Critical Mass

The Emergence of Global Civil Society

James W. St.G. Walker and Andrew S. Thompson, editors

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edited by
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Civil Society, Corporate Social Responsibility, and Conflict Prevention

Virginia Haufler

In 2000, three prominent NGOs published a ground-breaking report on *The Business of Peace: The Private Sector as a Partner in Conflict Prevention.* It laid out the case for business to be more interested and engaged in promoting peaceful resolution of violent conflict in their areas of operation. This report brought to the fore of the international agenda a growing interest in engaging the private sector in zones of conflict. This came after a number of high-profile investigative reports detailed the detrimental impact of particular industries on long-running conflicts in Africa, such as the role of oil and banking in financing the Angolan civil war, or of diamonds in Sierra Leone.[1] In the ensuing years, a new "business and conflict" agenda has been established, supported by particular NGOs, the United Nations Global Compact, and select donor governments. It is part of a larger effort to hold corporations accountable and to demand socially responsible action from actors that are profit-oriented. And it is unexpected—for all the evidence that corporations are often a contributor to instability, corruption, and conflict, there is now a set of policymakers and activists who insist that conflict prevention can only be undertaken in partnership with the private sector.

This agenda emerged out of the activism of NGOs concerned about the inability or unwillingness of governments to intervene and end long-running bloody conflicts that were devastating parts of the developing world. It reflects an increasing reliance on civil society and the private sector to resolve difficult international issues, even war and peace—the traditional responsibility of sovereign governments. Increasingly open and competitive markets have led investors into every corner of the world, no matter how remote, undeveloped, or poorly governed.[2] The lack of stable and capable governance is at the heart of the political, economic, and social problems they find, and unfortunately, in many cases the corporation is the most effective institution in the country. While there may be a business interest in peace, there are limits to what they can do to promote it. Recent initiatives, which will be described below, are innovative methods of providing a governance framework in unstable areas. At the same time, the limits of these private efforts point to the continuing need—perhaps even a stronger need than ever—for capable national governments.

In this chapter, I examine the general evolution of corporate social responsibility as a counterpart to increasing globalization, and rising concerns within civil society over the role of corporations as the main beneficiaries of increased economic integration. Then, I will survey the literature, both popular and scholarly, linking foreign investors to the creation or exacerbation of conflict in the developing world. Increased transnational activism against corporate misbehaviour has combined with the emerging empirical and anecdotal evidence linking conflict and investment to produce the "business and conflict" or "corporate conflict prevention" agenda. This is made up of a variety of disparate proposals and initiatives that reflect a wide variety of governance mechanisms in this arena. After describing some of these efforts, I will conclude with some thoughts about what we have learned so far, and where this agenda will go in future.

CORPORATE SOCIAL RESPONSIBILITY

We can say with some justification that we are now in the era of corporate social responsibility (CSR). Across a wide range of issues, civil society increasingly demands that business act "responsibly." Within the business community, the discourse today is all about CSR. Some of the elements of what we think of now as CSR were in place a long time ago, viewed alternately as philanthropy or paternalism toward employees.[3] But the politicization of CSR that accompanied globalization dates back approximately forty years.

In the 1960s and 1970s, critics first raised modern concerns about the impact of multinational corporations on foreign cultures. In France—by no means a weak or developing state—Serban-Schreiber decried *Le Défi Américain* as US multinational corporations expanded their presence in Europe.[4] In the developing world, newly independent states created in the wake of decolonization strove to establish the sovereignty and legitimacy of their governments by criticizing foreign investors. A number of them chose to nationalize or expropriate the assets of foreign investors, and declared all natural resources to be the property of the state.[5]

A number of countries in the developing world called on the United Nations to sponsor negotiations over the rights and responsibilities of foreign corporations. The UN launched negotiations for a Corporate Code of Conduct for Transnational Corporations in the 1970s. The demands of the developing nations during this time ranged widely, but centred on concerns regarding the sovereignty of the newly independent states. Economists and sociologists at this time hypothesized that over-reliance on foreign investment could lead to dependency and underdevelopment, reinforcing concerns about the intrusion of foreign capital.[6] Some scholars analyzed the close relationship between the foreign policy of the US and the interests and activities of US-based multinationals.[7] During the UN negotiations, the companies and their government backers expressed concern for property rights, and just compensation and dispute resolution in cases of expropriation or nationalization. In the end, one observer commented that all sides agreed on about 80 percent of what was being negotiated, but the last 20 percent proved a major stumbling block.[8]

The Code of Conduct died a slow death over the course of the 1980s, as dramatic changes in the world economy and ideological and policy shifts reduced the demand for it. The Reagan and Thatcher governments were not interested in pursuing further negotiations. During this time, any developing countries that had previously been leery of foreign investment began to open their doors and compete to attract it. The 1970s had been a high point for expropriation and nationalizations of foreign assets. In the succeeding decade, government leaders across the developing world rushed to liberalize their markets.[9] The failure of the UN Code of Conduct set the stage for the next step in the evolution of corporate social responsibility.

