

Corporate Responsibility in Conflict-Affected and High-Risk Areas

OVERVIEW OF THE INTERNATIONAL FRAMEWORK,
TOOLS AND LESSONS LEARNED FROM CASE STUDIES

NIKLAS HANSSON

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BACKGROUND

Businesses and investors are increasingly expanding operations in new countries as the globalisation continually evolves and integrates new markets – often in conflict-affected areas. Investments in these regions could be a vital stimulus for growth and development, helping pave the way for democratic development in the long term. However, when decisions are based on insufficient or inaccurate information, businesses can also have a negative impact and fuel conflict.

The commercial conflict dependent actor (CCDA) project is implemented by Diakonia (lead agency), the Church of Sweden, the School of Global Studies and the School of Business, Economics and Law at the University of Gothenburg (www.cdda.se). A reference group provided valuable advice for the project and included the International Council of Swedish Industry, Ethix SRI Advisors, Global Engagement Services, Swedwatch, Enact Sustainable Strategies, the Church of Sweden, Swedfund, Sandvik and Atlas Copco. The objective is to develop concepts through case studies and promote tools that encourage and enable the corporate sector to avoid negative impact on conflict and instead strengthen positive impact. The project is funded by the Swedish International Development Cooperation Agency (Sida).

THE INTERNATIONAL FRAMEWORK AND TOOLS ON BUSINESS AND HUMAN RIGHTS

One of the challenges that the business community is facing arises from growing expectations over corporate responsibility, and the complexity of relevant international standards and tools. The UN Guiding Principles on Business and Human Rights ('the Ruggie principles') from 2011 provide much-needed clarity on the scope of corporate responsibility in relation to human rights, including in conflict-affected and high-risk areas. To address the issue of how this can be translated into corporate decisions and practise, many tools are developed by multilateral organisations, non-governmental organisations and corporations. Despite their differences, most tools aim to assist corporations in identifying, preventing and mitigating potential human rights risks. Tools need to be selected and adapted to each sector, country and unique set of stakeholders. They should be used at various points, both in early stages of start-up and planning as well as merger and acquisition and expansion.

CASE STUDIES ON TRANSNATIONAL CORPORATIONS IN CONFLICT-AFFECTED AREAS

A commercial conflict dependent actor is defined, for the purpose of this project, as an actor that has based its actions or adjusted them to an armed conflict in such a way as to benefit financially from it. Case studies were commissioned for the Democratic Republic of the Congo (DRC), Myanmar, Colombia and the occupied Palestinian territory (oPt). The case studies analyse transnational corporations (TNCs) in the beverage industry, the energy and mining sector, and special economic zones and their impact on conflicts.

The DRC paper analyses the interaction between the Heineken Group's subsidiary in the DRC and three security providers: rebel groups, private security companies and state security forces. The paper on Myanmar explores the relationship between the French energy company Total and Myanmar state actors. The author of the Colombia paper focus on the impact of the mining companies AngloGold Ashanti and Continental Gold on local communities. Finally, the papers on the oPt analyse an economic zone and the system of tunnels connecting the oPt with external markets.

CONFLICT SENSITIVITY IN SCANDINAVIAN COMPANIES

A study on conflict sensitivity in Scandinavian companies was commissioned to contribute learning from the perspective of headquarters structures and decision-making processes. The study reviews the knowledge level among Scandinavian companies in the area of conflict sensitivity, ie. company managers' and staff's understanding of the full range of impact of business operations in conflict-affected states.

The study reveals that the knowledge of the international framework on corporate responsibility varies significantly among companies. Most do not conduct separate human rights risk assessments, but state that human rights are included in normal procedures and routines. Some negative impacts cited by the interviewees include interaction with corrupt business partners and difficulties in sustaining training programmes of staff due to high staff turnover. On the other hand, positive impacts included companies which invested in employment of former combatants in post-conflict situations and the recruitment of a mixed workforce.

CONCLUSIONS

International framework and tools

- *Critical to raise awareness of the wider legal implications for companies active in areas of armed conflict.* Whereas international law applies to states, companies must be aware that international humanitarian law applies, in addition to international human rights law, in situations of armed conflicts.
- *Need to facilitate overview of tools for corporate responsibility.* While the UN Guiding Principles provide clarity on what corporate responsibility is, there is still a need to provide the same clarity on how this can be translated into practice.

Conflict sensitivity in Scandinavian companies

- *Challenges remain to find appropriate ways to share experience on sensitive issues.* Companies are uncomfortable with sharing valuable experience on corporate responsibility, often due to unfamiliarity with the international framework and issues of sensitivity.

Case studies

- *Increased transparency is key for building mutual trust between businesses and local stakeholders.* The relevance of transparency issues is as important in the general context of TNCs globally as it is in conflict-affected areas specifically. The lack of adequate transparency, such as country-by-country reporting, deprives people of the means for demanding accountability from both states and TNCs.
- *Corporate responsibility may not be realistic in certain extreme situations.* In cases of military rule or areas controlled by rebel groups, as the cases of Myanmar and the DRC illustrate, the question arises whether responsible business practice to any meaningful extent is possible. Some argue that investments in such situations are impossible without (being perceived to be) legitimising one of the conflict parties.
- *Check the track-record of potential partners in more than one country.* A company may have a good reputation and track-record in one country, but violate established international standards in another. It is therefore crucial to verify a prospective national business partner's track-record on a global level.

- *Need for more inter-sectorial dialogue between businesses, civil society and governments.* The challenges encountered in conflict-affected areas are similar for the business and the development communities, despite their different objectives. While businesses and investors provide much-needed capital and boost job creation, the development community has built a broad network among local stakeholders. Finding a common language is critical in order to benefit from each other's comparative advantages.

LIST OF ACRONYMS

BLIHR	Business Leaders Initiative on Human Rights
BRICS	Brazil, Russia, India, China and South Africa
CCDA	Commercial conflict dependent actor
CDA	Collaborative for Development Action
CEP	Corporate Engagement Program
CPI	Corruption Perception Index
CSR	Corporate social responsibility
DIHR	Danish Institute for Human Rights
DNH	Do no harm
DRC	Democratic Republic of the Congo
EITI	Extractive Industries Transparency Initiative
ESG	Environmental, social and governance
HLF	High Level Forum on Aid Effectiveness
HRCA	Human Rights Compliance Assessment
IBLF	International Business Leaders Forum
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICoC	International Code of Conduct for Private Security Service Providers
ICRC	International Committee of the Red Cross
IE	Industrial estates
IFC	International Finance Corporation
IHL	International humanitarian law
IHRL	International human rights law
ILO	International Labour Organization
KPCS	Kimberley Process Certification Scheme
MNE	Multinational enterprise
MOGE	Myanma Oil and Gas Enterprise
NCPs	National Contact Points
NGO	Non-governmental organisation
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the High Commissioner for Human Rights (UN)
oPt	occupied Palestinian territory
PMSCs	Private military and security companies
PSC	Private security companies
sBCC	The swisspeace Business Conflict Check
Sida	Swedish International Development Cooperation Agency
TI	Transparency International
TNCs	Transnational corporations
UDHR	Universal Declaration of Human Rights (UN)
UN	United Nations
UNGC	United Nations Global Compact
VPs	Voluntary Principles on Security and Human Rights

PREFACE

Businesses are increasingly investing and expanding operations in new countries as the globalization of the world economy continually evolves and integrates new markets, often in conflict-affected regions. Such investments could be a vital stimulus for growth and development, helping pave the way for democratic development over the long term. However, when decisions are based on insufficient or inaccurate information, businesses can also have a negative impact on communities, fuelling tensions and exacerbating root-causes of conflict. Increasing awareness about human rights violations committed by companies as a result of consumers' growing interest in the ethical dimensions of the production chain, as well as the rapid development of information technology, have created a momentum and an opportunity for inter-sectorial dialogue on responsible and conflict-sensitive business practice. Whether from the perspective of a corporation, a non-governmental organisation (NGO) or a government agency, they must all respond to the same multifaceted challenges when engaging in complex conflict and post-conflict environments.

In the two decades following the end of the Cold War, there was a sharp rise in the number of peace agreements signed across the world to end civil wars. However, about half of all those peace agreements broke down within five years. The reasons for this are varied, but many stem from not properly understanding conflicts and their root-causes. Addressing the challenges of war and its aftermath is a daunting task, but the international community is responding in various different ways. The work on corporate responsibility in conflict-affected and high-risk areas is an example of this and the focus of this report.

The Commercial conflict dependent actor project is a joint initiative implemented by Diakonia (lead agency), the Church of Sweden, the School of Global Studies and the School of Business, Economics and Law at the University of Gothenburg. The objective of the project is to develop concepts and promote tools that encourage and enable the corporate sector to avoid reinforcing negative impact on conflict and instead strengthen positive impact. Key outputs of the project include a research component, field consultations and an international conference for sharing lessons learned. The project aims at both enhancing our shared understanding of business and human rights globally through case studies and at the same time point to practical tools for operational guidance to businesses which can facilitate improved corporate impact in host states.

A reference group, gathering expertise from a variety of different perspectives from the private sector, development organisations and academia, supports the project to ensure the overall focus and outputs remain relevant. The following entities have participated at different stages in the reference group: the International Council of Swedish Industry, Ethix SRI Advisors, Global Engagement Services, Swedwatch, Enact Sustainable Strategies, the Church of Sweden, Swedfund, Sandvik and Atlas Copco. The participating institutions and individuals in the reference group have generously shared their time and expertise which have enriched many of the key outputs of the project. However, the responsibility for the content of this report and the overall project rests with the project partners. It is funded by the Swedish International Development Cooperation Agency (Sida) and is being implemented from 2012 to 2013. The primary target group is the Swedish corporate sector with operations, or plans to start up operations, in conflict-affected regions. We hope that other national and transnational corporations (TNCs), government agencies and development actors can benefit from the project's findings as well.

