

25 February 2021

To the UN Working Group on Business and Human Rights and the UNGP10+ team,

Strengthening business respect for international humanitarian law – a vital element of the BHR+10 agenda

Australian Red Cross and RMIT University are grateful for the opportunity to contribute to this open call for input, into the UN Working Group on Business and Human Rights' (UNWG) 'UNGP10+' project. We do so to draw attention to recent work undertaken to strengthen the business community's understanding of and, when appropriate, respect for international humanitarian law. In the decade of work ahead in implementing the UN Guiding Principles on Business and Human Rights (UNGPs), we urge an explicit focus on business conduct in conflict-affected areas. Businesses face a heightened risk of being involved in gross abuses of human rights when operating in or doing business with conflict-affected areas. Respect for international humanitarian law is a crucial facet of achieving responsible business conduct in such areas and in helping to safeguard the lives and dignity of the local communities affected.

The value of international humanitarian law for business in conflict-affected areas is recognised by the UNGPs, and was echoed by the UNWG's 2020 report, 'Business, human rights and conflict-affected regions: towards heightened action.' Despite this, the private sector is generally less familiar with their risks, rights and responsibilities under international humanitarian law than under international human rights law. Some companies – such as those in the extractives sector – that have some familiarity with international humanitarian law, invariably view it as a "security" concern and compartmentalise knowledge of it to their security personnel.

Australian Red Cross and RMIT University, with support from the International Committee of the Red Cross, have developed guidance documents and training materials that seek to broaden and deepen the private sector's understanding of and compliance with international humanitarian law. We hope that companies across a diverse range of industries will find these useful.

All resources, including training modules, can be accessed free of charge, on the "[Business and International Humanitarian Law Hub](#)" at the Australian Red Cross website.

Doing Responsible Business in Armed Conflict: Risks, Rights and Responsibilities

The first of these resources is a practical guide 'Doing Responsible Business in Armed Conflict: Risks, Rights and Responsibilities' launched in 2020. In developing this resource, we wanted to create clear guidance that would not only introduce businesses to the principles and standards of international humanitarian law, but which would help businesses incorporate relevant aspects of the law into their policies and practices. Many existing corporate human rights policies, for example on risk management and security training, already provide useful frameworks within which to embed and implement these additional rules but, generally-speaking, fall short of adequately incorporating international humanitarian law into them.

The *Doing Responsible Business in Armed Conflict* guide highlights the importance and relevance of this legal framework to the private sector; the specific violations of international humanitarian law that businesses ought to be especially aware of; the protections the law offers to people and property; and the differences between international humanitarian law and human rights law, which are often conflated in companies' risk management/sustainability processes and in the broader business and human rights dialogue. In doing so, this guide assists businesses in planning for and conducting operations in a way that respects all universally accepted standards of responsible and humane conduct in conflict-affected areas.



Seven Indicators of Corporate Best Practice in International Humanitarian Law

In January 2021, Australian Red Cross and RMIT University launched the 'Seven Indicators of Corporate Best Practice in International Humanitarian Law'. This best-practice framework encourages businesses to integrate international humanitarian law into their existing human rights frameworks as a means of *enhancing* – not replacing – human rights due diligence processes, as called for by the UNWG. The ideal time to deepen understanding of international humanitarian law and embed it into relevant policies and processes is before conflict or violence breaks out. We recommend this framework to all companies whose business activities or supply chains run through, or in the future are anticipated to run through, conflict-affected areas.



The framework is divided into the four umbrella categories of (A) policy, (B) capacity & capability, (C) operations and (D) transparency & accountability. Under each of these categories sit seven clear directives and accompanying 'questions to consider' and 'examples of best practice' that work together to create a formula for genuine implementation of international humanitarian law.

The framework can be:

- applied to a range of industries and contexts;
- tailored by individual businesses to suit their specific circumstances;
- used to help businesses evaluate the compatibility of their policies and practices with rules of international humanitarian law; and
- aligned with and supplement existing corporate human rights and social responsibility frameworks.

International Humanitarian Law Training Modules for the Private Sector

Leading global companies have told us they need better practical educational materials to assist them in strengthening their understanding of international humanitarian law and its application to business operations in conflict-affected areas. We agree. We are developing a series of tailored training modules for businesses to help ensure corporate leaders and personnel working in conflict-affected areas have the knowledge of humanitarian norms. Not only will this help mitigate physical risks for themselves and for others, but also reduce the reputational and legal risks associated with failure to comply with international humanitarian law.

At present, there are three modules available on Australian Red Cross' [International Humanitarian Law Training Portal](#):

- **International Humanitarian Law for Company Leaders** (20 min),
- **International Humanitarian Law for Energy and Extractives Companies** (1 hour)
- **Introduction to Security, Armed Conflict and International Humanitarian Law** (20 min). This module supplements the existing human rights training that extractive companies provide to security personnel.

We commend these resources to you and to the broader BHR community of practice. We welcome feedback and suggestions. Should you wish to discuss any of these resources further, please don't hesitate to contact us directly.

Yours sincerely,

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