During the 1980s, one of the most significant early transnational movements emerged in the fight against apartheid in South Africa. While the anti-apartheid movement itself had been in existence for about forty years, it took on a higher profile in the 1970s. Two strategies emerged that had significant ramifications for business: a campaign to boycott South African products and services and disinvest from all operations in South Africa; and a movement for remaining companies to adopt a code of conduct establishing the principle of equal treatment of employees. The latter move was originated by the Reverend Leon Sullivan, a US-based minister who served on the board of General Motors. The "Sullivan Principles," as they were called, were premised on the idea that it would be possible to undermine apartheid from the inside by changing major economic organizations. Sullivan eventually came to doubt the efficacy of this strategy and threw his support behind the international divestment campaign. In the end, it was through internal political change that apartheid was eventually overthrown, in combination with a global campaign against the system.[10] But the targeting of the private sector as an instrument for system change had some impact on the outcomes. If nothing else, the use of anti-corporate campaigns as part of a larger issue-based struggle became a common practice afterwards, particularly among environmentalists.[11]

The "take-off" in corporate campaigning and corporate social responsibility probably can be dated to the 1992 UN Conference on Environment and Development. This global meeting tying together the environment and development agendas was marked by the huge participation of non-governmental organizations (NGOs) in the planning and preparation for the conference. Corporate leaders began to recognize that they would have to be involved too and not just as opponents of every initiative. The final results of the UNCED included many references and expectations for corporate social responsibility, industry self-regulation, and public–private partnerships with business. In the years since, there have been numerous anti-corporate campaigns, such as the highly visible one against Nike for sweatshop conditions in the factories where its products were made. Across a range of issues, these campaigns have combined with political and legal action to put pressure on companies to go "beyond compliance" with the law, as some put it, and adopt a more progressive and socially aware stance. Almost every company now has an independent code of conduct, and particular industries have adopted standards on issues of concern to them. There now exist a range of monitoring and certification standards and systems and various partnerships between business, NGOs, and governments.[12] It is not an exaggeration to refer today to a CSR "industry."

TRADE, INVESTMENT, AND CONFLICT

After the end of the Cold War, with the fraught tension between the US and USSR at an end, it seemed as if civil conflict exploded in the developing world. There was increasing concern over conflict and instability and frustration over the humanitarian disasters spawned by seemingly intractable conflicts. Humanitarian groups such as Global Witness and Partnership Africa Canada pointed to oil, banking, and diamonds as financial resources that had been appropriated by warring groups to prosecute violence without end.[13] "Conflict" or "blood" diamonds in particular caught the attention of the public. This brought out the economic factors involved in modern war and pointed the finger at industry as being complicit in the violence. Trade and investment were seen as contributing to the outbreak and continuation of bloody conflict in a number of developing countries.

Donor governments, particularly those of the US and UK, invested in research on failed and fragile states to explore the determinants of instability and violence in the developing world. International institutions such as the World Bank established new research units devoted to teasing out the links between conflict and development, spurring further attention to economic factors. Think tanks such as the International Peace Academy launched prominent programs exploring economic agendas in civil wars, producing policy-oriented scholarship that stimulated debate over greed versus grievance as causes of violent conflict.[14] Debates ensued over the so-called "resource curse," since the countries richest in natural resources were often the poorest in terms of their development and often mired in conflict.

The research and activism identify four general mechanisms by which economic transactions can create or exacerbate conflict, corruption, and criminality in weakly governed states.[15] The *honey pot effect* occurs when a very valuable resource located in a specific area becomes the bone of contention between competing groups who seek to control that resource and its revenues. Governing elites may compete for it through institutional means, such as by establishing government-owned corporations that funnel resources to the favoured group, or by more extreme measures that eventually destabilize the system, as happens often with agricultural exports in Africa. People at the other end of the income and status scale may also compete for access to the resource, for instance, by moving into the area where a resource is being developed in order to find employment, housing, and government services. When a new mining operation is established, local groups may find themselves in competition with newcomers flooding the area, leading to new fault lines in the relations among different groups. Outsiders may also be attracted to the area, as when both Uganda and Rwanda intervened in the conflict in the Democratic Republic of the Congo.

