HUMAN RIGHTS IN COMPLEX EMERGENCIES
AGENDA

1. Opening remarks and introduction
2. Overview of the normative environment
3. Existing tools and guidance
4. Experiences from the field
5. Discussion
1. Opening remarks and introduction
WHY THIS WEBINAR?

This webinar will build on the earlier webinar entitled Introduction to the Humanitarian System, diving deeper into the area of human rights.

Participants will gain more understanding particularly of the relevance and implementation of the UN Guiding Principles on Business and Human Rights, as well as the DCAF-ICRC tools on security and human rights in complex environments.

The webinar also feeds into the Connecting Business initiative’s new workstream on complex emergencies.

Objectives:

Provide an overview of human rights related issues and concerns, but also tools and guidance that the private sector should be aware of when operating in complex emergencies and addressing manmade hazards.

Learning outcome:

Increase participants’ understanding of how the private sector can and should respect human rights in complex emergencies.
Complex emergency
A humanitarian crisis in a country, region or society where there is total or considerable breakdown of authority resulting from internal or external conflict and which requires an international response that goes beyond the mandate or capacity of any single agency and/or the ongoing United Nations country program. (as defined by IASC)

• The underpinnings of the human rights framework are negatively affected in times of violence, governance breakdown, and absence of the rule of law.
• Business can have an impact on nearly all internationally recognized human rights.
• Yet most egregious human rights abuses, including those related to the private sector, occur in areas affected by conflict.
• Furthermore, state policies and practices in these environments are often limited or lacking. Governance gaps create an environment where wrongful acts may lead to no retaliation.
• So where does this leave the private sector? What are they responsible for?
Complex emergencies expose companies to heightened human rights risks.

‘ISIS Is Coming!’ How a French Company Pushed the Limits in War-Torn Syria

By Liz Alderman, Elian Peltier and Hwaida Saad

March 10, 2018

While other multinational companies pulled out of Syria in the midst of the civil war, Lafarge made a calculated decision to stay, pushing the limits of international law to keep its operations running. Lafarge’s actions, reconstructed from sealed French court documents reviewed by The New York Times as well as interviews with former employees, provide rare insight into the costs and complexities of doing business in a war-torn country, trade-offs that have left a large company exposed to a French criminal investigation as well as a civil lawsuit.

A panel of French judges appointed by the Paris High Court, which oversees criminal investigations, is now looking into whether Lafarge put workers at risk and violated international sanctions by paying the Islamic State and other armed groups to keep operating as war bore down. Six former top Lafarge officials, including two former chief executives, are being formally investigated under charges of financing terrorism.
Complex emergencies also provide an opportunity for companies to stand out for their positive contributions to human rights.

Furthermore, heightened attention to human rights in complex emergencies can strengthen risk management and foster positive relations with local communities (social license to operate)

“Without fail, we have to work with the right tribe and the tribal leaders for each campaign to ensure the elders/clan leaders/sheikhs are supporting us – important everywhere, but essential in dangerous areas, such as Helmand Province. Their support means the women and our colleagues can move around safely. While most tribal leaders are supportive of what we do, not all are. How do we get them all on board?”

“In Afghanistan, we were required to hire a chaperone to accompany our female workers – a male member of their family. This makes it doubly hard as many of the men do not want to travel, are already working or may wish to be paid. How can we encourage more men to support their sisters and wives?”
2. Overview of the normative environment
In respecting human rights in complex emergencies, companies have to respond to requirements coming from:

- National Legislation
- International Humanitarian Law
- International Human Rights Law
**NATIONAL LEGISLATION**

- National legislation is the principal instrument for governments to protect people from human rights abuses by companies.

- Challenges in complex emergencies:
  - The regularly framework might be porous or inconsistent with human rights standards.
  - Governments might lack the capacity to monitor corporate behavior and/or to enforce national law.
  - Grievance mechanisms might not be available and/or accessible.

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- **Modern Slavery Act 2015**
- **Dodd-Frank Wall Street Reform and Consumer Protection Act**
- **REGLULATIONS**
- **PROPPOSITION DE LOI**
Businesses need to ensure their actions are not linked – intentionally or unintentionally – to armed conflict.

- is binding to both State and non-State actors
- business enterprises carrying out activities linked to armed conflict are required to respect relevant aspects of IHL
- grants protection to private sector personnel and assets in situations of armed conflict

It is increasingly recognized that businesses have the responsibility to respect human rights.*

States have the duty to protect human rights.

Work is ongoing on a legally binding instrument to regulate the activities of transnational companies and other business enterprises with respect to human rights law.

International Humanitarian Law and International Human Rights Law are complementary and both apply in times of armed conflict, yet human rights are interpreted in the context of International Humanitarian Law.

*as outlined in the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, and in the Ten Principles of the UN Global Compact
3. Existing tools and guidance
## OVERVIEW OF KEY INSTRUMENTS

