



What is (and what is not) 'heightened' about hHRDD?

Overview

The past decade has witnessed the spread of internal and international conflict and political instability worldwide, with armed confrontation in Europe, military coups in Myanmar and several West African states, growth in the influence of violent criminal organisations in several Latin American countries, and the dramatic escalation of conflict in the Middle East. The ICRC has indicated that in 2024 there are more than 120 armed conflicts around the world, involving more than 60 different states and 120 non-state armed groups as parties to those conflicts.¹

As a result, companies, investors and, indeed, consumers are increasingly linked to armed conflict and global instability worldwide. Whether through the metals and minerals required for the energy transition, through consumer staples such as sugar, cacao, coffee and cotton or through social media and travel platforms - amongst other goods and services - our lives are increasingly interconnected with, and at risk of causing, exacerbating or sustaining violent conflict.

This places both companies and investors in a critical position: if responsible companies and investors were to leave conflict-affected and high-risk areas (CAHRAs) this would have a devastating impact on international peace and security; at the same time, if responsible companies with business activities in CAHRAs were to consistently and meaningfully implement heightened human rights due diligence (hHRDD), it would contribute to a substantive reduction in levels of violent and armed conflict.

A thorough understanding of responsible business in CAHRAs is more critical now than ever before. This Brief – the second in our Responsible Business in Conflict series - covers the following four questions:

1. What is hHRDD?
2. Why do hHRDD?
3. Why do hHRDD well?
4. How to do hHRDD well?



¹ ICRC. "International Humanitarian Law and the Challenges of Contemporary Armed Conflicts," September 2024. P. 10. [URL](#)

1. What is hHRDD?

The UN Guiding Principles require companies to undertake human rights due diligence (HRDD) in a manner that is proportional to the risks of doing harm.

In conflict settings, a process of heightened human rights due diligence (hHRDD) is required as a result.

hHRDD requires an understanding of the conflict context, not a heightened intensity of HRDD.

The United Nations Guiding Principles on Business and Human Rights (UNGPs) require companies to take action to meet their responsibility to respect human rights through a process of human rights due diligence (HRDD). With regards to companies' business activities in CAHRAs, the UNGPs refer to the principle of proportionality: the higher the risk of adverse human rights impacts, the more 'enhanced' the processes to prevent or mitigate these impacts that are required. The principle of proportionality derives from the fact that the risk of gross human rights abuses is heightened in CAHRAs.

In the United Nations Working Group's report, 'Business, human rights and conflict-affected regions: towards heightened due diligence', the issue of human rights and transnational corporations and other business enterprises builds upon the above reference to proportionality, calling for 'heightened action' on the part of both States and companies in situations when the businesses operate in CAHRAs. The report elucidates the requirement for 'heightened human rights due diligence' indicating that in CAHRAs companies should complement the regular HRDD process with an approach that allows companies to operate in a 'conflict-sensitive' way. This complementary approach plays out in three steps:

- 1. Conflict analysis:** An in-depth understanding of the conflict context (including drivers and dynamics of conflict, triggers of violence, local, national and regional dynamics, etc.);
- 2. Stakeholder analysis:** An in-depth understanding of the actors of and in the conflict (including their motivations, influence, roles in and/or relationship to the conflict, etc.);
- 3. Company interaction analysis:** An in-depth analysis of the ways the company, through its operations, products, services and/or relationships, is exposed to risks and/or has impacts that may contribute, cause or be linked to conflict.

Such an approach should include an analysis of the company's interrelation with, and respect for international humanitarian law (IHL) i.e. the specific body of law that applies in situations of armed conflict.

The objective of hHRDD processes is to address risks and adverse impacts on both human rights and conflict.

hHRDD is meant to tackle two critical issues in CAHRAs:

- 1) The heightened risk of company's adverse impacts on human rights; and,
- 2) The risk of company's adverse impacts on conflict.

It is worth noting that these two sets of risks can take shape independently i.e. companies can lead their business activities in a way that is human rights-compliant, but that nevertheless cause, contribute or is linked in some way to conflict.

hHRDD thus requires a complementary set of actions rather than simply a more intense or more thorough implementation of standard HRDD. Indeed, standard HRDD processes will fail to capture the most important risks and impacts associated with business activities in CAHRAs.