Economic factors can also be a source of conflict when they have a significant *distributional impact*. Any development in a poor country will affect the distribution of wealth and income, and this inequality often reinforces existing grievances. In Nigeria and Sudan, the violence is partly due to the way in which the central government distributes the revenues it receives from oil development, favouring some groups and regions over others. Foreign investors often inadvertently widen the gap between the haves and have-nots by their decisions about where to locate investment and whom to employ. In cases of major resource development, particularly oil, the contract between the central government and the investors is secret, and the revenue streams from the oil company to government coffers is hidden.

Economic transactions have been implicated in the *financing* of rebellion and secession in numerous conflicts. If a secessionist movement or rebel group has—or potentially has—control over land where valuable natural resources are located, then they may gain international credibility. They will have access to a steady source of revenue for continuing to fight, making them reluctant to come to the bargaining table. In the case of fixed assets such as oil development rights, foreign investors have been known to sign contracts for "booty futures," in which the investor essentially bets on which side will win the war. In the case of movable or "lootable" assets, it can be easy for rebels to obtain resources that can be sold for cash to pay soldiers and buy weapons.[16] In Sierra Leone, alluvial diamonds became a significant resource for the rebels to support their violent habits. Companies were accused of funding such conflict indirectly and directly through their participation in the market for tainted diamonds.

Government revenues from national efforts to develop natural resource wealth are clearly a huge windfall for governing elites. The funds can be used to repress their opposition and support a lavish lifestyle. In many cases, companies are accused of complicity in government abuses for their willingness to sign development contracts with corrupt and repressive regimes. In some cases, government military or paramilitary forces become the security police for natural gas pipelines and oil platforms, further implicating the foreign investors in human rights violations. In fact, the arrangements for security that companies make have often become the focus of accusations against the companies.[17]

This brief overview gives some idea of the various ways in which trade and investment were seen as contributors to violence in the developing world. Even as civil conflict declined throughout the 1990s, the concerns remained.[18] The business community, especially the extractive sector, was targeted by activists and humanitarian groups determined to reduce the suffering they witnessed. The combination of long-running conflicts, high visibility, and the growing interest of donor governments and international organizations eventually would merge into a new business and conflict agenda that sought to encourage proactive conflict-prevention measures by companies operating in conflict zones.

A NEW AGENDA

The recognition of links between economic activities and local instabilities—by both activists and researchers—helped feed into the emergence of a larger agenda in which business would become not just the problem but also the solution. The public has been horrified by the negative impact of natural-resource development in many countries—environmental degradation, corruption and repression, and a host of ills. Many have argued that corporations should divest entirely from operating in zones of conflict or in countries where government corruption runs deep, on the premise that there is simply no way for a company to conduct business in a legitimate manner in such an environment. Otherwise, the company becomes complicit in violence, repression, criminality and bloodshed.

A number of proposals emerged over the course of the last ten years. One of the leaders in defining this agenda was the United Nations Global Compact, which was created at about the same time that the issue of business complicity in war began to be raised. The UN Global Compact was founded out of the rising concern of UN policy-makers and business leaders about the anti-globalization sentiment that was beginning to gain force. Kofi Annan, the UN secretary general at that time, argued that, given the rights and benefits provided to business by globalization, they must equally take on more social responsibility for their negative effects. The Global Compact is a voluntary agreement between business and the UN system, in which participating businesses agree to promote and uphold nine (now ten) major principles drawn from UN conventions (they address issues of labour, human rights, environment, and corruption). The UN Global Compact launched its first Public Policy Dialogue on the topic Business in Zones of Conflict. The participants were drawn from the private sector, different UN agencies, the World Bank, a variety of NGOs, and other observers.

The various conflict-sensitive practices that were highlighted at this Dialogue summed up the various approaches being considered at that time and established an initial agenda for debate. Many observers argued, first, that businesses should undertake a conflict-impact assessment prior to a major investment, in order to determine how its own operations would be likely to affect local and national political and social values.[19] Management is often so focused on looking at political risk, or how the local situation might affect their trade or investment, that they ignore how that economic activity might affect the local society. Second, the participants highlighted the importance of encouraging more transparency and reporting of revenue payments by companies, making both the companies and the governments more accountable to civil society. Third, the discussion pointed to the need to develop revenue management programs to address the negative effects of large resource revenue windfalls. Finally, the Dialogue participants promoted the creation of multi-stakeholder initiatives that would include representatives from business, NGOs, international organizations, and governments. These would address particularly difficult issues through negotiations among all affected groups.

