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SEVEN INDICATORS of CORPORATE BEST PRACTICE in INTERNATIONAL HUMANITARIAN LAW



INTRODUCTION

Australian Red Cross and RMIT University have developed seven indicators of corporate best practice in international humanitarian law (IHL) as a guide for the corporate sector. These indicators aim to assist businesses in enhancing their human rights due diligence by effectively integrating IHL into companies' existing business and human rights frameworks.

Businesses today are more aware of their human rights obligations than ever before. Some have adopted policies that align with initiatives like the *United Nations Guiding Principles on Business and Human Rights* or the *Voluntary Principles on Security and Human Rights* to ensure their operations respect human rights and reduce the likelihood of rights abuses. Taking this sort of action has become particularly important in conflict-prone and conflict-affected areas where human insecurity, weak governing institutions and limited access to justice can threaten peace and sustainable development. In turn, this instability can subject businesses – their personnel, assets and operations – to heightened risks to their security and wellbeing.

Yet, despite the corporate sector's growing familiarity with human rights law, there are increasing calls from the sector and from civil society for businesses to develop enhanced measures to prevent and address abuses in conflict contexts.

IHL – sometimes referred to as the law of war or law of armed conflict – is universally recognised as the specialised set of international legal rules applicable to situations of armed conflict. At the core of IHL are fundamental humanitarian norms: protections for civilians and other protected persons in conflict-affected areas and restrictions on certain means and methods of warfare. As such, IHL provides businesses with a practical framework for identifying, preventing and mitigating adverse humanitarian impacts in conflict contexts.

As past experiences have demonstrated, the best time to deepen understanding of IHL and embed it into relevant policies and processes is *before* conflict or violence breaks out. This framework is a general one – intended to be broadly applicable across a range of industries and contexts – so application of the indicators should be adjusted and calibrated to each specific country and corporate circumstances. In particular, we recommend these indicators to all companies whose business activities or supply chains run through conflict-affected areas.

For more on the IHL risks, rights and responsibilities relevant to business, please see:

<https://www.redcross.org.au/ihl-hub>



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Integrating these best practice indicators into your company's way of doing business will not only enhance your ability to assess and manage the risks associated with IHL and armed conflict but will also improve your personnel's understanding of the obligations and protections afforded to them under IHL and better safeguard the lives and dignity of those communities where your operations and business activities take place.

POLICY



1

Public commitment to respect IHL

A public commitment to respect IHL not only ensures that businesses will hold themselves to account, but it also allows businesses to communicate to third parties (e.g. partners, suppliers and donors) that they are aware of the legal framework applicable in conflict-affected areas and are taking steps to ensure that they comply with this framework. A public commitment helps to create a culture of respect within the corporate community for these laws.

QUESTIONS TO CONSIDER

- Has your business adopted a public statement of human rights commitment that includes respect for IHL?
- Does your business publish a list of locations of its operations and supply chains, particularly those in or near conflict-affected areas?
- Has your business committed to any initiatives or instruments aimed at improving corporate conduct with respect to human rights, including in conflict zones, such as the UN Guiding Principles on Business and Human Rights or Voluntary Principles on Security and Human Rights?

EXAMPLE OF BEST PRACTICE

The business has published a Statement of Commitment to respect IHL on its website, which is included in publicly available corporate human rights, social responsibility and/or sustainability reports.

2

Policies that commit the business and its people to respect IHL

Implementing a strong internal policy framework on IHL helps businesses reduce their exposure to operational, legal and reputational risks associated with operating in conflict-affected areas or working with third parties that do not respect IHL.

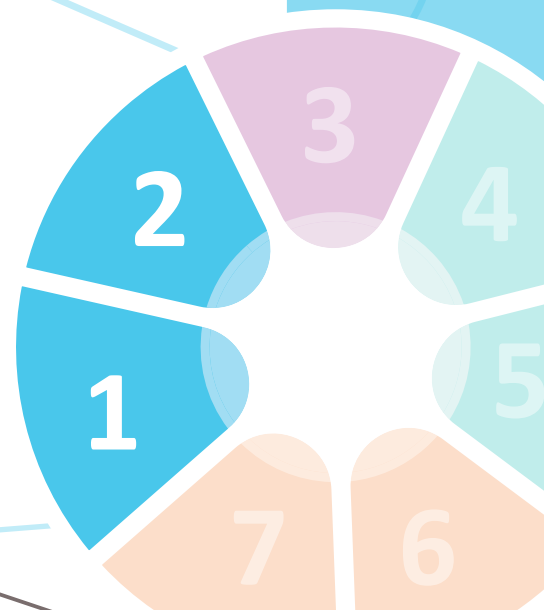
QUESTIONS TO CONSIDER

- Do your business's existing policies on the safety and conduct of personnel include a commitment to relevant IHL norms of behaviour?
- Does your business have policies and processes to identify, investigate and remedy the risk of, and any instances of violation of, IHL by your business?

