-affected settings requires different and additional considerations.

Addressing this gap, in March 2018 International Alert published a new toolkit for companies on Human Rights Due Diligence in Conflict-Affected Settings. The guidance aims to support companies to apply a conflict-lens to existing HRDD processes, including discussing the below points. Detailed information, including case studies, can be found in the [publication](#):

- **An HRDD for a conflict area must be well-designed in advance for each specific conflict context, including considering the risks to affected stakeholders.** The design of the HRDD must take into account the conflict, particularly the greater barriers and challenges to stakeholder engagement, for example with certain groups such as marginalised people, women, indigenous people, armed groups, etc. Stakeholders can be put at risk through engagement. Stakeholders' expectations may also be higher and broader in scope.
- **A conflict analysis should be integrated into the HRIA process, to identify additional conflict risks and their resulting human rights implications.** The conflict analysis must consider legacy issues and the root causes of conflict, which will provide an indicator of future conflict risks and the associated human rights impacts. Furthermore, crucially, it will ensure companies do not inadvertently fuel new conflict or exacerbate existing, maybe latent, conflict, but become aware of their potential conflict footprint. When assessing severity of impacts, in conflict-affected settings it is important to build conflict considerations into prioritisation by also assessing where impacts are more likely to drive conflict (i.e. going beyond the scale-scope-irremediability criteria).
- **In conflict-affected settings it is more difficult for businesses to manage human rights impacts. There is a greater likelihood of unintended consequences** of control measures to mitigate and prevent human rights impacts and/or promote positive impact, including putting vulnerable groups at risk. These unintended consequences must be considered at all times, with continuous referral back to the conflict analysis/ HRIA.

- **Addressing root causes of grievances:** Companies should refer to the conflict analysis/ HRIA in order to situate grievances and claims and try to understand the root cause of why this grievance has developed. CSOs or third party monitoring mechanisms can be involved in this process in order to identify the root cause (they will be seen as more impartial and will be able to give a bigger picture).
- **Address grievances in collaboration when necessary:** If the issue is bigger than the company, companies should work with others who are also facing the same challenge/trying to address it (this could be other businesses, local leaders, CSOs) in order to come to a more comprehensive and long-term solution. Companies must understand that the risk and impact may be exacerbated by other impacts/dynamics unfolding in the context or a legacy that has gone before and therefore these situations might demand a more comprehensive approach than one company alone is able to offer, therefore requiring collaboration in addressing the issue.
- Further, in conflict and post-conflict contexts there is likely to be a legacy of human rights abuses which this company activity is then taking place within. This means that **communities are already likely very suspicious and may have little or no trust in formal grievance systems or mechanisms.** This must be taken into account when considering how to put grievance mechanisms in place.
- **In conflict-affected settings, HRDD must be revisited more frequently than in more stable contexts.** Conflict analysis can enhance HRDD by building in more responsiveness and identifying the triggers of when due diligence must be revisited.
- **Finally, as a peacebuilding organisation, Alert sees the possibility of HRDD processes in conflict-affected settings to become an opportunity to identify opportunities for positive impacts, including to contribute to peace and stability.** While the UNGPs emphasise addressing adverse impacts and any positive contributions to be assessed separately, HRIA processes are time-consuming and labour intensive, leaving little scope, will or capacity for companies to undergo a separate process afterwards. It is, of course, important to ensure that positive interventions are not used to offset negative impacts, and are not simply traditional CSR investments. Alert therefore advises that companies include an independent third party, preferably an NGO or local CSO, to advise and monitor.

In addition to the above, Alert would like to raise the following recommendations:

- **The need to engage local leaders and CSOs in order to engage with communities.** It is important to work within existing accountability structures and mechanisms in order to support these actors to play their role. Local authorities (at district/provincial level and at community level) are likely to be excluded from much of the decision-making processes that tend to sit at national levels, for example when it comes to oil exploration. It is important that business map out and engage local leaders in managing human rights impacts and community grievances as this can have a positive pressure on making local leaders work better for communities.
- **The need for HRDD requirements in contracts with contractors, and the tendering of contractors based on their HRDD track record.** These contractors often become the “face” of the operation, and therefore companies must go beyond delegating or sub-contracting out HRDD responsibilities to contractors – they must put in place monitoring mechanisms and consider introducing key performance indicators for contractors they work with in order to ensure that HRDD processes are in place and are being followed appropriately.