One of the first initiatives to attempt to cut the link between trade and conflict resulted in the Kimberly Process for the Certification of Diamonds. In the 1990s, a number of activist NGOs began publicizing the way in which diamonds financed war in Sierra Leone, a horrific conflict in which child soldiers and bodily mutilation symbolized the brutality of the warmongers. The activists effectively relabelled the precious stones as "blood diamonds," raising the possibility that potential customers would turn away from buying diamonds in disgust at what their sale finances.[20] The diamond industry, which is very culturally conservative and dominated by the company DeBeers, was reluctant to accept the need to respond to this campaign and initially ignored it. But they eventually became convinced that this campaign posed a threat to their reputation and to their consumer markets. In response, the industry proposed a means of identifying raw diamonds from conflict-affected regions, and developed a "chain of custody" process to ensure the conflict diamonds did not enter legitimate markets. The United Nations convened a meeting in Kimberly, South Africa, to establish a broader global regime regulating the export and especially the import of diamonds under this certification system. The system has not operated perfectly, in part due to the weakness of governance in many diamond-rich countries. Nevertheless, the Kimberly Process is a unique effort to address the particular way in which trade and conflict intersect in failed states such as Sierra Leone. Similar systems have been proposed for other "conflict commodities," such as timber, coltan, and gold, but there has been no effective action on them.

Another issue that has come to international attention, but with a less successful outcome so far, is the problem of providing security to the people and facilities at risk in conflict-affected regions—without at the same time endangering local communities and individuals. Headlines have pointed to the complicity of corporations in abuses by government police and military forces that were supposed to protect the corporations' people and assets but did so by violating the security of their own citizenry. They have used corporate equipment in order to launch attacks on communities, as has happened in Nigeria. Some companies have attempted to protect their interests by paying off local paramilitary and rebel groups, as Chiquita Brands did in Colombia, potentially prolonging the violence there. Other companies have tried to avoid complicity with government forces by hiring private security companies, but these companies have been accused of corruption and human rights abuses.[21] In the final year of the Clinton administration, foreign policy leaders in the US and the UK began to address the intersection of security and human rights. They convened a multi-stakeholder forum, including the two governments, a number of major international human rights organizations, and a handful of companies. They developed what came to be called the Voluntary Principles on Human Rights and Security, a set of principles for companies to adopt when contracting for protection. The principles provide guidance on working with both public and private security providers, and they are intended to be included in company contracts with host governments.

In the past few years, actors have struggled for the Principles to become more institutionalized, with a wider array of participants and an international mechanism for promotion and expansion. Some companies and governments have adopted the Principles, but they have not so far had a significant impact. Dialogue and negotiations continue, both within the structure of the Voluntary Principles and within other arenas. There has been an ongoing search for some way to reduce the complicity of companies in abuses by governments and to regulate the behaviour of the private security companies, which have become all too ubiquitous in Afghanistan and Iraq.[22]

One of the most interesting and innovative initiatives that attempts to ensure that investment benefits a society instead of undermining it is the revenue-management plan established for the Chad–Cameroon Natural Gas Pipeline project.[23] In this case, a consortium of oil and gas producers, led by ExxonMobil, realized that instability and pervasive corruption in these countries, particularly Chad, mixed with extreme poverty, were likely to make any major infrastructure project like this one risky. They asked the World Bank to participate, which proposed and negotiated an extensive revenue-management system. Under this plan, the majority of the revenues the companies would pay to the government—80 percent—were placed in an offshore account in London, governed by a board of eminent persons. These funds would be used for development, health, and education projects. Another percentage would be for a fund for future generations, essentially a savings account for when the gas was depleted. The rest would go to the government. As a requirement for the project to go forward, the Chadian government passed legislation incorporating the plan into domestic law. The plan was an innovative attempt to establish a system similar to ones that exist in Norway and Alaska, but imposed on a reluctant government. The corrupt regime in Chad has done everything it can to undermine the system, passing new legislation mandating that a larger portion of revenue go directly to the government, primarily for weapons purchases. The World Bank suspended its relations with the government for a time, trying to negotiate a better outcome. The plan has come under heavy criticism for weaknesses on the implementation side.[24]