The CCDA Project Team consisted of Niklas Hansson (Project Manager), Joakim Wolfeil (Policy Advisor on Conflict and Justice), Carl-Henrik Jacobsson (Policy Advisor), Åsa Beckius (Project Officer) and Anna Åkerlund (Advisor on Conflict and Justice) at Diakonia. Together with Diakonia, Ola Olsson (School of Business, Economics and Law at the University of Gothenburg), Maria Baaz Eriksson (School of Global Studies at the

University of Gothenburg), Peter Sjöberg and Henrik Fröjmark (the Church of Sweden) made up the Project Steering Group and provided critical guidance and advice throughout the project cycle. Erik Fredriksson and Carolina Kihlström (interns at Diakonia), and Théo Jaekel (Swedwatch) contributed with valuable background research to this report.

DISCLAIMER

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1. INTRODUCTION

Conduct a 'conflict risk and impact assessment' prior to investing and starting operations. This should complement, and not replace, human rights, environmental and social impact assessment processes.

– UN Global Compact, 2010¹

Companies in the extractive industry, arms manufacturers and security providers are at the forefront of business operations in conflict-affected regions. This report addresses not only these sectors but seeks to gather lessons learned with relevance for businesses more broadly. Investment, job creation and associated infrastructure projects may stimulate local economies and pave the way for an improved overall investment climate. But wrong decisions by transnational corporations and businesses risk having an adverse effect on conflict-prone countries by reinforcing societal tensions and increasing the risk for continued or escalated conflict.

The Fourth High Level Forum on Aid Effectiveness (HLF-4),² held in Busan in 2011, marks a turning point away from discussing common challenges for aid effectiveness in a limited group of traditional donors towards including both developed and developing nations. Most importantly for our discussion, it engages emerging economies (including the BRICS countries³) and private investors. Furthermore, the HLF-4 achieved a consensus for a 'New Deal for Engagement in Fragile States', an international initiative supported by more than 40 countries and organisations for new and holistic approaches in situations of conflict and fragility. This illustrates a growing awareness of the fact that the business and the development communities are increasingly finding themselves in the same areas of the world. Although their objectives are very different, they are confronting surprisingly similar challenges and could potentially benefit from each other's comparative advantages.

The purpose of this report is to serve as background material for a conference on this topic to be held in Stockholm in November 2013. It will also be available at the project website www.cdda.se. The aim of the report is to provide some clarification on corporate responsibility and other terms, to point to some of the challenges and contested issues, highlight some lessons learned and conclusions reached from the case studies as well as draw attention to some of the tools used to adapt business practice to complex environments. Consequently, it is not the intention of the report to summarise all international standards, tools and research on this vast topic, but rather in a more selective manner exemplify and highlight key developments and existing tools for companies and others to take on and explore further, based on their particular needs.

¹ United Nations Global Compact (2010) *Guidance on responsible business in conflict-affected and high-risk areas: a 2 resource for companies and investors*, p. 11.

² The three preceding High Level Forums on Aid Effectiveness took place in Rome (2003), Paris (2005) and Accra (2008).

³ The BRICS countries are Brazil, Russia, India, China and South Africa.

Chapter 2 briefly introduces some of the terminology used in the report to provide clarity and consistency throughout the report. The international framework, international law and voluntary standards form the subject of chapter 3. Building on the international framework, chapter 4 reviews some of the tools on corporate responsibility used today. The report then continues, in chapter 5, to summarise some of the findings in the research component of the CCDA project, with case studies from four locations. Whereas these case studies focus on non-Swedish international corporations' operations in conflict-affected regions, chapter 6 highlights findings from a study on conflict sensitivity in Scandinavian companies from the perspective of headquarter structures and decision-making processes. Finally, chapter 7 offers a number of conclusions from the overall findings of the CCDA project.

2. DEFINITIONS AND TERMINOLOGY

2.1 CONFLICT-AFFECTED AND HIGH-RISK AREAS

This report does not intend to discuss at length the abundance of definitions in this area as this could be the subject of a report on its own. Nevertheless, it is reasonable to provide some clarity on what we actually mean when using terms such as high-risk areas and corporate responsibility, both which will be used throughout the report. There are a large number of terms and concepts used among corporations, international financial institutions, multilateral organisations, donor agencies and civil society organisations to describe quite similar phenomena. Common terms which have come to denote similar ideas include conflict and post-conflict situations, conflict-prone states, fragile states, failed states, weak governance zones, transition countries, complex environments and conflict-affected and high-risk areas. We shall use the latter term, conflict-affected and high-risk areas, to describe the contextual environments in which business enterprises are establishing or expanding operations, and which is the subject of this report. The United Nations defines conflict-affected and high-risk areas as situations in which the following conditions often prevail:

*human rights violations; presence of an illegitimate or unrepresentative government; lack of equal economic and social opportunity; systematic discrimination against parts of the population; lack of political participation; poor management of revenues, including from natural resources; endemic corruption; and chronic poverty with associated heightened risks and responsibilities.*⁴

The literature, policies and tools on corporate responsibility in high-risk areas frequently make reference to many of these terms, often interchangeably. Although they may be defined by slightly different criteria, the above definition captures many of the core features found in the other terms. The definition is also framed from the perspective of the role of corporations and investors, which, again, is the purpose of this report.

The important thing here is the last part of the above definition, namely that the overall environment of human rights abuse, lack of government capacity and political participation, and endemic corruption exposes businesses and investors to *heightened risks and responsibilities* – physical, operational, financial and reputational risks. Some of these will be exemplified in the case studies. Furthermore, it is important to point out that there is no universally accepted and static list of countries and territories defined as conflict-affected and high-risk areas, as all these contexts evolve and change character continually and often rapidly. It may nevertheless be useful to know that there are initiatives that attempt to identify the world's countries in armed conflicts. The Uppsala Conflict Data Program (UCDP) at Uppsala University is one such source which is well-established internationally and is

⁴ United Nations Global Compact and PRI (2010) Guidance on responsible business in conflict-affected and high-risk areas: a resource for companies and investors, p. 6.

continually updated.⁵ The Institute for Economics and Peace has established a Global Peace Index, which measures the state of peace in 162 countries. It is a user-friendly platform of information gathering data on the level of internal conflicts, criminality, refugees, terrorism, military expenditures and many other areas.⁶ International Crisis Group is another source of information tracking developments in many of the world's most complex and challenging environments and fragile states.⁷

2.2 CORPORATE RESPONSIBILITY

'Corporate responsibility' is the central term and the focus of this report and the overall CCDA project. Corporate responsibility is partly the result of growing consumer awareness and demands for more ethical business practices worldwide, including in developing countries and conflict-affected areas. Like the previous example, many terms are in use to describe essentially very similar ideas. Some of the most commonly used terms, in addition to corporate responsibility, are corporate social responsibility (CSR); corporate sustainability; corporate citizenship; environmental, social and corporate governance (ESG); sustainable business; responsible business; green business; and socially responsible investing. Some of these are more limited in scope (such as green business) whereas others tend to encompass a broader spectrum of issues (such as corporate responsibility and ESG). We shall return to this when discussing some of the elements of the international framework on corporate responsibility. For the purpose of this report we use the United Nations' definition of corporate responsibility:

*A company's delivery of long-term value in financial, social, environmental and ethical terms. It covers all principles and issue areas of the Global Compact. The terms 'corporate sustainability', 'corporate responsibility' and 'sustainability' are used interchangeably.*⁸

As stated in the definition, the term incorporates all elements of the UN Global Compact (which is discussed further in chapter 3.2.1) and includes a company's impact in the areas of the environment, human rights, anti-corruption and labour issues. There is no universally accepted definition, and for different companies and organisations it can mean slightly different things. However, they all essentially refer to a company's wider impact on society whether one takes a limited or a broad approach. In addition to this definition, the UN Guiding Principles on Business and Human rights, also discussed below, try to define the parameters in greater detail of what should be understood as corporate responsibility.

2.3 CONFLICT SENSITIVITY

*While the development assistance arena may seem far removed from that of business, the issues that arise when managing a development project and an investment project can be surprising [sic] similar. - Rights-Compatible Grievance Mechanisms. A Guidance Tool for Companies and Their Stakeholders, Harvard University.*⁹

The international development community (including both the development and the humanitarian sectors) has made great strides in the last two decades to develop and refine methods to better adapt international development cooperation in the world's most challenging environments. The fundamental assumption is that all

⁵ <http://www.pcr.uu.se/research/UCDP/>. The UCDP site contains an easily accessible database of the world's countries and territories in armed conflict, as well as background information and definitions.

⁶ <http://www.visionofhumanity.org>.

⁷ <http://www.crisisgroup.org/en.aspx>. Their monthly CrisisWatch bulletin provides regular updates on situations of conflict or potential conflict for international organisations, businesses and media.

