Why corporate transparency is critical during conflict

The key role of business reporting and due diligence in conflict-affected areas

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Introduction

The war in Ukraine is one of many conflicts that are ongoing in almost every continent – from Sudan to Colombia to Myanmar. Conflict affects everyone, including companies. Like most stakeholders, they are usually not directly part of the conflict and can find themselves challenged and in uncharted waters, however, sometimes companies are contributing to conflicts through their activities, operations or supply chains.

What can a company do to protect their employees and adhere to their values while dealing with external pressures that are out of their control? What happens when the impacts of the conflict supersedes the needs of the business and their stakeholders in decision making? For a company to function in times of conflict, it is important to ensure continuous, transparent stakeholder engagement and conflict-sensitive due diligence. Due diligence and transparency are always necessary, and they become even more so during conflict.

To explore this context, the Global Reporting Initiative (GRI) hosted a session at Sustainability for Ukraine (S4U), run by GlobeScan and CSR Europe, in June 2022. We looked at how conflicts can affect corporate commitment to sustainability, the role of transparency, and why businesses should have a publicly available due diligence commitment that they communicate to all stakeholders, internally and externally. The outcome of that session, alongside additional sources and latest insights, informed the development of this publication.

Watch the webinar on YouTube

Why due diligence matters

One of the risks companies face when they operate in conflict-affected areas is that their actions or operations, or even their silence, may be contributing to or exacerbating the conflict. Conflicts can exist in cross-jurisdictional circumstances, in the civil war context within jurisdictions, as well as in contested territories. Furthermore, risks are impacted by the nature of the companies' activities and operations, stakeholders and supply and value chains. It can also be affected by many factors outside of the control of companies, such as a weakened state government, the presence of armed groups, and limited media freedom.

When a company operates in a conflict-affected area, or in a situation where conflict may occur, due diligence is necessary to mitigate and prevent risks and impacts, including the risk of exacerbating the conflict. Due diligence is the continuous obligation to embed responsible business conduct into the company, and to identify, prevent, mitigate and account for how they address adverse impacts on human rights.

Guidelines and regulations set out obligations and expectations on due diligence during conflict. For example, the United Nations Guiding Principles on Business and Human Rights (UNGPs) advise heightened human rights due diligence processes in conflict-affected areas, "to identify, prevent, mitigate and account for how they address impacts on human rights." In particular, Principle 7 of the UNGPs outlines the need to adopt a conflict-sensitive approach, which emphasizes effectively preventing, managing and addressing conflict, including by seeking to understand conflict dynamics and related risks.

The responsibility to undertake due diligence also applies to the environment and the economy, as outlined in the OECD Guidelines for Multinational Enterprises. And in the EU, the Conflict Minerals Regulation requires companies to ensure they only import tin, tungsten, tantalum and gold from responsible and conflict-free sources, and that they put in place specific due diligence mechanisms.

What does due diligence look like during conflict?

1 Due diligence requires continuous communication

Because of the nature of conflict, risks are constantly evolving, therefore companies should ensure that they continuously assess any changes regarding their risks and impacts, and keep in contact with their stakeholders, such as staff and business partners. This includes assessing the conflict itself, the risks within areas where the business has activities and is operating, and also any risks and impacts that the company's operations and activities are having on local communities.

2 Due diligence implementation measures are impacted by the nature of the company and the conflict

Due diligence action plans depend not only on the business model, but also on the nature of the conflict. Because of this, it's critically important that companies regularly reassess needs and impacts, since conflicts can emerge or change dynamically. Human rights due diligence is not a one-off exercise, and companies who have already taken out long-term risk assessments focusing on conflict and who have strategies in place have increased capacity to respond swiftly. Certain mitigating actions may not be deemed necessary initially, but overtime as the situation evolves they can become necessary. Conflicts may begin as a national conflict before becoming international, or areas of operations might initially be under government authority but over time be controlled by armed non-state groups.

3 Due Diligence in conflict relies on external sources of information

In some cases, companies may be unable to carry out full risk and impact assessments, either for existing or potential conflicts. Here, on-the-ground information from civil society, such as local NGOs and human rights defenders, is critical – especially in areas where there is little redress for violations. Collaboration with these stakeholders helps maintain as clear a picture as possible of human rights-related risks and impacts. Another benefit of a company already having carried out conflict-sensitive risk and impact assessments is that they are able to identify in which areas they need supplementary information from other sources.

4 Due diligence can involve tough decisions

Conflict situations are complex and even with sufficient information business decisions can be challenging. For example, a company might be faced with a choice between addressing different, often contrasting, demands from various stakeholder groups – such as employees, local communities, and consumers. Imagine a company that sells healthcare supplies in a conflict affected area: continuing operations could bring negative reactions from overseas and reputational damage, but withdrawing could harm civilians in the conflict zone, who rely on the company's products, services or employment.

