EXPANDING CORPORATE RESPONSIBILITY: THE ROLE OF BUSINESS IN CREATING SUSTAINABLE PEACE AND SECURITY

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ABSTRACT

Foreign corporations have provided significant investment toward the economic and social progress of developing countries, but the impact of their presence and operations is often a mixed blessing. In many cases, the actions or inactions of multinational corporations (MNCs) contributed directly or indirectly to human rights abuses and fueled violent conflict in areas at high-risk for civil war. The 1990s saw a prevalence of human rights issues involving corporations, from an unflagging system of apartheid in South Africa to the exposure of child and forced labor in factories and dangerous industries to violent conflict in the oil fields of the Niger Delta. In the same time period, civil conflict and civil war were on the rise, often in weak or failing states with heavy dependence on corporate extraction of their natural resources for revenue.

International attention, including increasing pressure from activist shareholders and global social movements, has thus over the last 30 years shifted toward expanding the responsibility and role of MNCs in many non-economic areas of civil society, including the protection of human rights and conflict prevention. The desire for enhanced engagement by corporations has been driven by several dynamic situations: 1) the changing nature of conflict is challenging traditional conflict resolution methods;
2) weak and failed nation states are changing attitudes toward the principle of national sovereignty; and 3) globalization and expanding market economies mean that business has greater influence and interests in international affairs and global stability.

Two new concepts emerged to address these global challenges: corporate social responsibility (CRS) and conflict prevention. Both frameworks define an interest and need for corporations to take greater care and responsibility with regard to the impacts of their operations, and go further in asking corporations to use their influence to address human rights issues and to engage in peacebuilding and establishing security outside of their gates.

Voluntary codes of conduct based on international standards have evolved to address a broad range of corporate investment issues and provide guidelines for MNC behavior. However, none of the traditional instruments provides a common framework for MNC behavior or guidelines for political engagement with regard to human rights, or address the unique challenges of doing business in countries with high risk for conflict. The lines have become blurred regarding responsibilities of corporations and those of the state and other actors, and national sovereignty principles are often in conflict with changing international norms.

This thesis explores current approaches to CSR and conflict prevention to understand whether new and better rules are needed for MNC political involvement in promoting human rights and securing peace, and if so, how to define a new political role and practical guidelines for MNCs.
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# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Introduction</td>
<td>1</td>
</tr>
<tr>
<td>2</td>
<td>Changing State and Causes of Conflict</td>
<td>9</td>
</tr>
<tr>
<td>3</td>
<td>Corporate Accountability and Self-Regulation</td>
<td>30</td>
</tr>
<tr>
<td>4</td>
<td>Corporate Role in Conflict Prevention</td>
<td>51</td>
</tr>
<tr>
<td>5</td>
<td>Conclusion</td>
<td>71</td>
</tr>
<tr>
<td></td>
<td>REFERENCES</td>
<td>84</td>
</tr>
</tbody>
</table>
CHAPTER 1: INTRODUCTION

New forms of multilateralism seek a non-state centric approach to global governance, encouraging the participation of global civil society in addressing problems that nation states have failed to manage effectively. This new approach in contemporary diplomacy is gaining momentum as a means for promoting peace and human rights in developing countries where conflicts have challenged the abilities of governments and international actors. As a result, a more expansive view of diplomacy is drawing in other global or transnational non-state actors, including multinational corporations (MNCs), to advance peace initiatives and international standards in human rights.

MNCs, which come under criticism by global civil society groups, face increasing pressure from these same groups, as well as international organizations and activist shareholders, to engage in many non-economic areas of civil society, including the domestic political affairs of countries where there are systemic violations of human rights. MNCs operating in conflict zones and weak states, in particular, are pressured to act when governments are unable or unwilling to perform certain duties. Among the actions MNCs are urged to take include intervening in legislative processes, acting as a third-party mediator between conflicting groups, providing security for local populations and cutting off financial flows to abusive governments or opposition forces. Further, MNCs are urged to engage directly with governments on domestic
political reforms of policies such as those pertaining to free assembly and freedom of association, revenue allocations and land rights; to institutional development and distribution of public services, to promoting certain political groups or to even supporting regime change initiatives. Often actions such as these are in direct opposition to national and local laws and existing contracts.

These expectations run counter to two traditional principles: 1) the market perspective that corporations exist only to make money for their shareholders through the provision of goods and services, and 2) the international principle of non-interference in the internal affairs of sovereign states. Each of these principles guides MNCs to remain neutral politically or completely refrain from political activities when operating in foreign countries, and have been supported in international standards or tools promoting voluntary codes of conduct for multinational corporations.

Skepticism runs deep when it is suggested that corporations may have a role to play in promoting human rights and contributing to peace. While foreign corporations have provided significant investment toward the economic and social progress of developing countries, the impact of their presence is a mixed blessing. MNC operations often, directly or indirectly, fuel conflict and create situations that lead to human rights abuses – particularly in states where governance is weak and resource commodities are the primary source of revenue. MNC activities draw sharp criticism from the international community and make MNCs themselves targets of activists and international lawmakers. Too, “the idea of corporations actively spreading political and
moral values inevitably evokes gloomy shadows of the past, suggesting parallels to powerful charter companies like the British East India Company, which in early modern times sought to ‘civilize’ overseas countries on behalf of their governments” (Wenger and Möckli 2003, 132). International efforts to establish standards or codes of conduct for multinational behavior have yet to produce an effective system that can be monitored or clear, measurable results. There has further been a general reluctance to research the “positive forces of peace” or the impact of any actors as agents of peace. While there is much literature on “business as a source of conflict,” anti-corporation bias seems to have for many years prevented the study of MNCs as actors in promoting human rights or conflict prevention (Wenger and Möckli 2003, 11).

International and corporate views are changing as market principles and globalization are failing certain states, and non-interference is often seen as complicity into human rights violations. These changing views are creating value tensions between traditional principles of national sovereignty and new international movements.

Three reasons illustrate why the tide is turning toward enhanced engagement by corporations: 1) the changing nature of conflict is challenging traditional conflict resolution methods; 2) weak and failed nation states are changing attitudes toward the principle of national sovereignty; and 3) globalization and expanding market economies are enhancing the role of business, making it “more of a central actor in societies around the world” (Alpher and Borris 2004, 8).
The nature of conflict after the Cold War has shifted from geopolitically and ideologically based wars between states to being resource and identity based intra-state conflicts (Alpher and Borris 2004, 9; Wenger and Möckli 2003, 3; Wolf et al 2007, 296). Today, more than 90% of conflicts are intra-state wars, and more than 90% of their victims are civilians. Combatants are not identifiable, uniformed soldiers representing a clear allegiance. Victims and combatants alike are “members of communities from which business cannot [easily] remove itself” (Alpher and Borris 2004, 8). Governments are poorly prepared to deal with such conflict. The principle of national sovereignty, as well as policies guided by realism, limit an outside government’s abilities or willingness to take actions that interfere in the internal affairs and conflicts of another nation state.

Weak and failed nation states reveal the limitations of a liberal, state-centered approach when we examine the paradigm (constructed by a postwar UN) that confers upon states the sole authority to protect and defend citizens and human rights. Individuals consent this power to government “so long as the state fulfills its obligation” (Goodhart 2006, 25). When states abuse this power, or fail to uphold the social contract, “their special role and obligations regarding human rights protection and enforcement come into question” (Goodhart 2006, 32), as does the principle of sovereignty. Further, the line of non-interference tacitly established between the public and private sectors becomes blurred when greater pressure is placed on the private sector to fill in the “governance gaps” (Wolf, Deitelhoff and Engert 2007, 295).
For MNCs, the incentive to be a greater participant in preventing conflict and promoting human rights is more evident. Foreign investment to corrupt nations exceeds US$150 billion annually as of 2000, according to International Alert, making the costs of conflict significant for MNCs (Alpher and Borris 2004, 7). The costs of conflict include “destruction or undermining of human, social, economic, environmental and political capital” – all of which are “critical for the success of most private investments . . .” (Alpher and Borris 2004, 10). A central question is whether companies should have a different role or obligation when investing in conflict zones or in states with weak governments? The underlying assumption is that MNCs “have a role in helping to support reform of economic and political institutions in host societies” (OECD Questions, 1). “Failure to play a proactive role in this process positions business as part of the problem rather than part of the solution” (Alpher and Borris 2004, 12).