⁸ UN Global Compact (2011) *Annual review of business policies and actions to advance sustainability*, p. 2

⁹ Harvard University (2008) *Rights-Compatible Grievance Mechanisms. A Guidance Tool for Companies and Their Stakeholders*, p. 8

international cooperation needs to take context as a starting point. But there is a growing consensus that, due to their rapidly changing realities, situations of conflict and post-conflict in particular require a conflict-sensitivity approach. The failure of the international community to respond effectively in Rwanda and Somalia in the 1990s has been a major driver for developing theories and models on conflict sensitivity. Conflict sensitivity can be defined as the ability to:

- *understand* the context in which you operate;
- understand the *interaction* between your intervention and the context; and act upon the understanding of this interaction, in order to avoid negative impacts and to maximise positive impacts.¹⁰

Experience shows that regardless of its intentions, an intervention implemented in a conflict-affected area will inevitably interact with that environment. This will have positive or negative consequences for the conflict dynamics. One of the most widely spread and used conflict sensitivity tools worldwide is the ‘do no harm’ (DNH) framework.¹¹ The DNH is an easy-to-use tool which seeks to identify ways in which humanitarian and development assistance can be provided in conflict settings so that, rather than exacerbating and worsening the conflict, it may help local people disengage from the conflict and instead contribute to peace-building. The DNH method has come to be used widely by international donor agencies, the United Nations and other development and humanitarian actors.

While the intention of this report is not to provide an overview of conflict sensitivity tools, it is useful to make the reader aware of the existence of DNH, and other similar tools, as some of the language and concepts of the DNH framework are also found in standards and guidelines on corporate responsibility. There is a growing awareness among corporate responsibility managers and specialists in companies for the need to integrate a conflict-sensitivity perspective – to some extent embodied in the UN Guiding Principles and other voluntary initiatives discussed below.

3. CORPORATE RESPONSIBILITY: THE INTERNATIONAL FRAMEWORK

There are an increasing number of international standards and guidelines in the area of corporate responsibility. The general trend is that there has been a development from a narrow to a much broader and comprehensive approach. This stems from an understanding that investment touches on so many aspects of society and that it is a shared responsibility among corporations, states, labour and non-governmental organisations to address these challenges. Chapters 3 and 4 offer a brief review of relevant international law, which corporate responsibility standards often relate to, as well as some widely used guidance documents and tools. See Appendix 1 for a list of international guidelines, tools and special initiatives. The following will be reviewed in this and the next chapter:

- International law
 - International human rights law (IHRL)
 - International humanitarian law (IHL)
- Voluntary principles and standards

¹⁰ APFO, CECORE, CHA, FEWER, International Alert and Saferworld (2005) *Conflict-sensitive approaches to development, humanitarian assistance and peace-building: tools for peace and conflict impact assessment*.

¹¹ The Do No Harm Framework for Analyzing the Impacts of Assistance on Conflict was developed by the US-based Collaborative for Development Action (CDA).

- The UN Global Compact
 - The UN Guiding Principles
 - The OECD guidelines for multinational enterprises
 - Special initiatives on security providers: Montreux, ICoC, VPs
 - Special initiatives on transparency: EITI, the Dodd-Frank Act, CPI
- Tools
 - NGOs and research institutes
 - Corporations and multilateral organisations

3.1 INTERNATIONAL LAW

As much of the voluntary initiatives and principles on corporate responsibility refer back to international law, it is only natural to begin here. International law is designed to apply to states, and not to individuals or companies. However, this is increasingly being contested and debated and the UN Guiding Principles, described in the next section, provide some clarity on the expectations on companies from the standpoint of international law. This brief section will only highlight the components of international law that are of most relevance for the purpose of discussing corporate responsibility. In addition to knowing and understanding the relevance of international law, companies must comply with and act in accordance with national law in host states (the country where the company is active) and home states (in which they are domiciled). This is often of major concern for companies, as national law is often very weak and sometimes contradicts international law and standards. International law contains two principal bodies of laws: international human rights law (IHRL) and international humanitarian law (IHL). According to the UN Guiding Principles on Business and Human Rights, IHRL includes, as a minimum (again, from the perspective of corporate responsibility), the following human rights instruments:¹²

- The Universal Declaration of Human Rights, UDHR (UN);
- The International Covenant on Civil and Political Rights, ICCPR (UN);
- The International Covenant on Economic, Social and Cultural Rights, ICESCR (UN); and
- The Declaration on Fundamental Principles and Rights at Work (ILO).

This means that companies are expected to know and act in accordance with the United Nation's UDHR, ICCPR and ICESCR (also referred to as the International Bill of Human Rights), together with the International Labour Organization's (ILO) eight core conventions as set out in the Declaration on Fundamental Principles and Rights at Work. In addition to these, there are several other core human rights instruments, including conventions on the elimination of all forms of racial discrimination and discrimination against women, the rights of the child and the rights of persons with disabilities.¹³ IHRL applies to any situation in any country or territory at all times, whether in peacetime or a situation of armed conflict. Some of the articles of these instruments can be temporarily derogated in certain circumstances (which are clearly regulated).

It is important to make the distinction between IHRL and the other body of law, international humanitarian law (IHL).¹⁴ IHL, also known as the law of war or law of armed conflict, is essentially a set of rules that regulates the conduct of armed conflicts and seeks to limit the effects of war. The major part of IHL is contained in:

¹² United Nations Human Rights Council (2011b) Principle 12, p. 13. Note that IHRL is broader than this, but again, the term IHRL will be used in this report to mean primarily these four instruments when discussing it in relation to corporate responsibility.

¹³ See <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx> for more details on the core human rights instruments.

¹⁴ United Nations Human Rights Council (2011b) Principle 12, p. 14. See also http://www.ehl.icrc.org/images/resources/pdf/ihl_and_ihrl.pdf for an excellent overview of the difference between IHRL and IHL (the International Committee of the Red Cross).

- the four Geneva Conventions of 1949; and
- their Additional Protocol I and II of 1977.¹⁵

The four Geneva Conventions protect the wounded and sick in the armed forces, prisoners of war, and civilians who find themselves under the rule of a foreign power during an international conflict. Opposed to IHRL, no part of IHL can be derogated at any time. The importance of the distinction between IHRL and IHL is that in peacetime only IHRL applies, whereas in a situation of armed conflict, both IHRL and IHL apply. This means that high-risk areas such as a situation of armed conflict or occupation demand much higher capacity and sensitivity from companies than elsewhere. At the same time, situations of armed conflict, often characterised by weak governance and occurring in fragile states, are precisely those countries with the greatest need for foreign investment and support.

Box 1. Companies can be held accountable for violations of international law: the cases of the Dexia Group and Re/Max International.

A UN report from 2013 on the situation of human rights in the Palestinian territories reviewed 13 businesses (Israeli and international) profiting from Israeli settlements.¹⁶ The report takes the UN Guiding Principles as one of the starting points and provides a legal analysis of two companies which are potentially implicated in international crimes: the Dexia Group and Re/Max International. It is almost universally accepted that the settlements in the West Bank and East Jerusalem violate international law (including international human rights law and international humanitarian law). Furthermore, it is firmly established that international law recognises the legal personality of corporations. It is against this background that the two cases are analysed.

The *Dexia Group*, owned by Belgium and France,¹⁷ work with financial transactions, such as loans, to construct or purchase Israeli settlements. The company was a member of the UN Global Compact but withdrew 2013. The Dexia Group has stated that no new contracts have been granted in relation to the settlements, but this has been questioned by some. The activities of Dexia Israel – Dexia Group’s subsidiary – include managing personal bank accounts and mortgage loans for home-buyers. The UN report concludes that the Dexia Group can be held responsible for violating international humanitarian law, by transferring members of the Israeli population into occupied Palestine (violating article 49 of the Fourth Geneva Convention).

US-based *Re/Max International* has an international network of franchisee-owned offices and is involved in advertising and selling properties in the settlements. Re/Max Israel, a franchise of Re/Max International, advertises and sells settlement homes in the West Bank. The UN report concludes that this amounts to contributing to violations of international humanitarian law, more specifically the international crime of transferring citizens of the occupying power onto occupied territory. The report further concludes that, from the perspective of international human rights law, Re/Max International is directly contributing to adverse human rights impacts, such as the restriction on freedom of movement and unlawful interference with Palestinians’ privacy, family and home (violating, among others, article 12 of the International Covenant on Civil and Political Rights).

¹⁵ *Ibid.* To be precise, the laws applicable in international armed conflicts are the four Geneva Conventions and their Additional Protocol I, and for non-international armed conflicts article 3 common to the Geneva Conventions and Additional Protocol II apply.

3.2 VOLUNTARY PRINCIPLES AND STANDARDS

Voluntary principles on corporate responsibility are sometimes referred to as ‘soft law’ as they are non-binding. Soft law is often created to fill gaps, complement international law or provide clarifications and guidance.

3.2.1 THE UN GLOBAL COMPACT

The United Nations Global Compact (UNGC) was launched in 2000 and is today the largest initiative for corporate citizenship and sustainability in the world with more than 7,000 businesses from 145 countries participating.¹⁸ The vision of the UNGC is a sustainable and inclusive global economy that delivers lasting benefits to people, communities and markets. It does so by encouraging businesses to commit to ten principles in the areas of human rights, labour, the environment and anti-corruption (see Box 2).

Box 2. The UN Global Compact’s Ten Principles

Human rights

- **Principle 1** – Businesses should support and respect the protection of internationally proclaimed human rights; and
- **Principle 2** – make sure that they are not complicit in human rights abuses.

Labour

- **Principle 3** – Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- **Principle 4** – the elimination of all forms of forced and compulsory labour;
- **Principle 5** – the effective abolition of child labour; and
- **Principle 6** – the elimination of discrimination in respect of employment and occupation.

Environment

- **Principle 7** – Businesses should support a precautionary approach to environmental challenges;
- **Principle 8** – undertake initiatives to promote greater environmental responsibility; and
- **Principle 9** – encourage the development and diffusion of environmentally friendly technologies.

Anti-corruption

- **Principle 10** – Businesses should work against corruption in all its forms, including extortion and bribery.