5 Due diligence that results in exiting the area includes certain obligations

If companies choose to exit a conflict affected area, employees, local communities and human rights defenders are crucial groups to consider and engage with in risk assessments and decision making. Companies should try to ensure that staff continue to receive income for the duration of the crisis or training, and capacity-building to mitigate the loss of employment. For example, the clothing brand Zara left Russia in 2022 but provided a support package for its 9,000 staff in the country. Meanwhile, another Fortune 500 company used its in-depth logistics knowledge to identify safe routes for their employees to flee from eastern Ukraine.

The UNDP guidance Heightened Human Rights Due Diligence Business Conflict aims to help companies carry out conflict sensitive due diligence, encouraging them to consider the impact of exiting a conflict-affected area and develop mitigation plans. Similarly, in the report Business, Human Rights and Conflict-affected Regions: Towards Heightened Action, the UN Working Group on Business and Human Rights provides strategic considerations for businesses operating in conflict-affected areas, including assessing impacts on different groups and developing a clear exit plan.

Transparency brings accountability and action

But it's not enough to plan and strategize; companies must also communicate transparently with all stakeholders in question. Principle 16 of the UNGPs stipulates that companies must have a publicly available due diligence commitment that has been communicated internally and externally to all personnel, business partners and other relevant parties.

"Being transparent about the reasons behind a decision may be the only way for a company to mitigate reputational damage," said Peter Paul van de Wijs, Chief Policy Officer at GRI, during the webinar. "And transparency brings accountability. It's what turns the guidelines on due diligence into powerful tools that create action."

This is where the GRI Standards come in. As provider of the global best practice for impact reporting, GRI's mission is to enable the highest level of transparency for organizational impacts on the economy, the environment, and people. With mandatory due diligence reporting at their core, the GRI Standards define and ensure transparency about companies' operations. They are a modular system comprising three series of standards: the Universal Standards, Sector Standards, and Topic Standards.

Analysis of the connection between sustainability reporting and due diligence was recently published by GRI's Policy Team in the publication Corporate sustainability due diligence polices and sustainability reporting, which sets out how due diligence is embedded in the Standards. Translations of the paper are also available in Spanish and Portuguese.

While there is no specific Standard on operating during conflict, the GRI Standards are the only reporting standards to fully reflect due diligence expectations for organizations to manage their sustainability impacts, including on human rights, as set out in intergovernmental instruments such as the UNGPs and the OECD Guidelines. Furthermore, GRI's Mining Sector Standard, which was recently open for public consultation, includes operating in conflict zones among the likely material topics for most mining organizations.

The GRI Standards also cover many topics relevant for companies in conflict-affected areas, such as procurement practices, anti-corruption, water and effluents, and local communities. They provide companies with a comprehensive overview of topics to consider across the three sustainability domains of the economy, environment and society, including human rights, and they offer clear disclosures aligned with what stakeholders want to know about those topics.

"Our position is that transparency is a means of mitigating harm," Peter Paul explained. "There is no 'one size fits all' for this – each company will have specific impacts to consider related to the nature of the conflict and their business model. Out of a process of multi-stakeholder engagement and based on the company's assessment of what's relevant in that conflict, the Standards define what people actually want to know to really understand the impact that the company has, so it's a starting point for that conversation."

Due diligence process & supporting measures

Source: OECD Due Diligence Guidance for Responsible Business Conduct

How companies are navigating conflict in Colombia

For businesses in Colombia, where GRI has had a presence through a regional office for close to 10 years, conflict has been a challenge for decades. The country has endured over 50 years of internal strife, with the longest-running armed conflict in the western hemisphere, and about eight million victims.

"I was born during an ongoing conflict, as were my children. Yet we have somehow managed to learn to live through conflict, said Andrea Pradilla, Director of GRI's regional network in Latin America. "The GRI office in Bogota was actually established in the middle of a conflict. I've learned that what is essential to effectively work and engage in this environment is trust: how to build it, sustain it, and enhance it."

For companies navigating the context of conflict in Colombia, there are multiple dimensions to consider. The first is to understand their responsibility to respect human rights and follow guidance. Although it took some time to recognize, companies in Colombia have been part of the conflict in one way or another, including those in the extractive sector, which operates where the conflict is happening.

The UNGPs were instrumental in encouraging companies to be transparent about their roles. Although this was a welcome milestone, there were already international humanitarian laws in place and the 'what' was not enough; companies and their stakeholders needed guidance on the 'how'. The biggest challenge came with finding a balance between international standards, regulations, norms and reality.