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<th>Instrument</th>
<th>Description</th>
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<td><strong>UN Guiding Principles on Business and Human Rights</strong></td>
<td>Recognition that the risk of human rights abuse is heightened in conflict-affected areas. The Protect, Respect and Remedy framework constitute the three pillars on which the UN Guiding Principles are built. They set out State’s duty and business responsibility and provide guidance on how to manage heightened human rights risks. In complex emergencies, companies should conduct thorough human rights due diligence to identify, prevent, mitigate and account for negative human rights impacts.</td>
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<td><strong>ILO Declaration on Fundamental Principles and Rights at Work</strong></td>
<td>Respecting the fundamental principles and rights at work helps prevent violence and facilitate consensus-building in fragile environments. Building on the Declaration, the ILO Guide on Employment and Decent Work in Situations of Fragility, Conflict and Disaster provides recommendations on creating and protecting decent work opportunities in complex environments.</td>
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<td><strong>UN Global Compact</strong></td>
<td>Business for Peace (B4P) supports companies in paying heightened attention to and implementing the Ten Principles – including those on human rights and labour - in conflict-affected and high-risk areas. The UN Global Compact has also (co-)developed tools and guidance relevant to human rights in complex emergencies, such as Guidance on Responsible Business in Conflict-Affected and High-Risk Areas: resource for companies and investors and Children in Humanitarian Crises: What Business Can Do</td>
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<td><strong>OECD Guidelines for Multinational Enterprises</strong></td>
<td>States that companies are expected to conduct risk-based human rights due diligence, and to act upon those findings. If they operate in or with business linked to conflict areas they must conduct enhanced due diligence. The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas was developed to support implementation of human rights due diligence in complex environments.</td>
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“Because the risk of gross human rights abuses is heightened in conflict-affected areas, States should help ensure that business enterprises operating in those contexts are not involved with such abuses [...].”
UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

**UNGP 12:** “The responsibility of business enterprises to respect human rights refers to internationally recognized human rights [...]”

**UNGP 14:** “The responsibility of business enterprises to respect human rights applies to all enterprises regardless of their size, sector, operational context, ownership and structure [...]”

**UNGP 23:** “In all contexts, business enterprises should (a) comply with all applicable laws and respect internationally recognized human rights, *wherever they operate* [...] and (c) treat the risk of causing or contributing to gross human rights abuses as a legal compliance issue *wherever they operate*”.

Essential elements in practice:

- Policy commitment & embedding
- Human rights due diligence
- Remediation
UNGP 17:
“In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed […].
Four steps:
1. Assessing
2. Integrating
3. Tracking
4. Communicating

UNGP21: “Business enterprises whose operations or operating contexts pose risks of severe human rights impacts should report formally on how they address them [...].”
**Concept of prioritization:**

→ where necessary, businesses should first address those human rights impacts that represent the most severe impacts on stakeholders.

**What does this mean in practice?**

1. Identify high-risk circumstances
2. Identify highest risks
3. Internal processes
4. External engagement with stakeholders
HRDD IN COMPLEX EMERGENCIES: Why is it so important?

- Heightened likelihood of severe human rights impacts
- Highest priority for company action since greater risks
- Complex challenges and critical for HRDD to be effective
- Sensitivities involved in stakeholder engagement
MULTI-STAKEHOLDER APPROACH

- Address human rights issues of mutual concern by multi-actor collaboration
- Collective action can mitigate risks of engagement, minimize duplicative efforts and scale positive impacts on human rights.
Industry-targeted standard setting to facilitate the implementation of responsible business practices, including human rights.
Guide extractive companies in:

- Conducting a comprehensive human rights risk assessment
- Engaging with public security forces
- Engaging with private security providers
Web platform compiling guidance and tools on security and human rights issues:

• Constitutes a one-stop shop for all stakeholders to enhance understanding of security and human rights

• Helps companies finding their way through existing guidance and initiatives

• Facilitates problem-solving for at headquarters and field level

www.securityhumanrightshub.org
ADRESSING SECURITY AND HUMAN RIGHTS CHALLENGES IN COMPLEX ENVIRONMENTS: TOOLKIT

Good practices to facilitate responsible security management:

• Strengthening of human rights due diligence strategies in complex environments
• Good practices in response to real-life security and human rights challenges
• Implementation-focused contribution to the UN Guiding Principles and Agenda 2030
• Available in English, Spanish and French and soon in Mandarin
ADRESSING SECURITY AND HUMAN RIGHTS CHALLENGES IN COMPLEX ENVIRONMENTS: IMPLEMENTATION MECHANISM

- Multi-donor trust fund to improve security and human rights good practices
- Contributions of more than 550,000 USD since 2016 from the UK and Switzerland
- 3 projects completed and 2 ongoing which had impact on 23 countries in Africa, Latin America and Asia
THE CONNECTING BUSINESS INITIATIVE

Strengthening Collective Private Sector Engagement in Complex Emergency Contexts

1. Produce a Guidance Toolkit to support private sector networks and collective action platforms to engage in complex emergencies in a principled, structured and coordinated manner.
   a) Collaboration with the Overseas Development Institute (ODI); Objective to have the draft guidance available in October 2018.

2. Support CBi Member Networks in Cote d’Ivoire, Kenya and Turkey to fully mobilize the expertise, resources and capacities of the private sector in coordination with civil society, public sector and humanitarian and international actors.
   a) First local workshops organized in July-August 2018.

3. Set up a global online portal to share knowledge and experiences, connect actors and provide a global coordination architecture.
4. Experiences from the field

Firzan Hashim, Country Director, Asia Pacific Alliance For Disaster Management / CBi Member Network in Sri Lanka
Right to shelter: Supply of shelter materials

- Risk of raw material used for war effort
- Branding at risk
- Reluctance due to disrepute
Access to communication

• Intermittent connectivity – compromising services
• Predominant control on telecommunication service providers
• Client confidence at risk
Ensuring food security

- Partnership: private sector entities, military, humanitarian agencies and local Government authorities
- Converting rations to edible food
- Easing logistics
Beyond traditional access

- Mobilizing sea-route as an alternate by private sector
- Local trade associations to the forefront as suppliers
- Cash flow via bank remittance
5. Discussion
Thank you!

For more information, please reach out to:

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