While voluntary codes of conduct, as well as various regulatory and legal instruments, have evolved over the last 30 years to address a broad range of corporate investment issues and provide guidelines for MNC behavior, none of the traditional instruments provide a framework for MNC political engagement with regard to conflict prevention and human rights. In these circumstances, it is imperative for MNCs, governments, and civil society to consider whether new and better rules for ethical corporate conduct in this realm can be developed.

This thesis will explore whether an international instrument or guidelines for
MNC political involvement in human rights issues are feasible where national sovereignty principles are often in conflict with changing international norms, and if so, how to define a new political and diplomatic role for MNCs. It is important to note that current MNC conduct is largely self-regulated and guided by international instruments that are regarded and undertaken only voluntarily. This thesis will not explore the inherent weakness of non-binding, voluntary guidelines, which have no enforcement mechanisms, but rather acknowledges a certain level of success in self-regulation and voluntary commitments. In my recommendations, I seek to help shape the next level of engagement and contribute to the mainstream international conflict management policy discussion.

The thesis will thus present a historical analysis of MNC links to human rights and conflict, as well as how political engagement has evolved and the changing role of business in the face of globalization. Further, I explore the tensions between traditional principles and emerging international principles that might seek to override state’s rights where conflict and severe human rights violations exist.

Chapter 2 looks at the emergence of new intrastate wars and provides a conflict analysis of the primary factors affecting peace and stability within states. This analysis from new initiatives driven by the international community’s revitalized interest in the study of civil conflict, which arose from concerns of atrocities taking place around the globe and large human tolls often at the hands of government. A shift in focus from conflict management to conflict prevention required a more comprehensive
understanding of the causes of conflict in order to develop programs and policies that would mitigate risks of conflict.

The emerging international agenda integrating MNC involvement in the human rights agenda and corporate governance practices has also produced substantial literature on various frameworks guiding corporate conduct in foreign countries. Chapter 3 evaluates current frameworks or tools as a means of addressing MNC engagement in conflict regions. From “The OECD Guidelines for Multinational Enterprises,” first developed in 1976 and revised in 2000, to the most recent “Voluntary Principles on Security and Human Rights,” I will review, compare and interpret the language used to address political engagement, with particular focus on the roles and responsibilities of the different actors.

Traditional prevention tools of the state have proven ineffective at resolving these conflicts, requiring states to change their approach and engage more actors (Wenger and Möckli 2003, 25). Among them are multinational corporations, which “have manifest interests in peace and stability similar to those of states” (Wenger and Möckli 2003, 21). Chapter 4 will provide an overview of the most current problems of MNCs operating in troubled countries where conflict and human rights issues are prevalent, as well as analyze immediate forces driving businesses to engage in conflict prevention and peace building, as well as in the context of the corporate social responsibility (CSR) movement. I’ll explain how the traditional model of non-interference has been overtaken by globalization and pressures for MNCs to act
affirmatively and responsibly in the political realm to prevent violence and protect human rights. The chapter provides insights into the types of issues and influential factors that compel a company to intervene politically, and evaluate whether outcomes are predictable and processes replicable. These are further incorporated into the recommendations in Chapter 5.

In Chapter 5, I will explore whether companies should have a different role or obligation, beyond current voluntary guidelines, with regard to peace building and political activities. Drawing on the available social science and policy analysis literature, as well as relevant case studies, I present the feasibility of new and/or better rules/guidelines for MNC political involvement in conflict situations where human rights are at risk or are being violated. This chapter proposes specific principles to guide MNC political decisions and engagement, and defines the characteristics of proper and improper political activities of MNCs relative to national sovereignty principles and changing international norms, as well as the role and responsibility of MNCs in preventing conflict and addressing systemic violations of human rights.
CHAPTER 2:
CHANGING STATE AND CAUSES OF CONFLICT

As we discuss the role of multinational corporations in advancing peace initiatives in conflict zones and promoting international standards in human rights, it’s important to understand the dynamics of conflict and the human rights issues that companies face in the communities where they often operate. Intrastate wars and conflicts are now the dominant form of conflict, “marked by a high degree of violence” and a high number of casualties (Wenger and Möckli 2003, 24). This chapter reviews current conflict prevention literature and the primary factors of conflict today that are requiring states to engage non-state actors, including non-governmental organizations and business.

The end of the Cold War and eruption of new intrastate wars brought the need for international and multi-stakeholder cooperation in conflict prevention into greater focus for the international community. The Rwandan genocide, as well as other human rights atrocities such as in Somalia, Bosnia, Herzegovina, Kosovo and other African states, was a catalytic event that brought the study of civil conflict back into focus and shifted the international community’s attention from conflict resolution and management to prevention. This shift funded a body of research, including theoretical and operational conflict forecasting models, which aimed to identify causes of conflict, understand triggering events and predict countries at risk of conflict.

While no forecasting model has emerged as a single authority, there are now multiple sources of data that can help assess which countries are at greatest risk
for conflict and in some cases forecast the likelihood of conflict within a period of years. The target audiences of this risk assessment data are governments, aid agencies, NGOs and, increasingly, multinational companies to potentially guide decisions and policies toward high-risk countries. Predicting the onset of instability and conflict in the short-term, it should be noted, has proven a tougher challenge to researchers and more recent work has turned toward understanding the events or patterns of events that signal imminent conflict and on what scale.

There are numerous terms or categories of civil conflict, many of which are used interchangeably within much of the literature. Certain terms may reflect stages of conflict from group protest activities and physical violence, to state weakness and collapse, to civil war (Amstutz 2005). Some terms, such as civil unrest, civil disorder, political demonstrations, political instability, protests, violent protests and riots, may represent collective expressions or behaviors of groups that may be party to the conflict (Jones 2007, 24). Other terms represent different types of political conflict, “revolutionary wars, ethnic wars, adverse regime changes and genocides and politicides” (PITF).

Civil conflicts and violent political conflicts are more frequently low-intensity conflicts with 100 to 1,000 deaths per year. Large-scale killings, or high-intensity conflicts with more than 1,000 deaths per year, have historically been associated with interstate conflict; however, there have been long-running intrastate conflicts that have claimed as many lives in recent decades. Melvin Small and J. David Singer established
that civil conflict becomes war when it crosses that threshold of 1,000 deaths and this has been sustained in most current literature. Another distinction Small and Singer makes about civil war relates to the “internality of the war to the territory of a sovereign state and the participation of government as a combatant” (Lindemann 2008, 3). Mass killings – genocide, politicide and democide – also occur within states with long histories of conflict (Amstutz 2005, 95). With government as a central actor in civil conflict, non-state actors with leverage become especially important to alter the dynamic.

Academics from different disciplines have challenged the concept that civil conflict or war is always an internal or intrastate event. Researchers have found that there are influences or “networks” connected to conflict that cross borders. Kaldor and Collier both noted the internationalized elements, especially the “key role of Diaspora groups” in fueling conflict (Kaldor 2003, 120). Other influences or actors, including multi-national corporations, are responsible for the flow of weaponry, technology and aid to conflict states.

A number of causes, factors and indicators of conflict identified in literature by political, economic, and conflict theorists in these studies may reveal roles for business in conflict prevention. There has been some debate in the conflict literature as to whether quantitative or qualitative studies provide better insights to conflict. Below I have focused largely on the work of quantitative theorists.
Economic Factors

The contributions of Collier and Hoeffler (1998, 2001, 2002), Sambanis (2003) and Fearon and Laitin (2003) to our understanding of the causes of civil conflict are well known. A common theme in these studies is that economic factors present greater risks for conflict, while other factors that have been promoted by experts such as democracy, ethnicity, environment, and development aid have been found to have very little statistical significance for conflict in cross-national research. Rather these other factors may serve as triggers or accelerators for conflict in countries that are statistically and structurally prone to civil conflict.

Collier developed a statistical model based on empirical data to understand some of the structural factors that may cause conflict. He found three direct economic factors: low income, slow growth, and primary commodity dependence. “Civil war is much more likely to break out in low-income countries: halve the starting income of the country and you double the risk of civil war” (Collier 2007, 19).

In another study by Collier and Hoeffler, they found “if a country is in economic decline, is dependent on primary commodity exports, and has a low per capita income and that income is unequally distributed, it is at high risk of civil war” (Collier et al. 2003, 4). Any of these factors alone present some risk for conflict, but the combination presents a statistically greater probability or risk of conflict.