"When you are part of a conflict, usually it's so unique – the history, the nature, the parties involved – that truth is stranger than fiction," Andrea added. "In reality, there are many things that happen in conflicts that you can learn from as a company and a stakeholder. But you have to still adapt to what makes sense to your reality."

Sustainability context is crucial during conflict

Guidance needs to be adapted to the local context, including the conflict, and companies can use topic-specific sources to do this. Security forces, due diligence on engagement with communities, decent work, institution building or strengthening, land acquisition, supply chain due diligence, grievance mechanisms, and reporting and communication are all key topics, not just for companies in Colombia, but for those operating in conflict anywhere.

To navigate conflict, companies also need to find the right partners to learn together by doing – not just other companies, but also civil society and with the state:

> **"When you are working in conflict, or you're trying to build peace, it's essential to create wide-ranging, multi-stakeholder partnerships," Andrea said. "That takes time and commitment, but it's the only way forward."**

Companies must often deal with issues of legacy, for example, linked to land ownership or to long-standing historical disputes. Having a good understanding of the history of the conflict helps the company set its intentions with respect to the history of the situation, thereby supporting business actions.

And finally, returning to the issue of trust, engagement with stakeholders around impact is vital and has been invaluable for companies in Colombia. This is reflected in reporting practices: GRI opened its office in Bogotá in 2014, and Colombia became one of the world's top-five reporting countries within three years. This was in part thanks to GRI's Sustainability Context principle, which Andrea considered an invitation for companies to try to align their operations to the development needs of the community and the fragmented country itself.

> **"Companies really saw sustainability reporting, and GRI in particular, as about more than just a report," Andrea explained. "It became a tool to engage with their stakeholders and tell the story of how they were navigating this complex context, and trying to do their part. Reports stopped being a monologue and became a dialogue."**

A process of continuous engagement

The conflict in Colombia is ongoing. While it entered a new stage of peace agreement five years ago, building peace is not the same as ending conflict. Companies must continue to undertake due diligence, especially on human rights, engaging with their stakeholders in a transparent way. Importantly, international companies with a presence in a conflict-affected area like Colombia must recognize that the reality at headquarters can be very different from the reality where the impact takes place.

> **"It's not enough to only speak to the stakeholders you know well, you have to engage with the rights holders locally - even if they don't have a voice at the moment," Andrea said. "Sustainability reporting has become so important in Colombia because it's a process that compels companies to ask themselves uncomfortable questions sometimes, in order to move forward."**

Andrea reiterated the growing importance of transparency and stakeholder engagement for companies when operating in areas of conflict:

> **"Reporting is about effective dialogue, and that's at the core of what needs to happen when you have a conflict. It makes a company recognize others beyond itself, forces everyone to speak and especially to listen. Even if a peaceful solution seems far off, you cannot lose sight of that. It's the only way out."**

What you can do

Human rights, corporate responsibility and transparency are not solitary undertakings; there are multiple stakeholder groups involved in helping businesses operate sustainably and responsibly in conflict-affected areas. One action all of the following groups can take to mitigate risk and reduce negative impacts during conflict is to keep communicating and commit to collaboration. There are also a number of actions they can take individually.

Policy makers

- Ensure due diligence policy and supply chain legislation explicitly mentions additional considerations and responsibilities where there is conflict.
- Ensure any due diligence policy is in line with established norms and principles, such as the UNGPs, and that there is alignment of international, regional and national initiatives.

Civil society

- Raise awareness of the issues facing people, communities and businesses in conflict-affected areas.
- Share information with companies and other organizations operating in conflict-affected areas to support their due diligence, particularly on human rights.

Businesses

- Make robust due diligence commitments that take into account the nature of conflict and the company's operations.
- Ensure continuous transparency to meet Principle 16 of the UNGPs – the GRI Standards are a tool that can help.
- Remember that it's not only about the report; transparency supports stakeholder engagement.
- Communicate continuously with all stakeholders, also about your internal dilemmas.

Explore the guidance related to conducting business in conflict-affected areas:

GRI Standards (GRI, 2016-2023)
UN Guiding Principles on Business and Human Rights (UN, 2011)
Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide (UNDP, 2022)
OECD Due Diligence Guidance for Responsible Business Conduct (OECD, 2018)
OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-risk areas (OECD, 2016)
Report on business, human rights and conflict-affected regions: towards heightened action (UN Working Group, 2020)
Guidance on Responsible Business in Conflict-Affected and High Risk Areas (UN Global Compact and PRI, 2010)

Sida

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