EXAMPLE OF BEST PRACTICE

The business has adopted internal policies on respecting and upholding IHL, which is circulated amongst all relevant personnel including in policies related to risk management, OH&S and security.

Implementing a strong internal policy framework on IHL helps businesses reduce their exposure to operational, legal and reputational risks.



CAPACITY + CAPABILITY



3

Training that ensures personnel within the business have the knowledge and capacity to comply with, and leverage, IHL

Ensuring that people understand their rights and responsibilities under IHL – in peaceful regions as well as areas experiencing conflict – means that personnel can refer to and leverage this knowledge to minimise risks for themselves and for others. It also helps to reduce the reputational and legal risks associated with personnel who fail to comply with IHL.

QUESTIONS TO CONSIDER

- Do induction programs for new personnel include an IHL module for those that work in, or may come into contact with operations or third parties operating in, conflict zones?
- Does your business have the resources or expertise necessary to be able to identify conflict and IHL-related risks?
- Are company directors and senior management cognisant of the potential IHL violations that could be committed by your business or its third-party partners?

EXAMPLE OF BEST PRACTICE

All senior management, and any supervisors and personnel working in conflict-affected areas, have completed IHL training.



Consider Australian Red Cross' online IHL Hub for Businesses, which offers corporate actors tailored training on IHL: <https://www.redcross.org.au/ihl-hub>

Introduction to Security, Armed Conflict and IHL

A short introduction to international humanitarian law for businesses and security personnel



OPERATIONS



4

Risk analysis and management frameworks that identify, reduce and manage risks arising from non-compliance with IHL

Managing the operational risks associated with doing business in a conflict-affected area, or arising out of non-compliance with IHL, is essential to safety of personnel and operational efficiency. Businesses should also manage the potential legal and reputational risks arising from being involved in breaches of IHL.

QUESTIONS TO CONSIDER

- Have you considered whether your business activities or supply chains are at risk of being impacted by armed conflict?
- Does your current risk management process include a directive to identify the risks and impacts arising from causing or contributing to breaches of IHL?
- Has your business considered and accounted for the security and operational implications of non-compliance with IHL – both by your own personnel and by external parties against your personnel or property?

EXAMPLE OF BEST PRACTICE

The business integrates IHL considerations into country risk assessments and human rights due diligence processes for new and ongoing projects. If the business conducts activities in conflict-affected areas, it undertakes IHL risk assessments and highlights the operational and legal implications of IHL non-compliance in these assessments.

5

Taking positive action to promote respect for IHL, including by partners or other third parties

Having a proactive agenda to promote respect for IHL helps create an overall culture of respect within the business community for IHL and the humanitarian values that underpin it. Taking positive action to encourage business partners and other third parties (e.g. contractors, suppliers and donors) to respect IHL helps to manage associated risk and will ensure better humanitarian outcomes for people living in conflict-affected areas.

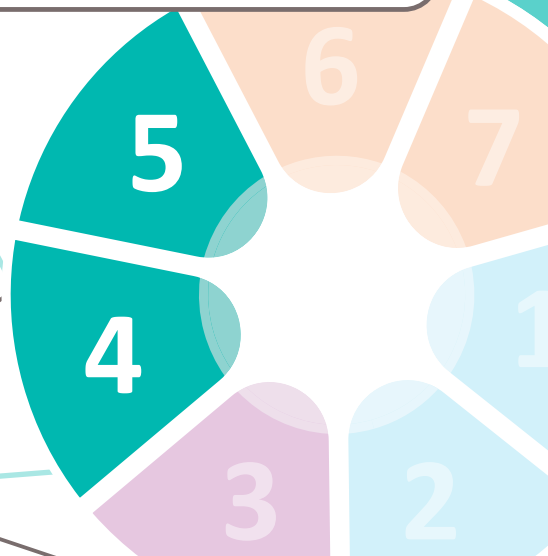
QUESTIONS TO CONSIDER

- Does your business have a screening process for potential third party partners, to assess IHL compliance?
- Does your business acknowledge that there are particularly vulnerable groups that require special attention in conflict situations, such as women and children, and proactively identify and recognise these groups as protected populations under IHL?