Growth rate is another indicator for the level of risk. “Each percentage point added to the growth rate knocks off a percentage point from [the risk of civil war]”
(Collier 2007, 20). As the growth rate declined, the risk of civil conflict increased. Collier suggests that among the reasons these factors make a country so prone to civil war may be that poverty without opportunities yields hopelessness. This makes it easier for rebel organizations to recruit men – particularly young, unmarried men – who will work for low wages, motivated by the potential of big payoffs from the spoils of war (Collier 2007, 20).

Collier admits to having “fanned the flames” of controversy with his paper “Greed and Grievance,” which expanded, if not changed, the grievance dialogue (Collier 2007, 19). Collier is a skeptic of the grievance model that may be driven by the sympathies of academics who “cast rebels as heroes” (Collier 2007, 18). Rather, he suggests that the motives of rebels may be no purer than the governments they oppose. Greed is opportunistic and rent seeking.

What Collier suggests as an intervention for greed conflict is to make primary commodity predation not so attractive. This suggests still a possible underlying grievance – the lack of opportunity for work and wages that bring people out of poverty, the lack of diversification in the economy that provides opportunity, and the lack of a strong government that is able to build the infrastructure to make this happen.

Kofi Annan made this same connection at the world economic forum in 1997: “Peace and stability are most likely in populations enjoying general prosperity and access to opportunities; most conflicts are rooted in socio-economic inequality, and; business is the dominant engine of growth” (Search for Common Ground 2006, 1).
Assuming economic indicators are true basis of conflict or underlying grievance, corporations can potentially fill gaps of failed states.

Bates, however, is skeptical of the connection between individual or private income and civil violence. While rebel leaders may benefit from predation, those taking up arms seldom see the same level of personal gain. Bates argues that it is the level of public revenues that provides the greatest incentive for violence (Bates 2008, 13). This seems to bear some connection to Fearon and Laitin’s (2003) conclusion that while financing is needed to sustain conflict, ‘state administrative, military, and police capabilities’ have greater impact (Bates 2008, 8). These capabilities would be supported and dependent on public revenues, and in some cases indirectly by aid to governments. Below I discuss how natural resources seem to play a role in providing opportunity and enhancing capabilities no matter the theory to which one subscribes.

Population and Demographic Shifts

Goldstone takes up the thread in his research that if you combine low-income, slow growth and a large population of disaffected youth, you have greater potential for civil conflict. There’s a “strong correlation between countries prone to civil conflicts and those with burgeoning youth populations” (Beehner 2007).

In his studies of how changes in demographics can lead to conflict, Goldstone is careful to point out that “overall population growth and population density” do not inherently increase the risk of conflict, but rather it is “distinct kinds of demographic changes” that create the environment for conflict (Goldstone 2002, 4-5).
Goldstone amplified the concept of “youth bulge” in his work, using the phrase to describe the condition in which a country has “an unusually high proportion of youths 15 to 24 relative to the total adult population” (Goldstone 2002, 11). Rapid growth in unemployment or the labor force increases the risk for conflict and especially so whenever you have a large number of highly educated youth vying for scarce “elite” positions (Goldstone 2002, 4-5).

Goldstone shares the view that youth are more likely to be drawn into conflict because they have “fewer responsibilities for families and careers” or prospects for work and income. “Youth have played a prominent role in political violence throughout recorded history, and the existence of a ‘youth bulge’ has historically been associated with times of political crisis” (Goldstone 2002, 10-11).

Other distinct shifts in demographics that increase the risks for violent conflict include “urbanization that exceeds employment growth and migrations that change the local balance among major ethnic groups” (Goldstone 2002, 5). The State Failure Task Forces study of sub-Saharan Africa from 1955 to 1995 “found that, other things equal, the risk of political crisis nearly doubled in countries with above-average levels of urbanization but below-average levels of GDP/capita.” What’s needed in cases where you have urban growth or an educated young labor pool outpacing economic growth are industries that provide jobs (Goldstone 2002, 10). This, of course, has been a traditional role of foreign investors in developing and post-conflict countries.

Goldstone also pointed to some evidence that suggested that larger populations
in general increased a country’s risks for “armed conflict and state repression” (Goldstone 2002, 5). Interestingly enough, Collier found that a large population is also an important condition for successfully transforming conflict and turning a failed state around. Among the few significant characteristics found in countries that were able to emerge from conflict was a large population and high proportion of secondary education among this population. This speaks to the need for capacity to change, which includes having a “critical mass of educated people” (Collier 2007, 70). A challenge in many countries in conflict is that the most educated escape to other countries, leaving their home country without the skills to recover in a post-conflict situation.

While Goldstein and Beehner identified the role of youth bulge and urban growth in increasing the risk of conflict, the Political Instability Task Force (formerly known as the State Failure Task Force) more recently found “such factors only act to reveal the level of pre-existing vulnerability or resilience by actualizing ‘potential’ instability that is already present and largely determined by other factors” (Goldstone et al. 2005, 13).

**Natural Resources**

The presence of natural resources is the third economic risk factor that Collier discovered. Bannon and Collier highlight the associations between natural resources and violent conflict. They point to approximately 50 armed conflicts occurring in 2001 that each had “a strong link to natural resource exploitation” (Bannon and Collier 2003, 7). Further, they found that, the higher the percentage of GDP that a primary
commodity export represents, the higher the risk of conflict (Bannon and Collier 2003, 2-3).

Bannon and Collier succinctly state that financing is critical to sustain conflict. The revenue derived from natural resource exploitation provides “the means and the motive for conflict” (OECD May 2004, 2).

Governments require security forces to fight rebel groups, and natural resource revenues often provide the funding to equip armies. Countries in conflict “spend an unusually high fraction of their income on internal security” (PWYP). Security is indeed a big issue for some of these countries. Leaders have defended spending of revenues on firearms, stating that there can be no development without security (OECD 2002, 21).

In many cases, however, increases in military expenditures are often “driven by unaccountable revenue streams” such as in Africa and South Asia, where “one-fifth of the world’s small arms” are in circulation (PWYP). Wherever corrupt or weak governments are in place, the taxes and revenues paid by oil companies may be “siphoned off” by elites and government officials to enhance personal wealth or paramilitary activities (Bannon and Collier 2003, 7). Bates suggests that it is not in the self interest of incumbent leaders to put money into the economy but rather to put the money into maintaining power (Bates 2008, 132).

So money and resources do not make it to the poor, but rather are largely spent on internal security forces or go to propping up a corrupt regime and/or individuals in
the government, who take advantage of the weak infrastructure (more below on how regime type and state failure increase the risk of conflict).

Nigeria’s government is known as one of the most corrupt regimes. According to “money laundering authorities in Switzerland,” Nigeria’s former president (General Abacha) and others connected to him deposited about US$ 480 million into their banks in 2000. London authorities reported that US$ 1.3 billion had flowed through its banking system. The total reported missing from the Nigeria Treasury was US$ 4.2 billion. This is significant when the GDP reported in 1999 by the World Bank was US$ 43.3 billion (OECD 2002, 19).

Rebel groups too must find financing to recruit, organize and perpetrate violence. Bannon and Collier suggest that what appears often politically as ethnic divide and hatred in a low-income country is really driven by a group’s efforts to “assert its rights” over natural resources where they live (Bannon and Collier 2003, 6). Violence erupts between groups in competition for resources. This is among the most severe problems in the poor regions in which the government is too weak and incapable of creating a better life for its people. A secessionist movement, seeking political control as well as contracts and revenues derived from natural resources, merely “cloaks its justifications in the rhetoric of ethnic grievances” (Bannon and Collier 2003, 6).

The Biafra civil war of the 1960s in Nigeria erupted when the Igbo tribe tried to break away from shared power with the Yoruba tribe and gain control of much of the
delta’s oil. Violence has persisted in the region, with 50,000 Muslim-Christian killings in the last three years (Althaus 2004). The mere presence of oil companies provides a catalyst or focal point for the tribal movements, while also providing a financial resource. Oil companies are perceived to be greasing the palms of corrupt governments and leaders while the poor get poorer, and while their activities destroy the environment and regional security.

Many rebel groups are based in rural areas and obtain the funding they need through “various forms of extortion and the exploitation and trade of primary commodities,” such as oil, diamonds and other natural resources (Bannon and Collier 2003, 4). Foreign companies, as well as their facilities and infrastructure such as pipelines, are targets of rebel groups seeking control over certain areas. For example, there are many cases in which rebels will “steal oil by tapping into pipelines, a process called illegal bunkering” (Althaus 2004).