Apart from the ten principles, the UNGC has produced a large number of publications to support corporations in their efforts to move towards corporate sustainability. One of its early publications focused on conflict impact assessment and risk management for corporations. More specifically, it aimed to help companies develop ‘strategies that minimise the negative effects and maximise the positive effects of investing in areas of conflict or potential conflict’.¹⁹ One important product coming out of the UNGC is their guidance for companies and investors in the context of armed conflict.²⁰ This guidance document states:

*Companies are encouraged to take adequate steps to identify the interaction between their core business operations and conflict dynamics and ensure that they do no harm. They are encouraged to adapt existing due diligence measures to the specific needs of conflict-affected and high-risk contexts.*²¹

¹⁶ United Nations General Assembly (2013), *Situation of human rights in the Palestinian territories occupied since 1967*. A/68/376

¹⁷ Belgium and France are the majority stakeholders and own 94% of the Dexia Group.

¹⁸ As of May 2013; www.unglobalcompact.org.

¹⁹ *Global Compact Business Guide for Conflict Impact Assessment and Risk Management (2002)* p 1.

²⁰ United Nations Global Compact (2010) *Guidance on responsible business in conflict-affected and high-risk areas: a resource for companies and investors*.

²¹ *Ibid.* p. 10.

3.2.2 THE UN GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

The UN ‘Protect, Respect and Remedy’ Framework, endorsed in 2008 by the UN Human Rights Council and operationalised in 2011 in the UN Guiding Principles on Business and Human Rights (hereafter the Guiding Principles) is probably the single most important international standard on the prevention of, and remedy for, business-related human rights harm.²² The Guiding Principles have been developed under the leadership of Professor John Ruggie, the former UN Special Representative on business and human rights.²³ It has evolved through various phases, including that of identifying existing standards, conducting worldwide consultations and research for mapping alleged human rights abuses by businesses, and finally the establishment of the Framework itself and its Guiding Principles. The Guiding Principles rest on three pillars:

- i. the state duty to **protect** against human rights abuses by business enterprises or other third parties, through policies and regulation;
- ii. the corporate responsibility to **respect** human rights, ie. acting with due diligence to avoid violating the rights of others; and
- iii. the need for greater access by victims to effective **remedy**, both judicial and non-judicial.

What is unique about the Guiding Principles is that they do not add a new international law obligation but elaborate ‘the implications of existing standards and practices for States and businesses; integrating them within a single, logically coherent and comprehensive template; and identifying where the current regime falls short and how it should be improved.’²⁴ The Guiding Principles are endorsed by governments, businesses, civil society and workers’ organisations, and investors. The European Commission has invited EU member states to submit national plans for implementation of the Guiding Principles. Box 3 highlights some of the Guiding Principles to illustrate in more detail what they actually say about the three pillars.

Box 3. Elements from the UN Guiding Principles on Business and Human Rights (‘the Ruggie Framework’)

States should

- prevent, investigate, punish and compensate for human rights abuse through legislation (#1);
- encourage/require businesses to communicate how they address human rights (#3);
- take steps to protect against human rights abuses by state-owned/controlled companies (#4);
- deny public support for businesses involved in gross human rights abuses (#7); and
- ensure that, when business-related human rights abuse occurs, those affected have access to effective remedy (#25).

Businesses should

- respect human rights (including UDHR, ICCPR, ICESCR, ILO) (#11/12);
- have senior-level approved policies publicly available, facilitating identification, prevention, mitigation of human rights abuses, and enable remedy (#16);
- assess impact of operations, act on findings, track responses and communicate what measures are taken (#17);
- consult with affected groups and other stakeholders (#18); and
- provide remedy where business has caused negative impact (#22).

²² United Nations Human Rights Council (2011b). A brief note for clarification: the UN ‘Protect, Respect and Remedy’ Framework was first established in 2008 (United Nations Human Rights Council (2008), see reference list), but the document referred to here is the *Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework*, from 2011. This is the most widely used document as it operationalises and comments on the various sections of it.

²³ John Ruggie served as the UN Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises from 2005 to 2011.

Due diligence has received increasing attention, not least because it is a critical component of the UN Guiding Principles. Due diligence essentially refers to the expectation that businesses actively identify and address human rights impacts of their operations and supply chains. Through the work of the UN Special Representative on business and human rights, human rights due diligence (understood here to include both IHRL and IHL) for the private sector, has been firmly established in international standards.

It should be noted that human rights due diligence has also been incorporated into many other instruments, guidelines and standards. ISO 26000, a guideline for social responsibility from 2010, supports companies in identifying and managing social responsibility, including human rights. The OECD Guidelines on Multinational Enterprises (described below) were updated in 2011 to include human rights due diligence. Furthermore, the European Union and the World Bank have incorporated human rights due diligence into their requirements and strategies on corporate responsibility.²⁵

Heightened risks in conflict-affected areas

Given the increased risks for gross human rights abuses in conflict-affected areas, the Guiding Principles include a particular section on this that points to key aspects to consider.²⁶ The importance of states assuming responsibility for ensuring that businesses in those areas are not involved in such abuse is emphasised. This may be done by engaging early to assist businesses in identifying, preventing and mitigating human rights risks, but also by denying public support for businesses which are linked to gross human rights abuses. Furthermore, attention is drawn to the heightened risk of sexual and gender-based violence in areas affected by conflict, as this occurs on a significantly broader scale in those contexts.²⁷

The same year as the Guiding Principles were launched, the UN presented a special report on business and human rights in conflict-affected regions, in which the importance of the development of conflict-sensitive policy for businesses operating in violent contexts is elaborated on.²⁸ The need to understand which parts of international law apply in peacetime compared to in armed conflict, as previously discussed, is important in relation to this. It is not our intention to examine this further as this is a very complex area, but it may be useful to refer to another publication. In order to increase the awareness of IHL among business managers, the International Committee of the Red Cross (ICRC) has issued the report *Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law*.²⁹ This explains both how businesses can come under the protection of the provisions of IHL and the risks involved for businesses in terms of getting involved in violations of IHL.

Limits of corporate responsibility

There is a lively debate around the issue of corporate responsibility and the limits to what can be expected of companies around the world. The pyramid in Figure 1 illustrates the potential role companies can play in assuming corporate responsibility. The base of the pyramid shows the minimum requirement for companies as ‘compliance’, in line with the UN Guiding Principles and due diligence as just discussed. Compliance with national and interna-

²⁴ United Nations Human Rights Council (2011b) p. 5.

²⁵ Jaekel, T. (2013), untitled internal paper produced for Diakonia.

²⁶ Principle 7, United Nations Human Rights Council (2011b), p. 10.

²⁷ Principle 7 of the UN Guiding Principles, see commentary.

²⁸ United Nations Human Rights Council (2011a). *Business and human rights in conflict-affected regions: challenges and options towards State responses*. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises. A/HRC/17/32 May 27, 2011.

²⁹ ICRC (2006). *Business and International Humanitarian Law: An Introduction to the Rights and Obligations of Business Enterprises under International Humanitarian Law*.

tional law (IHRL/IHL) is clearly expected by companies operating anywhere in the world. The middle section ‘Do no harm’ goes beyond that and requires that a company conducts more in-depth analysis of the country context and invests time and resources in ensuring space for dialogue with local communities and stakeholders on the broader impact on society. Finally, the peace-building component at the top of the pyramid refers to companies’ potential to play a pro-active role in addressing root-causes of conflicts and structural inequalities to contribute to a more stable operating environment and to a safer and more peaceful society. The question on exactly what can be expected of companies has not been resolved and is still very much a matter of debate.

Figure 1: Limits of corporate responsibility.³⁰



3.2.3 THE OECD GUIDELINES FOR MULTINATIONAL ENTERPRISES

The other set of international guidelines which we introduce here is the Organisation for Economic Co-operation and Development’s (OECD) Guidelines for Multinational Enterprises. The first version of these guidelines originates from 1976 and the latest 2011 edition is one of the most widely applicable set of government-endorsed standards relating to corporate responsibility and human rights. The OECD Guidelines is a government-backed international corporate accountability mechanism to encourage responsible business behaviour around the world. The guidelines define standards for socially and environmentally responsible corporate behaviour as well as providing guidance on resolving disputes between corporations and communities negatively affected by corporate activities.³¹ It should be noted that the OECD Guidelines include an implementation mechanism, a system of so-called National Contact Points (NCPs). These are government agencies aimed at promoting and facilitating the implementation of the guidelines. NCPs serve, for example, as a mediation and conciliation platform for resolving disputes which may arise. The OECD Guidelines do not include specific concerns for conflict contexts. However, they are relevant and apply to all contexts, regardless of whether the situation in question is characterised by conflict or not. The UN Guiding Principles and the OECD Guidelines have mutually benefited from each other’s work over the last few years.

³⁰ Source: Banfield, J., Hauffer V. and Lilly D. (2003). *Transnational Corporations in Conflict-Prone Zones: Public Policy Responses and a Framework for Action* (London: International Alert), as cited in International Alert (2005).

