

Beer, conflict and compensation: Heineken-Congo agreement

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Heineken International's Bralima brewery, by the Congo River

Doing business in conflict areas is challenging for everyone, whether you are talking about mining or even brewing beer. In 2015 a group of 168 former workers of Heineken's subsidiary Bralima in the Democratic Republic of Congo submitted a complaint to the Dutch National Contact Point (NCP), a grievance mechanism set up under the OECD Guidelines for Multinational Enterprises, about the company's conduct during the civil war in that country (1999-2003). The complaint concerned allegations of Bralima unjustly dismissing its workers and co-operating with the rebel movement in RCD-Goma, and the negative consequences this had for the firm's workers and their families.

The complaint was successfully resolved recently. Details of the agreement between Heineken and the former Congolese workers, facilitated by the Dutch NCP, are confidential, but the overall outcome is public. All parties describe it as satisfactory and civil society even hailed it as "historic".

This is good news. Heineken, their former workers and the Dutch NCP deserve praise for solving this highly complex corporate responsibility issue. Why?

One key reason lies in the fact that monetary compensation was awarded, according to reports. Although there have been many different sorts of remedy through the NCP system, monetary compensation has been rare.

Still, it is important to manage expectations. For a start, NCPs are a *non-judicial* grievance mechanism, meaning that the NCPs cannot legally enforce remedy. However, the NCP process can *facilitate* remedy, including compensation, as part of a mediation or conciliation process. NCPs can also *recommend* remedy, including financial compensation, in their final statements. The Heineken agreement illustrates that NCP processes are not exclusively forward-looking, but can also function retroactively.

Another reason why this is a historic agreement is that it shows that longstanding issues such as the Heineken case, that took place 15 years ago, can still be solved by an NCP process today. NCPs are known to get a lot of complex cases that often have already been in courts for years. This case demonstrates that even human rights issues that go back many years can still be solved if the conditions are in place.

The case is also a landmark because it shows that NCPs, when properly organised, can deal with human and labour rights issues in conflict areas. Indeed, Heineken has committed to improving its policy and practices on doing business in volatile and conflict-affected countries. Other companies should now follow Heineken's example.

Make no mistake: a critical factor in this case was that Heineken and the complainants engaged fully and responsibly with the process. In many cases, using this problem-solving approach is more effective in addressing corporate responsibility issues than legalistic ones. Another reason for success was that the NCP was positioned to handle the case professionally. As the NCP is an adequately resourced, independent responsible business authority, which made it possible to be accessible and equitable towards all parties in a remote area ravaged by civil war. The mediation could rely on government support too, as it was facilitated by Dutch embassies in France and Uganda.

In short, several lessons on different levels can be drawn from the resolution of this business and human rights case. Above all, it should inspire other governments and NCPs, and businesses too. It shows that with the right mindset, companies can successfully turn human rights issues into opportunities for improving corporate responsibility.

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