Companies will pay ongoing protection monies to rebel groups to prevent destruction of their property. In some cases, as well, companies pay futures to rebel organizations for access rights to extract natural resources in case the rebel movement succeeds (Bannon and Collier 2003, 14). Companies have even sourced natural resources directly from anti-state rebel groups, lining the war chest of their leaders. Diamonds obtained in just such a manner are marked as “conflict diamonds.”

Additionally, kidnapping of employees for ransom can be a significant source of income for rebel groups (Bannon and Collier, 6). These activities contribute to a
high-level of violence in and around the areas where extraction of resources is taking place. People living in the community become victims of this violence, or join the rebels in committing violence whether voluntarily or by force. Another key source of revenue is obtained through the extortion of money as ransom for kidnap victims.

Threaded in this discussion are concerns about how companies secure their infrastructure and protect employees. The actions they take, and in some cases ones they don’t take, can fuel conflict that leads to greater human rights abuses. The Voluntary Principles on Security and Human Rights, which is discussed later in the paper, addresses the behavior of companies in just these types of scenarios.

The paradox of all of this natural wealth is that while foreign investment in oil, gas and mining should provide great resources for development and poverty alleviation, approximately half of the 50 countries that rely on revenues from this sector remain “classified by the World Bank as ‘highly indebted poor countries’ with some of the world’s worst Human Development indicators.” Indeed, “1.5 billion people living in these countries survive on less than US$2 a day,” representing more than a third of the population. The revenues instead create conditions for reverse development (PWYP).

Poverty stems from a variety of conditions that have been created or worsened by exploitation of natural resources, such as poor governance, environmental degradation and all its associated ills, population displacement, among others. While some of these conditions have not been found to have a statistical connection to
conflict, they may produce events that lead to human rights abuses or trigger conflict. Environmental degradation that negatively impacts one group over another, for example, may lead to violent, political protests. “Countries that are rich in natural resources are often poor because exploiting those resources takes precedence over good governance” (Soros 2005, 43). The energy and resources of the state and its people are directed toward this initiative, while other development efforts are placed on the back burner.

The sudden availability of such large amounts of wealth puts the financial management processes of the state to the test. Often developing states lack the institutions and capabilities to manage revenues properly. Weak management and accountability for revenues and spending also can lead to corruption, particularly within already repressive governments, and extend to armed conflict (Soros 1998, 43).

**Regime Type**

Democratization is discussed in much of the literature as having a role in conflict. “Qualitative accounts, such as those of Mansfield and Snyder (Mansfield and Snyder 1995; Snyder 2000) suggest that democratization produces political instability” (Bates 2008, 11). Some accounts have suggested that efforts by aid organizations to tie democratization to financial country loans have forced some regimes to take extraordinary measures to protect their incumbent status, leading to catastrophic genocide or politicide (Bates 2008, 132). The international community’s hurried push for liberalization in Rwanda in the 1990s is frequently attributed as a reason for the...
escalation to violence (Chua 2004, 170). The conflict seemed to expose problems inherent with authoritarian regimes, especially when they feel threatened and desperate to hold on to power.

In a recent Political Instability Task Force (PITF) paper by Goldstein, Bates, Gurr, Lustik, Marshall, Ulfeider and Woodward, the principal finding after more than 10 years using “global data from 1955 to 2003 . . . [was] that regime type is overwhelmingly the dominant factor behind revolutions, ethnic wars, and adverse regime changes” (Goldstone et al 2005, 2).

The PITF developed a quantitative research model that found that “conflict and instability are highest not among democracies or autocracies, but among regimes that have been variously labeled ‘partial democracies,’ ‘anocracies’ or ‘illiberal democracies’” (Goldstone et al 2005, 16). These regimes are located in the intermediate regions of the Polity IV scale, which is often used by political scientists to identify democracies (+10) and autocracies (-10) on a 21-point scale that summarizes various characteristics of a regime. (Goldstone et al 2005, 16) Full autocracies and full democracies are at the lowest risk for conflict. “By contrast, hybrid regimes—partial autocracies and partial democracies—are substantially more vulnerable to crisis than their more ‘coherent’ counterparts” (Goldstone et al 2005, 19).

More than one-third of conflicts (33.9%) occurring during that period occurred in partially democratic regimes (polity scores 0-7), even though the partial democracies only made up 14.6% of the data set. This indicates that such regimes are indeed prone
to greater instability. However, “two-thirds [of the conflicts] still occurred in democracies and autocracies,” suggesting that a regime’s position on the Polity scale was not the significant indicator (Goldstone et al 2005, 17).

When working with “a categorical classification of regimes based on a two-dimensional scheme suggested by Dahl’s (1971) conceptualization of polyarchy,” the PITF determined that it is not “the degree of democracy or autocracy” that defines the potential for conflict, but rather how regimes choose their leaders, as well as public acceptance and participation (Goldstone et al 2005, 2). Bates, also a follower of Dahl, is more concerned with the “relationship between political reform and political disorder” (Bates 2008, 12). Both approaches support development and democracy theorists’ assertion that “the process of democracy” plays an important role in preventing conflict (Jones 2007, 1).

The work of the PITF and Bates flip the model in examining the “origins” of political violence from the top down. Rather than looking at the “motives of rebels” or citizens, they explore the motives and policies of governments that “impoverish” citizens, deplete natural resources, withhold services and security, and lay the foundation for conflict. Bates shifts the focus to the incumbent regime and the role of public revenues in conflict (Bates 2008, 132).

**State Failure**

State failure or collapse is another theme in civil conflict. For some scholars such as Nyheim, this term(s) represents weakened domestic authority and the inability of
government to fulfill its essential responsibilities such as, “fostering an environment conducive to sustainable and equitable economic growth; establishing and maintaining legitimate, transparent, and accountable political institutions; securing their populations from violent conflict and controlling their territory; and meeting the basic human needs of their population” (Nyheim 2008, 12). A narrower view looks at state failure as “increased corruption and . . . declining legitimacy” of a regime or government dependent on natural resources or war economies to sustain power (Kaldor 2003, 120). In resource endowed economies and countries flooded with aid, financial flows and poor management of resources leads to corruption and conflict, while suppressing development and giving rise to poverty (Soros 2005, 43). For the Political Instability Task Force, state failure is a broad term encompassing many types of violent political conflict, which they categorize as “revolutionary wars, ethnic wars, adverse regime changes and genocides and politicides” (PITF).

Bates sees state “disintegration” as the first step in the “temporal course” of conflict – the conditions of the economy, ethnicity, food security, environmental degradation and natural resources are merely symptoms of state failure. “In the midst of disorder . . . the government turns to predation while the citizens enlist behind champions who offer protection in exchange for political services.” Citizens of a failed state must choose “between peace and prosperity.” The price of peace is poverty; the “price of prosperity” is to take up arms (Bates 2008, 138).

Other conflict models, such as Lund’s lifecycle, suggest a linear path with
stages of conflict occurring on a continuum well before a complete state collapse. Other scholars have shown that events may occur at many points on the bell curve in a non-linear fashion over the course of a conflict, leading to more recent exploration of patterns in conflict versus singular causes (Alker 2001). This suggests that where conditions for conflict exist, certain events can provide the spark for conflict and anecdotally, multi-national corporations have in many cases been involved in those events.

Other Indicators

What Bates has identified as symptoms or products of conflict are leading indicators of conflict and certain conditions that may exacerbate tensions and instability. Not every failed state becomes embroiled in conflict. Researchers and early warning models thus seek to understand the events and “accelerators” that may tip the scales in conflict prone countries. Certainly economic factors, population, distribution of jobs and income, and management of natural resources have played a role. While not direct causes, ethnicity, land rights and environmental degradation have played important roles in conflict.

Many conflicts are too quickly defined as ethnic struggles by media as well as in qualitative accounts based on grievance models. This is particularly true of many conflicts in Africa. The media painted the story of the Rwandan genocide, for example, as the tragic tale of warring tribes that had hated and killed each other “since time immemorial” (Gourevitch 1998, 154). Rather, it was a complex case of a modern civil
war in which ethnicity was manipulated by the elite parties, and most “brutally” by the ruling Hutu leadership, in pursuit of their political, social and economic agendas.

