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UN FORUM SERIES – Monitoring Compliance with the UN Guiding Principles in Conflict Zones

0 comments

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This post was contributed by Wendy Betts, Project Director at eyeWitness to Atrocities.

The Guiding Principles on Business and Human Rights (UNGPs), in urging businesses to avoid causing or contributing to human rights violations and urging states to address business involvement in human rights violations, identify the heightened risk for gross violations in conflict-affected areas. Indeed, businesses increasingly have come under scrutiny, legal or otherwise, for their conduct in conflict zones that may have contributed to human rights abuses or even war crimes (readers can find several examples here, here and here).

In general, effective monitoring of the UNGPs requires access to accurate and verifiable information on corporate conduct and the human rights situation. Under normal circumstances, access to this information can be challenging. In conflict zones, the difficulty increases significantly.

The International Bar Association (IBA) recently launched a tool, designed for use in conflict zones, that can be used to secure evidence of gross violations of human rights, by business or others. The IBA's eyeWitness to Atrocities app (www.eyewitnessproject.org) is a mobile camera app designed to record video and take photos in a manner that will facilitate authentication of the footage.

In conflict zones, standard record keeping practices may be disrupted, records may be destroyed, and physical access to the affected area to report on the situation is often too dangerous. Thus, in such situations, where the risk of gross violations is at its highest, the ability to monitor adherence to the Principles is at its lowest.

This situation is changing. The rise of technology and social media has transformed the way that individuals and organisations can and do report on human rights violations. The ubiquity of mobile devices and the instant reporting offered by social media or citizen journalism platforms allows ordinary citizens to assist in monitoring the situation on the ground.

The very citizens affected by business conduct in conflict zones can now collect and widely share information that previously would have been inaccessible. However, there are shortcomings in information captured by standard mobile devices that can undermine the ability to effectively use this information for monitoring, reporting, and ultimately accountability and remedy for violations.

Photos and videos that are captured by mobile devices and uploaded to social media sites often do not contain vital information such as the

date, time, or geographic coordinates. As a result, it may be difficult, if not impossible, to verify that the footage is original and has not been altered. Verification is particularly challenging if the individual who captured the footage wishes to remain anonymous.

Additionally, for use in a judicial context, the footage lacks a chain of custody record, meaning it is unclear who had access to the footage between the time of capture and its use in court. Therefore, it often is of little or no use to legal authorities in investigating or prosecuting the perpetrators. If the footage does reach a court or other tribunal, it is likely to be rejected or given little weight.

By launching the eyeWitness to Atrocities app, the IBA has sought to address the issue of verifying and authenticating citizen captured video to promote accountability for atrocity crimes. The eyeWitness app records and embeds metadata at the time the footage is captured that verifies where and when the footage was taken. The metadata also allows eyeWitness to confirm that the footage has not been edited or digitally altered and to trace the chain of custody.

The user submits the videos or photos directly from the app to the eyeWitness organization. Footage sent to eyeWitness will be held in an off-line repository, hosted by LexisNexis. LexisNexis has created a secure cloud environment for the storage and management of data uploaded by eyeWitness users.

The eyeWitness legal team will analyse relevant footage and seek out the appropriate legal authorities to investigate the situation further. In the interim, the secure repository will function as a virtual evidence locker, safeguarding the original, encrypted footage until it is needed for an investigation or trial.

The eyeWitness app was developed bearing in mind the challenges of collecting information in conflict zones. There are a number of security features designed to mask the existence of the app and the collected

footage from casual inspection. Given that the physical infrastructure for communications is often disrupted, the app is designed to record information while off-line and includes transmission options to accommodate low band width.

The eyeWitness app can play an important role in documenting and reporting on conduct contrary to the UNGPs, particularly in conflict zones. However, it is a tool that must work in tandem with other approaches to obtain a complete picture of the status of implementation of the UNGPs. While the information collected using the eyeWitness app may be integral to a specific case, it will not give an overall, systemic view of implementation.

Additionally, the eyeWitness project is focused on atrocity crimes, a specific subset of the universe of human rights protections addressed by the UNGPs. Thus, while eyeWitness is well suited for capturing and reporting on conduct in conflict zones and other troubled regions, there is space and need for other, high tech or low tech, tools to be employed in other circumstances, such as whistleblower platforms, surveys, and corruption reporting apps.

Together, these tools can contribute to the complex task of gauging the progress of the Principles in promoting respect for human rights.

Wendy Betts

Wendy Betts is the Project Director for eyeWitness to Atrocities. Ms. Betts has twenty years of experience in international development, rule of law reform, and transitional justice, including serving as the Director of the American Bar Association War Crimes Documentation Project.

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