3.2.4 SPECIAL INITIATIVES ON SECURITY PROVIDERS: MONTREUX, ICOC AND VPS

Apart from the international framework, illustrated here with the UN and the OECD instruments, there are specific initiatives that focus on particular sectors and sub-themes. Some of these are primarily aimed at states and others at companies and other actors. This brief section only points to some examples, grouped here for their relevance for security providers. As we shall see, when discussing the case studies, security is of central concern for business enterprises operating in conflict-affected regions. Ensuring the security of their personnel as well as their infrastructure is essential for long-term investment in a conflict-prone environment and it can be extremely challenging to find credible security providers with a good track-record. In order to standardise and promote self-regulating systems, a range of initiatives has been created. *The Montreux Document* is one of these and was initiated in 2006 by the Swiss government and the ICRC, and established three years later.³² It is aimed primarily at governments and seeks to clarify international obligations relating to private military and security companies (PMSCs) in armed conflict. It clarifies IHL obligations of states when contracting services from PMSCs; states where those services are carried out; the home states of PMSCs; third states and the PMSCs themselves. The *International Code of Conduct for Private Security Service Providers (ICoC)* is aimed primarily at businesses, and was set up to complement the *Montreux Document*. It is a set of human rights and IHL standards for PMSCs, including provisions about the conduct of personnel, management and governance of such companies. The Swiss government was engaged in this process, which led to the launch of the ICoC by private sector stakeholders. As of September 2013, more than 700 companies have endorsed the ICoC. An agreement was reached in 2013 to set up an oversight mechanism to monitor and certify compliance with the ICoC. Finally, the *Voluntary Principles on Security and Human Rights (VPS)* is an initiative launched in 2000 as a response to reports of human rights abuses allegedly committed by the security providers of companies in the extractive sector. The principles focus on the interaction of companies with both public and private security forces.

3.2.5 SPECIAL INITIATIVES ON TRANSPARENCY: EITI, THE DODD-FRANK ACT AND CPI

Transparency issues lie at the very heart of the debate on corporate responsibility and there has been some notable progress in this area in recent years. Two of these initiatives, the Extractive Industries Transparency Initiative (EITI) and the Dodd-Frank Act, are limited to certain sectors. The Dodd-Frank Act is not a 'soft law' as it is a legally binding national law in the United States. However, it is included here as it relates directly to transparency issues. The EITI is an international initiative supported by a coalition of governments, companies and civil society to improve openness and accountability in the management of revenues from natural resources, such as oil, gas, and minerals. The EITI Standard enables participating countries to ensure full disclosure of taxes and other payments made by producing oil, gas and mining companies as well as promoting public debate. Although the Dodd-Frank Act is a national law with limited application, it has the potential to set an example for other countries to follow. The Dodd-Frank Wall Street Reform and Consumer Protection Act passed into law in 2010 and will enter into force in 2014. The Dodd-Frank Act requires companies in the oil, gas and mineral sectors to include country-by-country as well as project-by-project reporting. This is a milestone in the development of transparency measures, as the lack of reporting on a country basis has been lacking for instance in corporations' quarterly reports. This has made it possible for corporations to dodge responsibility by not providing relevant information to the general public and in particular for local stakeholders in the countries in which corporations are active. The European Union has adopted an Accounting Directive similar to the Dodd-Frank Act. The directive was created in 2013 and requires companies in the oil, gas, mining and forestry sectors

³¹ The OECD Guidelines include specific sections on human rights, employment and industrial relations, environment, corruption, consumer interests, science and technology, competition and taxation.

³² ICRC (2009). *The Montreux Document on pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict*, ICRC, August 2009.

to make public any payments above 875,000 SEK (approx. €100,000) in states where they conduct operations. This includes, like the Dodd-Frank Act, country-by-country and project-by-project reporting.³³

Apart from these specific developments for the mineral and extractive industries, Transparency International's Corruption Perception Index (CPI), which has been used since 1995, continues to be one of the most widely cited and referenced corruption indexes in the world. While this is a very generic method of measuring and ranking countries with regard to corruption, it complements other initiatives and approaches.

4. CORPORATE RESPONSIBILITY: TOOLS

Whereas the UN Guiding Principles have provided clarity on what corporate responsibility is, the challenge of providing clarity on how this can translate into corporate decisions and practise still remains. One of the real challenges for company managers and staff is to know which one of the growing numbers of methods and tools would be most appropriate and suitable for their particular needs. This section highlights some of the tools established and used by companies to identify human rights risks and how to integrate this into company structures and management processes. Tools for companies to address human rights risks are developed by expert organisations, multilateral organisations, NGOs, research institutions and by companies themselves or multi-stakeholder initiatives. See Appendix 1 for a list of international standards and tools on business and human rights. It should be stressed that this does not in any way claim to be a representative selection of the tools most widely used by companies. Rather it is merely intended to illustrate with some examples what type of tools has been developed so far. Some of these are of a more 'static' character and provide an often very comprehensive set of principles and guidance points, some of which are explained or commented upon. The OECD *Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones*³⁴ is one such a tool, which provides a set of questions for each of the six topics covered. These include legal aspects, management processes and a section on speaking out against wrongdoing. It does not provide much comment or operational guidance apart from formulating these questions under each heading. Many of the other tools, however, are more dynamic and facilitate adaptation for different contexts and situations.

4.1 TOOLS BY NGOS AND RESEARCH INSTITUTES

Many tools have been developed by NGOs or research institutes, such as the *Corporate Engagement Program* (CEP) Framework by Collaborative for Development Action (CDA); the *Human Rights Compliance Assessment* (HRCA) by the Danish Institute for Human Rights (DIHR); the *swisspeace Business Conflict Check* (sBCC) by Swisspeace or Red Flags by International Alert and the Fafo Institute for Applied International Studies.³⁵ The CEP Framework was developed with a particular focus on identifying and facilitating different avenues for dialogue with local communities potentially affected by business operations during any phase of a company's operations, including start-up or expansion. The CDA furthermore offers services to interested clients in order to put the framework into practice and provide tailor-made options for corporations. The tools developed by the DIHR and the Swisspeace foundation are based on extensive research and provide both limited and more comprehensive approaches to corporations seeking to improve their impact in host states through corporate responsibility strategies. The DIHR is one of the leading research institutes in the field of human rights. Its tools and methods are solidly grounded in international human rights law and compliance issues, but it also addresses company concerns and potential impact on local communities. There is both a full version of the tool and a

³³ Swedwatch (2013) *Skattjakten. Var skattar företag med verksamhet i utvecklingsländer?*, p. 53.

³⁴ OECD (2006).

³⁵ These tools, and more background on them, can be found on the following websites: CEP <http://www.cdacollaborative.org/programs/corporate-engagement-program/>; HRCA <https://hrca2.humanrightsbusiness.org/>; sBCC <http://businessconflictcheck.swisspeace.ch/en/>; and Red Flags <http://www.redflags.info/>. CDA has developed a toolkit similar to the CEP framework in collaboration with the Prospectors and Developers Association of Canada and World Vision Canada, *Preventing Conflict in Exploration: a Toolkit for Explorers and Developers*, PCE (2012).

condensed version (the HRCA Quick Check). The Swisspeace sBBC is essentially a web-based self-assessment tool with the possibility for companies to procure consultancy services for more tailor-made solutions for their individual needs and priorities. Finally, the Red Flags initiative lists activities which should raise a 'red flag' of warning to companies for potential legal risks and which may require action. Red Flags is drawn from actual experience and the project website contains case studies on existing international law and court cases. To improve accessibility, it recently released an iPhone app.

4.2 TOOLS BY CORPORATIONS AND MULTILATERAL ORGANISATIONS

Corporations, sometimes in collaboration with multilateral organisations, have also developed a whole range of tools with similar services and methods to those described above. The Business Leaders' Initiative on Human Rights has, together with the UN Global Compact and the UN Office for Human Rights, established a *Guide for Integrating Human Rights into Business Management*.³⁶ This guide is an easily accessible online tool comprising a series of steps including identifying and understanding human rights in relation to business, managing risks, integrating human rights into corporate policy and culture as well as tracking performance. Finally, Maplecroft is one of many corporations specialising in providing a wide range of services for businesses, governments, financial institutions and NGOs, including country risk research and mapping to identify ways that they can identify, monitor and mitigate a whole host of risks to operations in a variety of different settings and geographical contexts.³⁷ Risk factors addressed by Maplecroft include, among others, human security, labour rights and protection, civil and political rights, and access to remedy.

These tools are developed from different perspectives; some more research-based, others more practically oriented and drawn from actual experience. Some are designed as self-assessment tools easily accessible to anyone interested in using them; others are developed more as a package of consultancy services requiring engagement between the entity designing the tool and their client. Despite their variation and different emphases, they all share certain core elements which are included and integrated into the respective tools to varying degrees. These core elements mirror rather well what we understand as conflict sensitivity. Most tools cover sections on context analysis, the interaction between the business investment and that context (in terms of human rights impacts) as well as appropriate responses based on this knowledge. In addition to this, transparency is a cross-cutting theme throughout. Most tools integrate sections on tracking performance, stressing the importance of communicating results and reporting on the actions taken by corporations to address human rights concerns.

Finally, tools need to be selected and adapted to each industry and each sector, country, culture and unique set of stakeholders. They should be used at various points, both in early stages and when significant changes occur, such as start-up and planning, feasibility and exploration stages, merger and acquisition, expansion, decommissioning and closure. There are many other tools, some which focus on specific sectors. This section has tried to highlight some of the more general and widely used ones.

³⁶ <http://www.integrating-humanrights.org/>

³⁷ See <http://maplecroft.com/>. The Human Rights Risk Atlas is one of the many tools and services available through Maplecroft.

5. CCDA CASE STUDIES

5.1 TESTING A NEW CONCEPT

The research component of the CCDA project intends to shed light on a grey area between conflict research and the research done on corporate responsibility. Much has been done on conflict research (and the interaction with aid) as well as on corporate responsibility in the context of new markets, often characterised by fragile states or conflicts. However, less research has been done where these two spheres intersect. When does a transnational corporation risk getting entangled with conflict actors, and thereby becoming dependent on the continued existence of the conflict and/or a conflict party? How can we learn from experience to become better at understanding the often extremely complex country contexts in which many companies operate, and ultimately avoid these risks, or mitigate their effects? These were the questions that drove the CCDA project and guided the commissioned research papers discussed in this section. The five research papers explore and test the utility of a concept that the project labelled commercial conflict dependent actor (CCDA). The working definition adopted for the purpose of this project is *an actor that has based its actions or adjusted them to an armed conflict in such a way as to benefit financially from it*.