Land rights issues played a significant role in the decades of conflict between the Tutsi and Hutu in Rwanda, as well as in other conflicts. In stable states, land rights are defined and enforced by laws; however, in weak and failed states, the lack of protections has pitted groups against each other and militias have taken up arms to defend land rights (Bates 2008, 133). The Tutsi were cattle breeders and Hutu farmed the lands. “As more and more grazing land was needed for the expanding herds, Tutsi drove Hutu from their lands. Belgian laws favored Tutsi contractual rights for control of land for grazing cattle” (Prunier 1995, 28). Kapuściński contends that the central issue in Rwanda was “born of an almost Israeli-Palestinian inability to reconcile the interests of two social groups laying claim to the same scrap of land, too small and confined to accommodate them both” (Kapuściński 2001, 170). Tensions between nomadic and settled communities, herders and farmers, are also increasing as drought creates greater competition for water (Pacific Institute 2009).

Natural resource distribution is at the heart of other disputes often characterized as ethnic conflict. Often resources are localized in certain parts of the state, endowing certain groups with greater revenues. Similarly, ethnic groups may “occupy distinct territories” and thus “demands for regional redistribution take on an ethnic coloring and regional conflicts assume the guise of ethnic discord” (Bates 2008, 133). This may be exacerbated by a lack of confidence that the government will use revenues from
resource extraction to provide services and protection to all groups, protests may be seen through an ethnic lens. “However, what determines whether violent conflict arises are the relationships among popular groups, elites and the state, and particularly whether the state has the capacity to channel and moderate elite conflicts” (Goldstone 2002, 4). As mentioned previously, the state often manipulates ethnicity and promotes discrimination to protect its status such as in South Africa during apartheid, Rwanda, Democratic Republic of the Congo (DRC), and the Sudan.

In keeping with “early Malthusian arguments for conflict” individuals align themselves with the group or identity that is either under attack or needs the greatest support at the time. “If others are attacking ‘our’ group, then often our solidarity and attachment to that group will increase and the divide between ‘them’ and ‘us’ will significantly widen. [Theorists] argue that while identity is rooted in the individual it is only ‘manifested’ and challenged within the social interactions of groups and society.” How prone groups are to engage in conflict is defined by the degree of social cohesion. The greater the interdependencies of the groups, the more stable the dynamic. Conflict prevention theorists believe corporations can have a stabilizing effect on group dynamics (Jones 2007, 23).

The Political Instability Task Force also took a look at environmental factors. “After nearly a decade of research, it now seems clear that long-term environmental degradation of the kind that often accompanies development (e.g., soil erosion, deforestation and air and water pollution) has little or no significant role in generating
civil or international wars” (Goldstone 2002, 6). In accounts that show that environmental issues have led to international and domestic conflicts, Goldstone contends that “they are of the kind that are generally settled by negotiation and compromise and do not lead to taking up arms” (Goldstone 2002, 7).

The Pacific Institute, run by MacArthur Fellow Peter Gleick, acknowledges that water resource issues “rarely, if ever” have been the “sole” cause of violent conflict, “but contends that has led some international security experts to ignore or belittle the complex and real relationships between water and security.” The Institute has chronicled a long history of events in which water issues have been at the center of economic and political disputes, or has been used as a military or political tool in conflict (Pacific Institute 2009). Such instances have led organizations that are monitoring conflict and post-conflict countries, such as the UN and NATO, to integrate environmental factors into threat analysis, with water and food security gaining significant traction in international security circles. The Pacific Institute chronicles highlight violence and human rights abuses that have stemmed from concerns about water safety or access, disputes over approaches to economic development and industry, terrorist threats to water supply and systems, strategic destruction of dams and rerouting of water streams are but a few ways in which water has factored into conflict (Pacific Institute 2009). Among the events that have occurred in the last decade, wells in Darfur were intentionally contaminated to target displaced populations, 250 people in Somalia were killed “in clashes over water wells and
pastoral lands,” violence broke between Kikuyu and Maasai groups in Kenya over water, leading to 90 deaths and 2,000 displaced peoples (Gleick 2008).

Water intensive industries – resource extraction, apparel manufacturing, beverages and bottling – may fuel tensions in cases where water is already a scarce commodity or in countries facing significant periods of drought. Multinationals also have come under criticism for processes that have polluted water, left lands infertile, and sometimes caused the displacement of indigenous groups.

Foreign Investment

As mentioned previously, conflict risk assessment tools have increasingly become important for multinationals to understand the challenges they face in conflict prone countries. The above causes and accelerators of conflict all have touch points in which business can have a negative impact on the situation, itself a factor in deepening tensions and increasing the likelihood of human rights abuse and conflict. Likewise, business can have a positive impact by engaging in a manner that promotes human rights and creates peace through the disciplines of corporate social responsibility and conflict prevention.
As the state-centric approach to human rights has revealed more weaknesses in the system than strengths, greater responsibility for human rights has shifted to multinational corporations with increasing momentum over the last three decades (Gunderson 2006, 78). This is evident in the range of international frameworks that have been developed to define responsibilities and influence the behaviors of multinational corporations with regard to human rights, as well as in the shift from a highly regulated approach to corporate self-regulatory and voluntary approaches and more recently to “civil regulation” (Utting 2001, 65). These frameworks were developed predominantly as checks on corporate behavior and have become a foundation for the discipline of corporate social responsibility (CSR).

Rainier Braun and Judy Gearhart define the state-centric approach as a “narrow” regulatory approach concerned with “improving systems of law and order” and bringing nations “into conformity with international human rights law” (Braun 2006, 60). In this model, social change happens from the “top down” – “from international organizations, to national governments, and eventually to the citizenry” (Braun 2006, 60). This positions the state as the sole violator and enforcer of human rights. Braun and Gearhart define a “broader” or “participatory” approach as one concerned with changing the “power structures” to allow all levels of society to be a part of the “political and economic decision making processes that affect
their lives” (Braun 2006, 61). The participatory approach expands responsibility for human rights to a broader group of actors, including non-governmental organizations and multinational corporations (Braun 2006, 63).

The state-centric approach to human rights was tested in the 70s as governments attempted to control the behaviors of MNCs in developing countries by regulating and limiting foreign investment, as well as nationalizing industries. Widespread concerns of corporate corruption in developing countries and bribery of other governments in the mid-70s led to increased interest by the United Nations and others in the international community (Gunderson 2006, 78).

The United Nations attempted to develop and codify a mandatory, universal Code of Conduct for Transnational Organizations, but abandoned the effort nearly two decades later when it finally became apparent that industrial states lacked the resolve to implement any restrictions on MNCs (Gunderson 2006, 78).

We then saw the introduction of several non-binding, multilateral agreements such as the Organisation for Economic Co-Operation and Development (OECD), Guidelines for Multinational Enterprises and the International Labour Organisation’s Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy. These frameworks use the top-down approach to influence the activities of MNCs, placing the primary responsibility of engaging MNCs and “upholding human rights” on states and governments.
The OECD Guidelines for Multinational Enterprises

The OECD sought to strengthen the voluntary initiative by developing a set of recommendations and securing the commitment of member governments to promote them to multinational enterprises operating in developing countries. The OECD first established *The OECD Guidelines for Multinational Enterprises* in 1976 and have revised the Guidelines five times since they were first issued, with the most recent revision completed in 2000 to bring them up to date with changes in the global economy. The Guidelines have been developed with the input of the member countries, many of which are “the source of most of the world’s direct investment flows and home to most multinational enterprises” (OECD 2000, 5). Among the member countries which have signed on to the Guidelines are Australia, Britain, Canada, Germany, France, Japan and the United States. It’s important to note that “only members of the first world [are] represented” (Vagt, 797). That these guidelines only have the participation of OECD countries makes them inherently weak for dealing with conflict countries.

The Guidelines make recommendations that would be useful for MNCs operating in conflict zones. There are several sections in particular that focus on MNC activities that are widely considered to exacerbate conflict, however there are some structural and contextual weaknesses if these Guidelines are to hold up for MNCs operating in these territories.

The General Policies section broadly frames the ways in which MNCs can
proactively contribute to sustainable development. Respect for human rights is a common theme in its recommendations, yet the OECD commentaries on these guidelines squarely place the primary responsibility of “upholding human rights” on states and governments (OECD 2000, 41). Indeed MNCs are encouraged only to regard human rights concerns “consistent with the host government’s international obligations and commitments” (OECD 2000, 19). It is up to the host country to ensure that these guidelines are promoted to MNCs and to establish incentives that support adherence to these guidelines. The Guidelines adopt the top-down approach to the protection of human rights but there are no enforcement teeth. Where countries are loath to upset business interests, companies have been left to regulate themselves.