2. Why do hHRDD?

Conflict settings display specific characteristics that interplay with business operations to produce adverse impacts on both people and the context.

The need for hHRDD stems from the fact that CAHRAs display a number of contextual characteristics that shape the nature of company activities. These can be boiled down into three categories: poor governance; failing law and order; and high security stakes. Under these circumstances, companies are more likely to have severe adverse impacts, on both human rights, and on the conflict itself.

Besides these very significant impacts, companies operating in or sourcing from CAHRAs without the proper in-depth understanding of both human rights and conflict risks and impacts are also exposed to significant operational, legal, reputational and financial risks. Indeed, since many of the basic elements that support business activities are weak or indeed absent in conflict settings, corporate activities are both more exposed to and threatened by the effects of the conflict – a reality that a solid hHRDD process is able to effectively identify and then navigate.

In such contexts, day-to-day business actions can cause, contribute, or be linked to conflict in a variety of ways.

There are many ways business activities in CAHRAs can cause, contribute, or be linked to conflict, for example (but not limited to):

- Association with actors involved in the conflict dynamics, whether non-state armed groups, criminal elements, or corrupt government officials;
- The establishment of operations or supply chains in territories, or the use of transport routes that cross territories that are contested by parties to the conflict;
- "Land grabbing" through the expansion of operations or supply chains in land previously occupied by local populations that have been displaced due to violent conflict and insecurity;
- Human resources or supply chain practices that exacerbate ethnic or religious cleavages;
- Payment of taxes, duties or bribes that fuel or finance conflict;
- Social investments that empower certain groups over others or create tensions between them; and/or,
- The contracting of security providers that perform poorly and/or are associated with parties to the conflict.

In conflict settings, these day-to-day business activities create wide ranging operational risks. They can lead to a large set of adverse consequences for companies, from security incidents affecting staff, assets and operations, to destruction of assets, to disruptions along the value chain, to difficulties to hire or keep staff or to interruptions or cessation of the operations, to cite only a few.

These actions can trigger significant snowball effects for companies, threatening business continuity at the country level and a company's reputation and standing at the corporate level.

More significantly, these adverse consequences can lead to longer-term legal, financial and reputational adverse impacts such as:

- Loss of the legal and/or social license to operate;
- Expansion in the security apparatus;
- Complicated access to insurance and capital;
- Loss of access to clients or markets;
- Diversion of the time and energy of top- and mid-level leadership towards crisis management;
- Reputation hits and boycotts; and,
- Litigation against the company.

Company leadership should be under no illusion: there is no way for responsible companies to do 'business as usual' in CAHRAs.

Negligent companies which do not fulfil their responsibilities in conflict settings and fail to deploy a meaningful hHRDD process may find themselves navigating increasingly complex (and costly) waters. Indeed, a poor understanding of conflict settings can often unleash a series of ill-fated consequences that can undermine company performance, either immediately or with delayed effects.

In spite of their claims or wishful thinking, companies are never neutral actors in conflict settings.

It is common practice for companies to claim that they are neutral actors in conflicts since they do not take sides; many also claim they are focused on the 'business of business' with no involvement in the 'political issues' driving conflicts. This is sometimes used as a justification for not doing hHRDD or for not seeing hHRDD as meaningful or relevant to the business.

However, business activities in CAHRAs are never neutral. In conflict settings, each actor and its actions have effects that directly or indirectly, willingly or unwillingly, shape, influence, or drive the factors that may be causing, exacerbating, or sustaining conflict.

3. Why do hHRDD well?

An in-depth understanding of the conflict context is a business asset; it allows for mastery of business activities in complex contexts.

A solid hHRDD provides deep understanding of the context, company interlinkages with that context, and clarity on the way forward. Such contextual knowledge enables companies to navigate extremely delicate and sensitive situations and manage their relationships with the various stakeholders.