Arms manufacturers and the extractive industry, including those involved with conflict minerals and so-called blood diamonds, often find themselves on the frontline among private sector actors in conflict-affected areas and fragile states. The CCDA project aims to contribute with learning on sectors beyond the traditional arms and extractive industries. Therefore, the project seeks to expand the purview of the research to encompass other business sectors producing more mainstream consumer products as well.

All the research papers explore a set of interrelated questions: how can CCDAs be identified in each particular context; what does the web of interaction look like; and what are some of the ways in which this impacts on the local conflict. There are contexts in which CCDAs may gradually become increasingly dependent on a conflict situation or a conflict party (or on an actor associated with or which has ties to a conflict party). When we speak of a party to the conflict, we refer typically to the belligerent actors engaged in armed confrontation over a conflict issue, whether over territory, religion or political power. Examples of conflict actors are states and insurgency groups.³⁸

5.2 CCDA RESEARCH PAPERS IN FOUR LOCATIONS

The research papers, or case studies, analyse CCDAs in the Democratic Republic of the Congo (DRC), Myanmar, Colombia and the occupied Palestinian territory (oPt) (two papers were prepared for the latter). Two of the authors are international academics and researchers (DRC and Myanmar) and three of the papers were authored by national experts active in implementing agencies in the development sector in their respective region (oPt and Colombia). These different perspectives and vantage points allowed the project to gather a variety of interpretations of the CCDA concept, including how these actors relate and interact with the conflict environment and relevant stakeholders. The subjects of the studies include actors in the beverage industry, energy and mining sectors as well as special economic zones (industrial zones). Table 1 provides an overview of the research papers and the different actors and sectors that were the subjects of analysis. It shows that two of the papers identify individual companies as CCDAs (in Myanmar and Colombia), one includes security providers and conflict parties (in the DRC) and the remaining two examine a sector or a group of companies and actors as CCDAs (the oPt papers). They all included field visits to the various locations and conducted interviews with relevant individuals as well as reviewed pertinent secondary sources.

³⁸ The 'conflict issue' is sometimes referred to as 'incompatibility' and parties to the conflict are often divided into primary and secondary parties. The intention is not to expand on this further here, but the Uppsala Conflict Data Program, <http://www.pcr.uu.se/research/ucdp/>, is one source which provides useful definitions.

All four locations reviewed in the research papers have been experiencing armed conflict as of 2012.³⁹ Both the DRC and Colombia are currently at an early stage of peace talks, whereas the occupied Palestinian territory is not engaged in a comprehensive and formal peace process (although partial talks do occur). Myanmar is in a state of transition from a military dictatorship towards, at least partially, civilian rule and a gradual opening up of the Myanmar economy. Myanmar, Colombia and the occupied Palestinian territory belong to a rare category of unusually protracted armed conflicts that have all been running for about half a century or more. Sometimes two or even three generations of families and communities have been born into a logic of war and many know of no other way of life. This should be borne in mind when discussing the role of business and human rights. Change may be occurring on the surface in terms of peace agreements and nascent national legislation, but old power structures, ethnic divisions, traditions of corruption and deeply entrenched mistrust of each other are likely to linger on and prevail for a long time.

5.2.1 OVERVIEW OF RESEARCH PAPERS

The DRC paper analyses the interaction between Bralima, the Heineken Group's subsidiary in the DRC, and three security providers in the country, namely rebel groups, private security companies (PSC) and state security forces. The Heineken Group owns 95% of Bralima, which in turn, controls approximately 75% of the national beer market. The paper on Myanmar explores the relationship between the French energy company Total and Myanmar state actors, primarily the state army. It discusses the challenges involved in operating in a conflict-affected region and takes a closer look at the ways in which Total and state actors depend on each other from various perspectives.

The author of the Colombia paper hones in on two TNCs in the mining sector, AngloGold Ashanti and Continental Gold, and their impact on the conflict and local communities. Finally, the two papers on the oPt take a somewhat broader approach as they analyse an economic zone and the system of tunnels connecting the oPt with external markets in neighbouring states. They also apply an historical lens through which the authors interpret the current state of affairs and discuss some of the implications on the conflict context. The research papers all describe unique contexts and make different interpretations of the CCDA concept. However, there are also some general recurring themes that are found across the papers, and the following is an attempt to take stock of some of these.

5.2.2 THE CHALLENGE OF IDENTIFYING CCDAS

As outlined above, the purpose of the research papers was to explore the concept of CCDAs from a rather flexible and open vantage point. The authors all grappled with the question on which types of actors could be considered a 'commercial actor'. Table 1 shows one way of dividing CCDAs into three subcategories: private, armed and state actors. This distinction is not always clear-cut and one may argue whether a private security company should be described as an armed actor or a commercial/private actor. The distinction here focuses on the primary characteristic of each CCDA identified in the research papers and is intended merely as an easy overview of the five different interpretations of the concept.

³⁹ According to the UCDP; <http://www.pcr.uu.se/research/ucdp/>. A conflict is defined as a situation in which at least 25 battle-related deaths occur per calendar year.

Table 1. Overview of CCDAs and their interaction with key stakeholders (from the research papers).

	CCDA			INTERACTION WITH	SECTOR
	<i>Private actor</i>	<i>Armed actor</i>	<i>State actor</i>		
DR CONGO	Private	Rebel groups security companies, State	Security forces	Bralima (corporation)	Beverage
MYANMAR	Total			Gov't of Myanmar	Energy
OPT I	Tunnel owners	Gaza armed factions	De facto Gov't of Gaza, Gov't of Egypt, Gov't of Israel	All actors to the left	Transport
OPT II	Industrial Estates			Gov't of Israel De facto Gov't of GazaPalest. Auth.	Industrial zone
COLOMBIA	Anglogold Ashanti Continental Gold			Gov't of Colombia	Mining

The papers on Myanmar, Colombia and the occupied Palestinian territory on the Industrial Estates (oPt/IE) identify private corporations as CCDAs, whereas the paper on the DRC identifies primarily armed actors or security providers. These include illegal armed groups (rebel groups), the private sector (private security companies) and state entities (state security forces). Finally, the paper on the tunnel system in the oPt applies the broadest definition as it includes all three categories of private, armed/security and state actors. The authors of that paper prompted the inclusion of states in their list of CCDAs by choosing to apply a broader concept, thus departing somewhat from the CCDA working definition. The reason for this, the authors of the report argue, is that commercial interests cannot entirely be separated from political interests in such a complex situation as the oPt.

5.2.3 POROUS BORDERS BETWEEN THE ECONOMIC AND POLITICAL SPHERES

All the research papers discuss the local context and CCDAs not only from the commercial viewpoint but also through a broader political lens. This is only natural when the boundaries between the economic and the political spheres are not always clear, in particular in situations highly charged with political tension and civil strife which often affect all aspects of ordinary people's lives. Even commercial actors may have political leverage. This is very much the case with Heineken's subsidiary in the DRC, Bralima, one of the largest corporations in the country. With a staggering 75% control of the national beer market, Bralima exerts considerable influence at the national level and has been sponsoring political campaigns. Politicians and government campaigns benefit from the massive popularity of the brand of Bralima and vice versa.

The oPt report on Industrial Estates (IE) debates the implications of the Industrial Estates regime for the political situation and how this can contribute to the violation of international law. The IE is the result of an agreement between the Palestine Liberation Organization (PLO), Israel and international financial institutions on the use of a specified land area and infrastructure for industrial activities, such as manufacturing, packaging and labelling with a view to transporting products to local and international markets. The report argues that the

IE may be viewed as a form of industrial settlement, thus violating international humanitarian law, more specifically the prohibition to transfer the civilian population of the occupying power into the occupied territory. What is essentially an economic activity also has political implications.

The situation of Myanmar further challenges our understanding of a private actor, as most of the private corporations in that country are also state-owned. In fact, more than half of the subsidiary or partner corporations of TNCs in Myanmar are state companies. We should recall, however, that the UN Guiding Principles on Business and Human Rights apply also to companies that are state-owned or state-controlled.⁴⁰ As Myanmar has been governed by a military regime for decades, exercising strict control of virtually all aspects of Myanmar society, a private sector does not exist in the same sense (ie. separated from the state) as in many other countries. Within that particular context, Myanmar perhaps best illustrates the close proximity and symbiosis of commercial and political actors. This sets the case of Myanmar apart from the others, and it becomes far more difficult for TNCs to avoid getting entangled with politics as most companies are still controlled by the political and military elite.

5.2.4 SECURITY PROVIDERS

The activities of PSCs can have potentially positive and negative consequences for their clients, the local population in the area of operation, the general security environment, the enjoyment of human rights and the rule of law.

– International Code of Conduct for Private Security Providers⁴¹

The security concerns of a company establishing operations in a conflict-affected region is clearly a fundamental issue for ensuring the sustainability of its business, regardless of how these concerns are addressed. Without being able to guarantee the physical security of the personnel and the infrastructure of a company, there is little chance of success and continuity of that business. Herein also lies the risk of becoming dependent on conflict actors or actors with ties to conflict actors. The providers of security are usually private security companies (PSC), ranging from small local companies to major TNCs specialising in the provision of comprehensive security solutions for companies. It can also be state security forces. Rebel groups or insurgents are usually seen as sources of insecurity, not providers of security, but in some contexts international actors have used rebel groups to secure their interests and personnel.