MNC responsibility is further weakened by governments that are notorious for human rights abuses and in many cases companies are often complicit in those abuses. When companies seek government intervention to secure its facilities or to scatter community protests, including providing the military with “ammunition and logistical and financial support for military operation[s]” as Shell did in the Ogoni region of Nigeria, human rights violations including beatings, killings, detentions and destruction of entire villages are often the result (Environmentalists Under Fire, 22). Shell, which chooses to “funnel” even its development funds through the Nigerian government, is viewed as an “accomplice” of a “regime that cheats, steals and kills” (Maass 2005, 17).

The Guidelines’ General Policies reflect the concept that “refraining” from
certain activities may be as important a contribution as proactive measures. The Guidelines suggest MNCs, for example, refrain from “seeking or accepting” special exemptions “not contemplated” by state laws and regulations; from discrimination of employees; and from “improper involvement in local political activities” (OECD 2000, 19).

The Guidelines recognize that “competitive forces” might tempt some enterprises “to neglect appropriate standards and principles of conduct in an attempt to gain undue competitive advantage” (OECD 2000, 16). As a result in its later iterations, the Guidelines address the need for MNCs to guard against employee abuse and discrimination, environmental degradation and certain forms of corruption that are associated with enterprises seeking gains on the system.

The Guideline’s Recommendations on Employment and Industrial Relations seek to enlist corporations in efforts to abolish employee discrimination, child labor and forced labor, in synch with various declarations and conventions of the ILO. While acknowledging that forced labor, and child labor in some cases, may be a tool of “political coercion” or “discipline,” the definition of workplace discrimination may also be used to isolate or favor certain political and social groups. No mention is made of how these behaviors often exacerbate tensions and conflict between a country’s citizens and their government, or between warring factions within a country. Royal Dutch/Shell commissioned a study of its practices in Nigeria and found that the company had indeed favored one group over another when hiring employees and was
known to hire “youth gangs ‘to protect’” its oil facilities (Althaus 2004). These were among the many practices that the study found ‘exacerbates conflict’ (Maass 2005, 16). Beyond assuring a broad range of basic workers’ rights enumerated in the ILO’s 1998 Declaration on the Fundamental Principles and Rights of Workers, the Guidelines also seek to ensure that employees have the right to union representation as well as the ability to use company facilities for member meetings and negotiation procedures (OECD 2000, 45, 21).

The OECD considers environmental management integral to an MNC’s role in supporting sustainable development. In conflict zones, environmental degradation is among the leading causes of poverty and trigger conflict. Nigeria’s delta is a testament to the devastation and poverty that pollution can have on developing countries. With oil extraction causing the pollution of farms and rivers, well water is unsafe to drink in many areas and crops are unable to grow (Environmentalists Under Fire, 23). The Guidelines recommend that MNCs “take due account of the need to protect the environment, public health and safety” and regularly assess the environmental impact of their activities on communities (OECD 2000, 22). The lack of scientific uncertainty should not be used as an excuse for not doing the right thing in the face of reasonable evidence or logic (OECD 2000, 23). This last principle is lightly addressed in the OECD Guidelines but has taken on greater importance as a key idea of the Rio Declaration, which came out of the Rio Earth Summit in 1992 (UNGC 2002).

The Guidelines further specify that “‘sound environmental management’
should be interpreted in the broadest sense, embodying activities aimed at controlling both direct and indirect environmental impacts of enterprise activities over the long-term, and involving both pollution control and resource management” (OECD 2000, 49). In a case where an oil company sought to explore the Samore block in Colombia for oil, it was important for Occidental Petroleum Corporation to understand that their exploration had potential for destroying the migratory lands, and indirectly, the cultural destruction of the U’wa, one of Colombia’s indigenous tribes.

All forms of corruption can fuel conflict situations and, as the Guidelines state, “[damage] democratic institutions . . . [and] impede efforts to reduce poverty” (OECD 2000, 50). The Guidelines are critical of three different practices in particular: bribery of foreign public officials, anti-competitive price manipulation, and tax evasion or use of improper tax exemptions. Transparency is mentioned as a possible “anti corruption” measure. The Guidelines’ Disclosure policies speak broadly of the need for transparency by both governments and enterprises in their dealings with each other. The OECD seeks disclosures of both financial and non-financial information, such as social and environmental reporting (OECD 2000, 20). The Guidelines state that MNCs should be “responsive to the public’s increasingly sophisticated demands for information,” including taking extra steps to communicate with poor and illiterate groups without access to standard forms of media (OECD 2000, 43, 45).

All of the above recommendations in some measure tackle problems that contribute to conflict in varying manners. The Guidelines however fail to mention the
impact conflict has on development, or more specifically how following the above recommendations might mitigate conflict. Indeed, a key recommendation might be to frame some of these issues in the context of how they can exacerbate and fuel conflict.

Security issues are neglected in the OECD Guidelines. No mention is made of how MNCs should manage security issues in zones of conflict or resettlement of local populations when they are displaced, for example, in areas where natural resources are extracted.

The Guidelines do not make clear what characterizes improper involvement in local politics and perhaps gives contradictory advice in its commentary on the policy, where it encourages MNCs to “co-operate with governments in the development and implementations of policies and laws” with consideration of “the views of other stakeholders in society” (OECD 2000, 41). Without more clarification of these statements, MNCs are left to apply a very loose interpretation.

Language in the Guidelines provides lots of room for maneuvering with many qualifications made with regard to the burden of costs and “practical limitations” (OECD 2000, 43). The Guidelines have no intention of directing MNCs to take actions that would “endanger their competitive position,” nor or “they intended to reinterpret any existing instruments or to create new commitments are precedents on the part of governments” (OECD 2000, 45, 49).

Additionally, the Guidelines seem to require strong state institutions for effectiveness. As the Guidelines are voluntary and thus not “legally enforceable,” they
are promoted and supported primarily by the host states (OECD 2000, 17). Currently, the predominant signatories to the OECD Guidelines are those with strong governments and institutional means for educating corporations on the OECD Guidelines, as well as for monitoring and follow-up should they choose to take those initiatives.

The same states that have signed onto the guidelines are encouraged to work with MNCs based in their home and operating abroad in developing countries to follow the same standards across the board. However, the risks and opportunities for companies operating in zones of conflict and weak governance are enhanced. MNCs must become smarter about the dynamics of conflict and first seek to “do no harm” over seeking return on its investments.

**Self-Regulation**

“National governments’ attitudes toward business [had] changed dramatically in the 1980s and 1990s, and efforts shifted from controlling to attracting multinational corporations” (Gunderson 2006, 78). Liberalization of economies was spreading globally. New governments, following the lead of the United States and Great Britain, “ardently pursued free-market policies that went against further regulation of corporations” (Haufler 2002, 165).

Governments, cautious not to upset business interests, preferred voluntary approaches such as industry and corporate self-regulation. This involved companies and industry groups “unilaterally designing and implementing various initiatives”
What resulted was a hodge-podge of codes of conduct with no possibility of being effective because they often ignored critical issues, such as labor rights and corruption, and failed to take into consideration the concerns of a broader range of stakeholders. These initiatives were highly criticized for being pure public relations schemes. “[T]here was indeed a large gap between what existed on paper and what happened in practice” (Utting 2001, 70).

Additionally, private investment was expanding into countries “previously untouched by global markets,” many of which were weak states with “poor human rights records.” As limitations of the state to address human rights issues were exposed, the number of civil society organizations grew to “fill the void;” international NGOs alone grew from 6,000 to 26,000 in the 1990s” (UNCG 2002; Wenger and Möckli 2003, 23).

Stakeholders too were demanding greater accountability. Criticism alone would not be enough to push corporate social responsibility forward. Utting describes a “shift in the balance of social forces” as driving a new movement of accountability in business (Utting 2001, 72). Traditional human rights NGOs, labor, environment and corporate accountability groups targeted advocacy efforts to multinational corporations with a “name and shame” approach that was hugely successful in anti-apartheid divestment campaigns (Braun 2006, 63). Externalized codes of conduct were gaining new momentum with the Sullivan Principles as an early framework. Originally introduced in the 1970s, the Sullivan Principles was a code of conduct created by Rev.
Leon Sullivan to engage corporations investing and operating in South Africa in the fight against the government’s system of apartheid by calling for racial nondiscrimination for employees inside and outside of the workplace. Signing onto these principles was considered an act of corporate civil disobedience and would mean going directly against the South African government’s laws of racial segregation.