The final example has to do with the transparency issue—the fact that companies and governments do not make public the terms of their agreements: How much money is generated by a project? How much is paid by the companies to the government? What do the governments spend the money on? Many people see this secrecy as a barrier to accountability and more productive and equitable use of the revenues. In response, the UK government under Prime Minister Tony Blair launched the Extractive Industries Transparency Initiative (EITI), to persuade governments to come clean and publicize their revenues and their budgets. At the same time, a coalition of NGOs, now numbering in the hundreds and underwritten in part by the financier George Soros, launched the Publish What You Pay campaign. The PWYP is targeted specifically at companies and urges them to publicize their payments regardless of any confidentiality clauses in their agreements with host governments. The EITI has now been adopted by a number of countries, including Nigeria, which now publishes revenue data in the local newspapers. Companies have not been eager to adopt transparency provisions, although they are indicating more willingness to consider doing so as long as other companies do it too. The EITI and efforts to promote corporate transparency of revenues are both relatively new initiatives, with more potential than actual impact at the moment.

These are the major international initiatives to promote what some call "conflict-sensitive business practices." In addition, there are literally hundreds of smaller projects involving small and medium-sized enterprises operating at the local level.[25] They all involve new forms of partnership between the private sector and governments, international organizations, and NGOs. All are viewed as new models designed to limit the degree to which investment, particularly in the natural resource sector, contributes to conflict and corruption. But, as is obvious, none has been completely successful.

STUMBLING DOWN A NEW PATH, OR TAKING THE WRONG ROAD?

The initiatives described above all suffer from a lack of political commitment and weak institutionalization. None of them provides a clear-cut model for the business and conflict-prevention agenda. It may be that the problems we see are simply a reflection of the fact that these are entirely new sorts of governance mechanisms, with all the faults we would expect in an experimental phase. Or it may be that the business and conflict agenda rests upon incorrect assumptions about conflict prevention and the degree to which it is possible to reduce conflict and corruption by targeting private sector activity.

The significant intervening variable in this equation is the role of the host governments. This is the weakest link in conflict prevention. In some cases, the government is a participant in or instigator of violent conflict. In other cases, leaders are conflicted over their willingness or capacity to act upon these new initiatives. Too often, government leaders have no incentive to support the kinds of initiatives described above. Many are unwilling or unable to find the right formula to distribute wealth and economic activity or to shield the vulnerable from the effects of change. Many developing countries suffer from weak institutions in general, with unresponsive and unaccountable governments. Without the will to reform internally, or even if there *is* internal pressure for reform but too many obstacles to overcome, then sustainable development with peace will be difficult to achieve.

Companies themselves face competing incentives to act against violence, human rights abuses, and corruption. On the one hand, there may be a long-term business case to be made for action in the present to prevent losses in the future.[26] But often, short-term interest dictates that companies maintain the status quo. Individual action can undercut the competitiveness of a company in important markets, and collective action is undermined by the temptation to cheat. We particularly see this in the case of diamonds and transparency.

The international community could do more to facilitate constructive action by the private sector and foster better governance in host countries. Donor governments and international agencies such as the World Bank can provide incentives for transparency and better revenue management by making access to aid, export credits, and trade benefits conditional on steps in this direction. The Chad–Cameroon project, despite its weaknesses, demonstrates one way in which an international organization can provide the framework and incentives to organize action on the part of companies, governments, and civil society representatives. In exceptional cases, donors should consider imposing sanctions on companies or governments in response to violations of emerging norms. Certainly, at a very basic level, the international community can do much more to provide information and expertise that would facilitate more conflict-sensitive practices by firms, as the UN Global Compact has tried to do with its Dialogue on Companies in Zones of Conflict and its extensive knowledge network. The international community as a whole should facilitate further negotiations to expand and institutionalize existing initiatives. They should promote further efforts, such as certification systems for other commodities similar to diamonds, and ensure that revenue management systems are established in new oil-producing states in particular.

When it comes to the role of companies in weakly governed countries, all involved do need to grapple with the one issue that has not been settled—are there places so ripe for breakdown and abuse that corporate investors should avoid them entirely? Is the pressure or need for development in poor countries so great that investment should be encouraged no matter the consequences? And should corporations be making this decision? To date, we have no effective international regulatory mechanism for global corporations, despite decades of half-hearted efforts in this direction. Nevertheless, there are some who believe this next step is inevitable—and too long delayed.

NOTES

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