EXAMPLES OF BEST PRACTICE

The business conveys the importance of IHL compliance to all partner organisations and third party suppliers - making it a contractual requirement to adhere to IHL. In particular, contracts with companies that provide security to business operations include provisions that identify, reduce and manage armed conflict and IHL-related risk.

Where appropriate, the business helps to facilitate humanitarian aid and assistance and engages with other actors to promote IHL best practice.



TRANSPARENCY + ACCOUNTABILITY



6

Internal and external reporting on the implementation of the business's IHL commitments

Transparent reporting ensures that organisations are accountable to their stakeholders, including employees, customers, shareholders and suppliers.

QUESTIONS TO CONSIDER

- Is information relating to your business's operations and business interests in conflict zones accessible to external parties?
- Does your business publicise information pertaining to commitments made in relation to upholding IHL or other initiatives pertaining to conflict zones?

EXAMPLES OF BEST PRACTICE

Information about IHL compliance efforts and activities is included in relevant annual corporate reporting to stakeholders. The business displays its progress in integrating IHL standards by benchmarking against these indicators of corporate best practice in IHL, including the measures the business has taken to realise its commitment to them.

7

Internal processes that deal with non-compliance with IHL, including violations committed by or against the business's people

Ensuring that personnel have access to a complaints and grievance process, and that management is trained to deal with allegations of violations, including reporting where appropriate to relevant authorities, strengthens respect for IHL. Implementing analyses of security incidents will also improve future security planning and management.

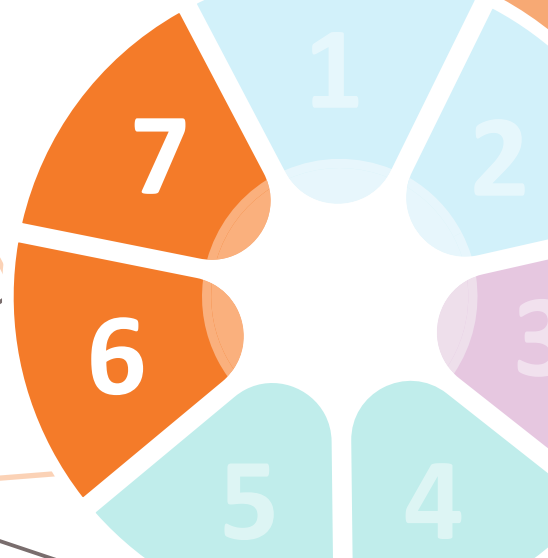
QUESTIONS TO CONSIDER

- Has your business adopted a clear process that enables employees to report on security incidents, including violations of IHL committed by or against the company's personnel or assets? If yes, can a remedy be provided?
- Does your business have internal processes that allow for violations of IHL to be investigated, analysed and assessed? Are these results incorporated into future security planning?

EXAMPLES OF BEST PRACTICE

Robust internal processes help the business investigate security incidents, including alleged IHL violations. The business adopts accountability mechanisms that address IHL non-compliance at all levels of the company, its stakeholders and third parties, including providing redress to people that may be the victims of IHL violations contributed to by the business' activities.

Grievance mechanisms that address allegations of IHL violations strengthen respect for IHL.



Respect for IHL by corporate actors is an emerging practice. We hope these Seven Indicators for Corporate Best Practice in IHL are helpful in that regard. We are open to starting a dialogue with interested companies and welcome feedback from stakeholders on these Indicators.

Please send comments, questions and suggestions to the authors.

Authors

Ms Fauve Kurnadi
Australian Red Cross
fkurnadi@redcross.org.au

Dr Jonathan Kolieb
RMIT University
jonathan.kolieb@rmit.edu.au

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Australian Red Cross' International Humanitarian Law Hub:
<https://www.redcross.org.au/ihl-hub>

RMIT Business and Human Rights Centre:
<https://www.rmit.edu.au/research/centres-collaborations/business-and-human-rights-centre>