In short, a solid hHRDD process brings more to companies than "simply" managing their impacts on conflict dynamics and human rights (even if this is imperative). It strengthens their knowledge of the conditions in the business environment and helps consolidate their operations and standing within that context thanks to a clear understanding of the stakes, risks, and actors. Wise leadership should embrace hHRDD when operating in conflict settings as a helpful tool in the toolbox.

Meaningful hHRDD is, therefore, an investment more than a cost.

A meaningful hHRDD takes as a precept that companies will do their utmost to not create further disruptions and harm to already challenging contexts. So, the process is in essence about taking care of the people and the contexts in which they operate.

The various steps of the hHRDD process become a tool to transform this precept into reality: it will help gather the relevant information and build an in-depth understanding of the operating environment, of the role of all main stakeholders, and of the potential adverse impacts the business may have on both the rightsholders and the conflict itself. This approach is an investment that will optimise the chance of business continuity and provide understanding about how to consolidate or expand business activities.

4. How to do hHRDD well?

An effective hHRDD process requires specific conflict-related knowledge and expertise.

An effective hHRDD process requires a specific set of conflict-related expertise honed to address extremely sensitive questions related to the underlying grievances and root causes driving the conflict, to the main actors weighing on the drivers of conflict, and to the way companies' operations influence the drivers of and main actors in the conflict.

hHRDD requires a number of skills, such as the capacity to: leverage local networks that will help identify and reach out to all relevant stakeholders, including those that are traditionally more difficult to reach out to (either because of geography, social marginalisation or due to active engagement in the armed conflict); manage sensitive discussions with individuals or groups; cross-check and recoup information and analyse it; work and navigate in extremely polarised contexts; deal with sensitive information in a way that does not put stakeholders at risk; etc. Moreover, a well-led hHRDD process requires an approach that is impartial with regard to the conflict actors and dynamics, and perceived to be so by most if not all stakeholders.

It requires expert 'boots on the ground' to understand company impacts on conflict because drivers of conflict are local, highly context-specific and can only be defined by the local actors themselves.

Most importantly, an hHRDD process cannot be conducted from afar: it requires an understanding of the specific, highly localised drivers of conflict in the precise areas where the company has business activities, and how those issues might link to the broader conflict dynamics in the country. Only then is it possible to ascertain whether a company is at risk of – or indeed already having impacts on – causing, contributing, or being linked to conflict.

On their path to responsible business practice, companies should very clearly recognise that conflict settings are very peculiar 'beasts' creating very peculiar conditions that call for very specific skillsets.

In their continuous search for efficiency, companies may be tempted by minimalistic approaches to hHRDD. These approaches often narrowly concentrate on ensuring compliance with legal and regulatory requirements. The reality is that hHRDD cannot fill its role if it is carried out only as part of narrow technical compliance-focused 'tick-the-box' exercises.

There is no short-cut to meaningful hHRDD; light-touch or 'tick-the-box' hHRDD is ultimately a risk to the company.

This is because compliance-based processes tend to be essentially inward-looking: they are framed by the objective to ensure companies will not suffer legal harm. In contrast, hHRDD is in essence an outward-looking process: its main objective is to ascertain that companies, through their operations and relationships, will not create harm to others and will not trigger, exacerbate or encourage further imbalances in already extremely sensitive conflict settings with, all too often, regional and international repercussions for global peace and stability.

Due diligence done well carries opportunities to not only minimise negative impacts on conflict, but also maximise positive impacts on peace and stability.

This is where companies have a critical role to play. While outside the realm of 'traditional' hHRDD processes, once companies have successfully minimised negative impacts on conflict, they may also be well-positioned to maximise positive impacts on peace and stability at the local level. Not through philanthropy or charity, but by doing business differently, in ways that help foster greater social cohesion and that consolidate rather than undermine the building blocks of peace which exist in every society.

hHRDD does not call upon companies to leave conflict-affected contexts (even if they will be specific circumstances when companies do need to leave due to national or international law or sanctions-related issues). Leaving - in most but certainly not all cases - often does more harm than good particularly since companies provide many vital goods and services, as well as economic opportunity and hope. hHRDD requires companies to do business differently by recognising that they do not operate or source 'in a vacuum' but do so in ways that have profound impacts on the context and, therefore on the lives and livelihoods of those affected by conflict.

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