When these codes were first launched in the 1970s, Sullivan could get few companies to adopt the basic principles that he hoped would bring an end to apartheid. The Principles themselves were not enough to bring apartheid to an end, much to Sullivan’s dismay. However, they were dusted off in the late 1980s and became the tool of the disinvestment campaign, which sought to engaged company stakeholders and institutional investors to put pressure on companies to adopt the Sullivan Principles or divest from South Africa. Social movements, which included a highly engaged activist university community, provided the engine for getting companies to divest from South Africa, and divestment was seen as the only tool that could break the cycle of apartheid. More than 100 companies pulled out of South Africa, demonstrating the power of consumers, investors, NGOs and others in civil society to push the corporate agenda on human rights issues. More than the financial losses incurred, companies feared the loss of reputation.

Recognizing the limitations of governments and seeking to directly influence the activities of MNCs, non-governmental and inter-governmental organizations have taken the initiative to define voluntary standards for corporate behavior in developing
countries through various instruments and frameworks. Several key international instruments emerged to address a broad spectrum of human rights, security and transparency issues.

**U.N. Global Compact**

While the OECD Guidelines rely on the state to promote and monitor MNC activities, the United Nations Global Compact’s Ten Principles represent a formal shift to directly engage companies. Signatories are asked “to embrace, support and enact, within their sphere of influence, a set of core values in the areas of human rights, labour standards, the environment, and anti-corruption” (UNGC 2002). The ten principles are derived from other existing instruments originally developed to obtain state commitments to respect and protect human rights such as the 1948 Universal Declaration of Human Rights (UDHR), the ILO Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the UN Convention Against Corruption. The Global Compact is, however, designed to influence business self-regulation in these same areas.

There are some key concepts and approaches taken by the Global Compact that distinguish it from others. One key differentiator is that the signatories to the Global Compact are companies and not states. The UN Global Compact takes a decidedly participatory approach with the development of a “learning network” that engages companies to share and promote best practices related to the ten principles. “The hope and expectation is that good practices will help to drive out bad ones through the power
of dialogue, transparency, advocacy and competition” (Ruggie 2002, 32). To that end, the minimum requirement for a company to be a signatory to the Global Compact beyond paying dues is for the company to submit an annual progress report on its efforts to address the human rights challenges defined in the ten principles. This ‘progress report’ is at the heart of how those best practices are exchanged, as well as stakeholder meetings on topical issues.

The reputation of the Global Compact and its principles were called into question when many of the companies were found to not be submitting reports. The Global Compact’s critics have decried the initiative as “bluewash” with company participation merely a public relations strategy to have their name connected with the UN initiative (Ruggie 2002, 28). The Global Compact began implementing in 2008 new “integrity measures,” which were ratified in 2005 and which include delisting companies that fail to meet the minimum requirements. As of June 2008, 630 companies had been delisted, while 317 companies were listed as “inactive” and at risk of being delisted if they did not take certain steps. There were 4,619 companies (710 of which are new members) in good standing (UNCG 2008).

The participatory approach extends to the principles themselves. The Global Compact’s first principle firmly establishes that “[t]he responsibility for human rights does not rest with governments or nation states alone” (UNGC 2002). This recognizes that MNCs had been “enjoying new rights and freedoms as a result of economic liberalization and globalisation without commensurate obligations and responsibilities,
most notably in developing countries” (Utting 2005, 376).

The Global Compact also introduces the concept of “sphere of influence” to promote an expanded public role for companies beyond the workplace, supply chains, and marketplace, to communities and government (UNCG 2002). In this concept the Global Compact advocates that companies enter the domain of domestic affairs and politics of the host country as appropriate to promote human rights. This represents a departure from other frameworks, which specifically recommend that companies refrain from political engagement. Though sphere of influence is a concept “widely used in corporate social responsibility discourse,” Ruggie and his research team have rightly found it too ambiguous for companies to know where their responsibilities begin and where they end (Ruggie 2008a, 3).

Ruggie found this particularly disconcerting as he saw entities “using the concept as though it were a functional equivalent to a State’s jurisdiction.” What is happening is a conflation of “two very different meanings of ‘influence’. One is ‘impact’ where the company’s activities or relationships are causing human rights harm. The other is whatever ‘leverage’ a company may have over actors that are causing harm or could prevent harm. . . . Asking companies to support human rights voluntarily where they have leverage is one thing; but attributing responsibility to them on that basis alone is quite another” (Ruggie 2008a, 5).

In attempts to “operationalize” this concept, other definitions of “influence” have been explored in terms of “proximity,” “control” or “causation.” All have been
found to be too limiting in the broader human rights agenda that the Global Compact desires to promote.

The United Nations developed a model to graphically represent the concept of sphere of influence with activities and responsibilities mapped on a plane of concentric circles. At the center is the workplace, where the company holds the greatest responsibility for promoting human rights. Flowing out from the center are supply chains, marketplace, and then communities and government in that order. The further from the center, the less responsibility the company holds (Ruggie 2008a, 4). A survey of Fortune 500 companies conducted by Ruggie for the U.N. Human Rights Council found that companies tended to “prioritize their obligations to stakeholders in approximately this order; the only significant variation being that firms in the extractive sector placed communities ahead of supply chains” (Ruggie 2008a, 5). This demonstrates some recognition of the significant impact that extractive industries have on communities, and may suggest a greater than average responsibility for conflict sensitive business practices.

Within the workplace are a range of activities that directly impact human rights. The Global Compact promotes compliance with international labor rights laws in the areas of health and safety, freedom of association, non-discrimination, forced labor and child labor. In a recent U.N. study on “the scope and patterns of alleged corporate-related human rights abuse,” non-compliance in these areas has been found to “generate impacts on other labour and even non-labour rights” (Ruggie 2008b, 12).
Freedom of association, as defined by ILO Convention No. 87, is the “right to establish and . . . to join organizations of their choosing,” such as trade unions (ILO, 1948). [Emphasis mine.] Freedom of association (FOA) is a key vehicle for modeling participatory government but also an area where many companies encounter the greatest political challenges in their overseas businesses. The Global compact calls on companies to “[s]upport the establishment and functioning” of labor organizations, including protecting the identities and confidentiality of leadership in climates hostile to FOA (UNGC 2002). The Global Compact seeks to position the corporation as a model for participatory government and upholding the rule of law, while recognizing limitations of local laws against such activities as freedom of association and organized trade unions.

Braun and Gearhart claim that human rights serve a “political function” in “limiting the power of the nation state over its citizens.” As responsibility for protecting human rights shifts to corporations, MNC power over its workers also becomes more limited. MNCs and their supply chains are bound in protecting individual rights in the workplace. In cases where freedom of association is not legal or viable, the Global Compact promotes a participatory work environment, which allows workers to become involved in decisions about company policy and procedures. This includes strong grievance procedures that allow workers a confidential and effective means of communicating problems in the workplace.

The right of participation in decisions that effect human rights must extend to
the non-state actor as well and may “make or break” the strength of codes of conduct as a “tool for human rights.” The top-down approach in human rights within a corporation is not “true human rights” (Braun 2006, 62).

Within the community, the Global Compact fully supports companies contributing to the public debate and actively engaging in issues beyond workers’ rights. The Global Compact identifies some examples of roles corporations could take in the community to protect human rights. Based on our understanding of the causes of conflict discussed in Chapter Two, at least two such roles could have a measure of success in helping prevent conflict.

In many areas of conflict, a common action of the state is to forcibly displace groups or communities to gain control of land and its resources. The Global Compact considers this a direct violation of human rights, and any company that assists in the forced relocation of peoples is considered to be directly complicit. Corporations should actively engage with governments to prevent forcible displacement. For some indigenous groups that have held a territory a long time such as the U’wa, any displacement at all can be devastating to their culture and way of life. International law has upheld cases of indigenous rights to land.

External actors, such as the World Bank, have begun to identify and define requirements for companies to better assist “those adversely affected by an investment project” to ensure that their lives are at least restored to the standard they knew if not improved (OECD 2002, 23). In addition to satisfying basic needs of displaced peoples,
a more proactive approach by corporations and a more consultative process might go a long way toward alleviating the alienation that displaced people feel.