Both the DRC and the Myanmar reports place the provision of security at the centre of the discussion. Schouten, the author of the DRC report, makes the case that the security providers reviewed in the report – rebel groups, PSCs and state security forces – can all be viewed as CCDAs. The fact that PSCs depend on a continued situation of insecurity is reflected in the words of one of the PSC managers interviewed for the study: ‘if the DRC would be completely secure, with a functioning state security sector, there would be no more work’. The debate on the privatisation of security in high-risk locations and fragile states is not new and the situation of the DRC should be seen within the framework of this broader global trend. As the most basic and fundamental objective of a PSC is the provision of security for their clients, it is only natural that (however odd it may sound) an environment of insecurity provides the ‘best’ prospects for a company with such a business model. For that reason, it may be more meaningful to discuss PSCs as a problematic general phenomenon, rather than analysing one actor in isolation. From that vantage point, the more serious concern about PSCs is perhaps the extent to which they may exploit and manipulate people’s *perception* of security. While the actual security of a

⁴⁰ Principle #4 of the *UN Guiding Principles on Business and Human Rights*.

⁴¹ *International Code of Conduct for Private Security Providers (ICoC)* p. 3. The ICoC has been signed by 708 companies in the security sector as of September 2013.

certain city or region may be fairly satisfactory, many factors, including PSC marketing, may influence and fuel people's *perception* of insecurity. In other words, people's perception of insecurity may be very high, whereas the *actual* insecurity (measured against verifiable crime statistics) could be very low. Schouten makes the case that PSCs should be expected to 'oversell' insecurity in the DRC to instill in the minds of their prospective clients the perception of high levels of insecurity that are exaggerated and not grounded in actual statistics.⁴³

One of the observations from the Myanmar case with regard to security actors is the mutual dependency between these and a national corporation. Although our focus in this report is on TNCs, it may add to our understanding to consider a case of a national corporation becoming dependent on state security actors. The transport and construction company Yuzana has been dependent on the protection of the state army for its operations, while the army, in turn, has benefited from the Yuzana facilities for storage of military equipment. Nordquist makes the point more broadly: 'security is a costly thing, and basically a political matter, not financial'.⁴⁴ He argues that it becomes almost necessary to use state enterprises as business partners due to the general situation of insecurity and instability in the country, in turn created by the lack of institutional protection such as adequate legislation. As the state enterprises – through their direct link to the Myanmar political and military leadership – are the best guarantors of security, and foreign companies are a well-needed source of revenues, this creates a win-win situation and thus a situation of mutual dependency.

5.2.5 TRANSPARENCY

The question around transparency can be seen as cross-cutting – a recurrent theme running throughout the debate on corporate responsibility in developing countries and fragile states. Whereas the UN Guiding Principles emphasise the general importance of transparency measures, the EITI principles place more specific focus on transparency as one way to contribute to enhancing public financial management and accountability.

All of the CCDA research papers, in particular the DRC, Colombia and Myanmar reports, cover aspects of transparency and accountability. The author of the DRC report raises the issue of transparency regarding Heineken's operations in the country, and notes that security arrangements are not included in the company's annual reports, even though investment in security is central to its business operations. This also ties in to the broader debate around the need for country-by-country reporting. Reporting at the national level prevents companies from dodging responsibility and public debate on issues of vital concern for ordinary people affected by business investments. The United States and the European Union have already passed laws or regulations, as discussed above, requiring certain companies to include country-by-country reporting.⁴⁵ Details and comparisons on transparency levels in Swedish corporations as well as Swedish government agencies specialising in export and trade have been reviewed in recent reports.⁴⁶

As the Myanmar paper explains, the general context of corruption and lack of transparency in the past decades is particularly challenging. The country is ranked the third lowest in the world on the Transparency Corruption Perception Index.⁴⁷ Severe systemic flaws and deficiencies in transparency in combination with a private sector largely controlled by the military regime prompt fundamental questions as to whether investments in such an environment are even feasible without fuelling conflict or directly (or indirectly) aiding one of the conflict parties. In the words of one expert on Myanmar, 'responsible investment in Myanmar is not on the map as things stand today'.⁴⁸ Finally, the author of the Colombia paper reports a lack of transparency regarding the government's process of awarding concession rights to foreign mineral extraction companies. The report shows that organised local

⁴³ *Ibid.*, p. 11. However, the problem is also that reliable statistics is often lacking in many countries.

⁴⁴ Nordquist, K-A. (2013) p. 8.

⁴⁵ The Dodd-Frank Act in the US (2010) and the Accounting Directive in the EU (2013). See chapter 3.2.5 above.

⁴⁶ See for example Eklöf (2011) and Transparency International-Sverige (2013). Both reports are in Swedish. The relevance of state agencies such as export credit agencies and official investment insurance agencies is further underlined in the UN Guiding Principles p. 9.

communities have neither been adequately informed nor consulted before the government of Colombia signed concession agreements handing over the control and management of mineral extraction, for a period of 30 years, on the territory on which these communities live and depend for their livelihood.

6. CONFLICT SENSITIVITY IN SCANDINAVIAN COMPANIES

The CCDA project commissioned a study on conflict sensitivity in Scandinavian companies implemented by Enact Sustainable Strategies.⁴⁹ The study reviews the knowledge level among Scandinavian companies in the area of conflict sensitivity, ie. company managers' and staff's understanding of the full range of impact of business operations in host states, including legal compliance with regard to the different sets of law discussed earlier. It looks at company systems, decision-making process and policies. The study is based on interviews with both managers and staff at the head office and at field locations in four different companies with sales or operations in 40 countries or more worldwide, including conflict-affected and high-risk areas. As the purpose of the study was not to scrutinise any individual company, but rather to provide an overview of a select group of Scandinavian companies, the interviews were conducted on the condition of anonymity. Despite this, only four out of 15 companies agreed to participate in the study. The two most common justifications for declining were unfamiliarity with the issue and sensitivity and therefore reluctance to share company experience in this area.

Terms such as 'conflict country', 'weak governance areas' or other similar terms are understood in different ways, and there is no set definition to guide the companies. The part on decision-making and policies reveals that knowledge of the international normative framework on corporate responsibility (international law, the UN and the OECD guidelines and other voluntary initiatives) varies significantly among companies. Some describe their expertise in this area as advanced, whereas others consider their knowledge as limited or very basic. Some express an interest in tools for corporate responsibility and human rights monitoring but at the same time state that many of these are too advanced and complex. Instead, some argue, they need to be more detailed and applicable to the companies' operations. One company said that should human rights-related risks occur, they would identify an adequate tool for addressing this.

When considering an establishment or acquisition, the assessment and decision-making processes vary, not only between companies, but different approaches were also found within the same company. All interviewees further state that due diligence processes, including risk assessments, are always carried out. However, engagement with external stakeholders may be limited depending on, for instance, sensitivity issues. Most of the companies interviewed do not conduct separate human rights risk assessments, but state that human rights are included in the general due diligence processes. Many human rights aspects are covered by the normal procedures required on legal and financial grounds, for instance.

The study further looks at the impact of the company on conflicts and vice versa, knowledge of conflict actors as well as how policy relates to operations. Most interviewees did not see any obvious risks for complicity in human rights abuses. All companies interviewed stated that they try to avoid working in conflict-affected countries, but if they do, their ambition is to remain neutral.

Companies do acknowledge that conflict has a bearing on a company's operations. Some examples of the negative impact cited by the persons interviewed include factories which had to be temporarily closed, difficul-

⁴⁷ Myanmar is ranked 172 of 174 countries on the Transparency Corruption Perception Index for 2012. Nordquist, K-A. (2013) p. 26.

⁴⁸ Nordquist, K-A. (2013) p. 26. Quote from Bertil Lintner, expert on Myanmar.

⁴⁹ I Enact Sustainable Strategies AB (2013) *Conflict Sensitivity in Scandinavian Companies*.

ties encountered when purchasing material and energy, corrupt business partners, and the risk of unintentionally doing business with occupied territories. Furthermore, difficulties in sustaining training programmes of managers and staff due to high staff turnover, and contradictions between national and international law were highlighted as important challenges. On the other hand, positive impacts of business operations reflected in the interviews included companies which invested in employment of former combatants in post-conflict situations and the recruitment of a mixed workforce.

Recommendations from the study include awareness-raising on corporate responsibility in conflict-affected areas, clarifying expectations on companies, promotion of multi-stakeholder initiatives, sharing of more best practice, developing a conflict risk and assessment tool, and conducting training.

7. CONCLUSIONS

7.1 THE INTERNATIONAL FRAMEWORK AND TOOLS

Critical to raise awareness of the wider legal implications for companies active in areas of armed conflict. Whereas international law applies explicitly to states, companies must be aware that international humanitarian law applies, in addition to international human rights law, in situations of armed conflicts.

Need to facilitate overview of tools for corporate responsibility. While the UN Guiding Principles provide clarity on *what* corporate responsibility is, there is still a need to provide the same clarity on *how* this can be done in practice. Improved access and an overview of existing tools can contribute to this.

7.2 CONFLICT SENSITIVITY IN SCANDINAVIAN COMPANIES

Challenges remain to find appropriate ways for sharing experience on sensitive issues. Companies are uncomfortable with sharing valuable experience on corporate responsibility. This is often due to unfamiliarity with the emerging international framework on corporate responsibility and issues of sensitivity.

7.3 CCDA CASE STUDIES

CCDA - one of many ways to explore the impact of companies in conflict-affected areas. The CCDAs identified in the papers included not only private and commercial actors, but also security actors and states. Future studies would benefit from including analysis of the complex web of relationships among these, often characterised by mutual dependency. Most actors are not monolithic structures in the sense that generalisations can easily be made, but individuals or groups within the same structure may be engaged in illegitimate activities without the endorsement of the leadership.

Increased transparency is key for building mutual confidence between businesses, their partners and stakeholders. The relevance of transparency and accountability issues is as important in the general context of TNCs globally as it is in conflict-affected areas specifically. The lack of adequate transparency, such as country-by-country reporting, deprives people of the means for demanding accountability from both states and TNCs. Excluding consultations with local stakeholders when large-scale foreign investments are done may carry long-term negative consequences for local communities and thus prolong and delay peace-building efforts in societies recently emerging from conflict.

Corporate responsibility may not be realistic in certain extreme situations. In cases of military rule or situations controlled by illegal armed groups, as the cases of Myanmar and the eastern DRC illustrate, the question arises whether responsible business practice to any meaningful extent is possible. Then the choice becomes either not to invest or establish business operations at all or to do so but on the understanding that this means that engagement with conflict parties becomes virtually inevitable. In a context such as Myanmar, where the border between the private and the political spheres is unclear, it can be argued that business investments, at least until recently, are impossible without also getting entangled in political affairs. Supporting or legitimising one of the conflict parties (or being *perceived* to be doing so by others) may be an inevitable consequence. Businesses and investors need to be well aware of these heightened risks.

Possible short-term profit at the cost of long-term damage to company reputation. Experience shows that there are both companies that are aware of the risks they take when investing in high-risk areas and those that are unaware of the negative consequences for their own operations as well as for the local communities and the environment. The cases of Myanmar and Colombia perhaps best illustrate this. A company which is active in a country governed by a military junta or a government which is targeted by international sanctions may reap short-term benefits due to lack of competition and quick processes with no normal system of anti-corruption safeguards. However, when a country opens up and when sanctions are lifted, these same companies are not always welcome by a new democratic government.

Check the track-record of potential partners in more than one country. A company may have a good reputation and track-record in one country, but violate established international standards in another. One of the observations from the case of the DRC highlights the importance of verifying a prospective national business partner's track-record not only in the country in which business operations are planned, but more broadly at a global level.

Need for more inter-sectorial dialogue between businesses, civil society and governments. The challenges encountered in conflict-affected areas are similar for the business and the development community, even though their objectives are different. While businesses and investors can provide much-needed capital and boost job crea-

tion, the development community has gathered a wealth of experience of, and networks among, local stakeholders and communities. One of the challenges ahead is to find a common language in order to benefit from each other's comparative advantages.

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APPENDICES

APPENDIX I. INTERNATIONAL STANDARDS, TOOLS AND SPECIAL INITIATIVES ON BUSINESS AND HUMAN RIGHTS IN CONFLICT-AFFECTED AND HIGH-RISK AREAS.

Below is a select list of established international standards, tools and special initiatives primarily for states and the private sector but also relevant for civil society and other stakeholders engaged in the field of business and human rights. Hyperlinks are included in the table for easy access.

INSTRUMENT	HOST AGENCY	DESCRIPTION
<i>General principles and guidelines</i>		
Protect, Respect and Remedy: a Framework (2008)	UN	Based around three pillars: (i) State duty to protect against human rights abuses, (ii) corporate sector's responsibility to respect human rights, (iii) better access to remedies. http://www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf
UN Guiding Principles on Business and Human Rights (2011)	UN	Guiding Principles on the implementation and operationalisation of the 'Protect, Respect and Remedy' framework. Aimed at states and businesses. http://www.business-humanrights.org/media/documents/ruggie/ruggie-guiding-principles-21-mar-2011.pdf
UN Global Compact (2000)	UN	Ten principles on human rights, labour, environment and anti-corruption. Participating companies: 7,000 (from 145 countries). http://www.unglobalcompact.org/abouttheGC/TheTenPrinciples/index.html
Performance Standards on Environmental and Social Sustainability and its Guidance Notes (2012)	IFC	Applies to IFC clients and projects. It covers performance standards in eight areas, including management of environmental risks; labour conditions; community health and security; land acquisition and involuntary resettlement; and indigenous peoples. http://www.ifc.org/wps/wcm/connect/c8f524004a73daeca09afd998895a12/IFC_Performance_Standards.pdf?MOD=AJPERES
The OECD Guidelines for Multinational Enterprises (2011)	OECD	Principles for responsible business conduct aimed at promoting positive contributions by enterprises to economic, environmental and social progress worldwide. Government-endorsed, addressing MNEs. Participating governments: 42. http://www.oecd.org/daf/inv/mne/48004323.pdf
<i>Tools</i>		
OECD Risk Awareness Tool for Multinational Enterprises in Weak Governance Zones (2006)	OECD	Addresses risks and ethical dilemmas for companies investing in countries with weak government, including legal issues, knowing business partners, dealing with public sector officials, and speaking out about wrongdoing. http://www.oecd.org/daf/inv/corporateresponsibility/36885821.pdf
The Corporate Engagement Program Framework (2000)	CDA	Promotes the development of positive, constructive relationships between companies and the local communities where corporate operations take place. http://www.cdacollaborative.org/programs/corporate-engagement-program/
Red Flags	Int'l Alert/ Fafo	Lists activities which should raise a 'red flag' of warning to companies for potential legal risks and which may require action. It draws on actual experience and its project website contains case studies on existing international law and court cases. It recently released an iPhone app. http://www.redflags.info/

Conflict-Sensitive Business Practice: Guidance for Extractive Industries (2005)	Int'l Alert	Tools for companies engaged in mining, oil and gas, to improve their impact on host countries, including understanding and minimising conflict risk and contributing to peace. http://www.international-alert.org/sites/default/files/publications/conflict_sensitive_business_practice_all.pdf
The swisspeace Business Conflict Check (sBCC)	Swiss-peace	Assists business leaders in analysing the political risk environment and defining strategies to cope with challenges arising from conflict. Web-based self-assessment tool. http://businessconflictcheck.swisspeace.ch/en/
The Guide for Integrating Human Rights into Business Management	BLIHR/UNGC/OHCHR	Online tool covering global business case, strategy, policy, processes/procedures, capacity/capability, and tracking performance. User-friendly step-by-step questionnaire structured around above themes. http://www.integrating-humanrights.org/
BLIHR Essential Steps	Business Leaders Initiative on Human Rights	The BLIHR Essential Steps complements the 'Guide for Integrating Human Rights into Business Management'. It translates human rights articles from international human rights law into practically oriented guidance points on corporate responsibility. http://www.integrating-humanrights.org/data/fe/file/ES%20final%20for%20web.pdf
Guide to human rights Impact Assessment and Management (2010)	IFC/UNGC/IBLF	Practical tool for companies to identify, understand and evaluate human rights impacts of a project at every stage, including preparation, identification, engagement, assessment, mitigation, management, evaluation. Links human rights assessment with management processes. http://www.ifc.org/wps/wcm/connect/Topics_Ext_Content/IFC_External_Corporate_Site/Guide+to+Human+Rights+Impact+Assessment+and+Management_(requires_registration_to_download)
Human Rights Risk Atlas	Maple-croft	Designed to help business, investors and international organisations assess and mitigate human rights risk. Includes human rights risk indices clustered around human security, labour rights, civil and political rights, and access to remedy. http://maplecroft.com/themes/hr/
Rights Compatible Grievance Mechanisms: A Guidance Tool for Companies and their Stakeholders (2008)	Harvard University	Tool for companies and their local stakeholders. The tool aims to achieve sustainable solutions to disputes. It comprises a set of seven principles with 24 guidance notes. Principles include legitimacy, transparency, dialogue, learning and other areas. http://www.hks.harvard.edu/m-rcbg/CSRI/publications/Workingpaper_41_Rights-Compatible%20Grievance%20Mechanisms_May2008FNL.pdf
Human Rights Compliance Assessment	Danish Institute for Human Rights	Online tool to detect human rights risks in company operations, such as impact on stakeholders, including employees, local communities, customers and host governments. Database of 195 questions and 947 indicators. Full version and condensed version (HRCA Quick Check). https://hrca2.humanrightsbusiness.org/
Special initiatives		
The International Code of Conduct for Private Security Providers (ICoC) (2010)	Swiss Gov't	Aims to clarify international standards for the private security industry operating in complex environments and to improve oversight and accountability. Complaint procedure is pending. Participating companies: 708 (from 70 countries). http://www.icoc-ppsp.org/uploads/INTERNATIONAL_CODE_OF_CONDUCT_Final_without_Company_Names.pdf
The Montreux Document on Private Military and Security Companies (2009)	Swiss Gov't/ ICRC	Provides guidance and reaffirms the obligation on states to ensure that private military and security companies operating in armed conflict comply with international humanitarian and human rights law. Participating governments: 46. http://www.icrc.org/eng/assets/files/other/icrc_002_0996.pdf

Voluntary Principles on Security and Human Rights (2000)	US/UK/NL/Norway+ companies & NGOs	Principles to guide companies in the extractive and energy sectors in maintaining security while ensuring respect for human rights. Participating governments: 8; corporations: 22; NGOs: 10. http://www.voluntaryprinciples.org/files/voluntary_principles_english.pdf
OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (2013)	OECD	Recommendations to help companies respect human rights and avoid contributing to conflict through their mineral purchasing decisions and practices. http://www.oecd.org/daf/inv/mne/GuidanceEdition2.pdf
The Kimberly Process Certification Scheme, KPCS (2003)	Inter-gov't initiative	KPCS contains requirements for controlling rough diamond production and trade. Participating governments: 81. http://www.kimberleyprocess.com/
The Extractive Industries Transparency Initiative (EITI) (2002)	Gov't/ companies NGOs	A set of principles for openness and accountable management of revenues from natural resources. Supporting governments: 17; companies: 81; NGOs: 8. http://eiti.org/files/English_EITI%20STANDARD_11July_0.pdf