Another key role for MNCs is to “protect the economic livelihood of local communities.” Very little else is said about this directly in the Global Compact, and yet studies have found economic development to be one of the most important factors in preventing conflict and thus preventing human rights abuses that occur in conflict situations. This engages some of the more traditional capabilities of business.

Additionally MNCs can provide privatized services to support workers, as well as others in the broader community to fill in for governance gaps, including providing privatized government services in the areas of “basic health, education and housing for their workers and their families,” where governments fail to do so (UNCG 2002).

The Global Compact’s tenth principle on transparency and anti-corruption is one of the strongest conflict prevention tools, yet the Global Compact does not make this connection. This principle was added in 2004 in recognition that corruption “has played a major part in undermining the world’s social, economic and environmental development.” Corruption leads to many ills, among them the diversion of resources and funds that should be used for development to other purposes, the undermining of environmental and labor standards, and the reduction of services to citizens. At its worst, corruption “facilitate[s] drug dealing and organized crime” (UNGC 2002). In conflict zones, extortion in particular plays an ugly role supporting corrupt regimes and funding war economies.
Transparency is one of the key tools for anti-corruption. As stated in Chapter Two, financing is critical for continuation of conflict. A state’s funds should be a source for growth and development if managed transparently and responsibly. The tracking of revenues, particularly in resource dependent countries, is essential to preventing corruption and conflict in troubled areas of the world.

A movement known as “Publish What You Pay” has launched programs urging industries to “disclose payments to governments” of developing countries (Soros 1998, 43). Other similarly inspired projects, such as the multi-stakeholder Extractive Industries Transparency Initiative (EITI) established by the British Government, have specifically targeted the oil and mining industries.

IMF reporting indicates a “lack of formal tracking of expenditure, payment orders to central banks, and executive authorizations for extra-budgetary spending” as common problems of countries with poor budget controls. Such conditions allow diversion of funds to military spending, pet programs and/or the pockets of political leaders. “What distinguishes economies with high resource endowments from those not having such wealth is the large volume of fiscal flows that are sent through these channels” (OECD 2002, 18).

The inability to enforce anti-corruption laws internationally has been another failing of the state system. The Global Compact’s adoption of this principle was intended as a strong message to the world that the “private sector shares a responsibility” for preventing corruption. That the principle was created with the input
of the business community demonstrated its commitment to be part of the solution to the problem (UNCG 2002).

Another concept in the discourse of the Global Compact emphasizes strategic and economic benefits for companies who address human rights issues and incorporate human rights into their policy and corporate culture. The Global Compact is unique in its appeal to the corporation’s concerns for the long-term stability, fear of regulation and considerations of its image in this globally, technologically connected world.

The Global Compact and its principles assume the role of educating business about “the value of raising their own standards, about the costs of refusing to act on those standards, and about the appropriate standards and implementation measures they should undertake” (Haufler 2001, 30).

In general, codes of conduct seem to be changing attitudes and operations of many MNCs, even as a healthy dose of recognition remains that some companies use codes of conduct merely for political and social cover. In conflict regions, however, problems still abound. A 2002 Investment Committee report to the OECD attributes these problems to weak governance and investment flows that finance conflict (OECD 2004, 2). “Foreign direct investment by MNCs, particularly in high-impact sectors such as extractive industries and infrastructure, has been associated with worsening levels of violent conflict in such countries as Colombia, Sudan, Nigeria, Algeria and many others” (Campbell 2002a, 3).

As there were an increasing number of cases involving issues in conflict zones,
the OECD in 2004 sought public comment on “Questions for Multi-stakeholder Dialogue on Responsible Investment in Weak Governance Zones,” whereby respondents were asked to contribute to the “debate on investment in zones of weak governance and violent conflict” (OECD 2004, 1). The central question they asked is whether companies – and more specifically, extractive industries – should have a different role or obligation in conflict zones or in states with weak governments beyond what the current *OECD Guidelines for Multinational Enterprises* address?

The handful of responses that were posted publicly showed very mixed views within the constituent community of the OECD as to whether any additional responsibilities should fall to MNCs operating in zones of conflict and weak governance. However, two multi-stakeholder initiatives had already emerged to address the impact of two resource-driven industries’ in conflict zones and set the stage for corporations to undertake new roles and direct engagement in preventing conflict.
CHAPTER 4:
CORPORATE ROLE IN CONFLICT PREVENTION

As the corporate social responsibility movement was gaining momentum in the 1990s, a new concept of conflict prevention was also emerging with the broadening of the definition and actors involved. Traditionally, conflict prevention has been the purview of the public sector, with a “state-centric and security-oriented conception of preventative action [that] did not allow for the involvement of non-state actors” (Wenger and Möckli 2003, 20-21). The dramatic rise in intrastate civil conflict, as well as new emerging transnational threats, calls for a multi-sector approach to include NGOs and the business sector. Chapter 2 pointed to some of the reasons. Many of the underlying causes or significant factors of today’s conflicts – economic, social and environmental – require broader thinking about international security beyond military and political elements. Increasingly, conflict prevention is “an issue of global governance,” which is placing greater expectations on corporations to engage in prevention efforts (Wenger and Möckli 2003, 2).

Wenger and Möckli (2003), Fort and Schipani (2004), and Fort (2007) have led some of the discourse advocating roles for business in conflict prevention, while defining challenges for corporate governance in such a context. Both have found business to be slow to welcome, and even dismissive, of any role it could play in preventing conflict, leaning on two primary guiding principles (Wenger and Möckli 2003, 21). Milton Friedman first popularized in 1970 the idea that
“businesses do the most social good by focusing attention to shareholder value rather than trying to engage in social concerns” (Fort 2007, 8). Friedman’s message has been the mantra of the “value maximization model” or “shareholder model” school of business that puts profits ahead of all other potential gains and holds managers accountable to this principle (Fort 2007, 7). This model took root in business schools and remains a foundational principle in management courses today (Fort 2007, 8). Businesses, like many nation states, have also avoided using its power and influence in conflict prevention and the promotion of human rights on the grounds of national sovereignty and the principle of non-interference. Nation states have “jealously guarded” their sovereignty in the face of pressures from the international community, often in the form of public criticism or sanctions, for human rights abuses (Goodhart 2006, 30).

These principles, however, no longer have the same force they enjoyed in past decades. Corporate social responsibility advocates have long challenged the profit-first paradigm and promoted a “stakeholder model” that recognizes the obligations companies have to non-shareholder constituencies and greater society (Fort 2007, 8). Fort explains that this model is supported by legal cases and corporate constituency clauses in more than half of the United States that allow managers “a great deal of latitude to sacrifice immediate profit in favor of a reasonable good” (Fort 2007, 9). While the shareholder model has become ‘entrenched’ in business management echelons, it does not actually define the legal obligations managers have to
shareholders (Fort 2007, 8-9).

Fort, as well as Wenger and Möckli (2003), believe that “globalization diminishes borders and in doing so, national sovereignty” (Fort 2007, 13; Wenger and Möckli 2003, 21). This appears to be happening on two levels. The state role in protecting human rights is coming into question when there is significant “evidence of bad governance and massive violations of human rights” (Wenger and Möckli 2003, 4). The international community cannot rely on states that have lost “power and authority” to perform its duties. Further, the successes of the anti-apartheid movement and other campaigns show that denying sovereignty has been successful in advancing human rights (Goodhart 2006, 30).

Globalization is giving rise to new dangers and conflicts that know no borders, and often violence is a reprisal against western or “external” influence. Terrorism, for example, is increasingly a challenge for states, and “in turn affects business, because businesses are part of the globalization phenomena against which [other traditions are] being protected” (Fort 2007, 12). At the same time, terrorists and insurgent groups have also come to rely on the tools and technologies of globalization – “weapons technology, telecommunications, the Internet, and financial products” – which while developed by business, can also be used to attack business and the free market. Businesses have the capacity to cut off provisions to these bad actors, but “under a value-maximizing approach, businesses have a built-in incentive to shoot themselves in the foot or worse. The shareholder model of the corporation has great difficulty saying
‘no’ to a profit opportunity” (Fort 2007, 13). Businesses, thus, will find themselves in the middle of all of these issues and needing solid guidelines for dealing constructively with the challenges and for having a broader understanding of the sector’s constituencies.

While there is agreement that in principle the state continues to have the primary responsibility for peace and security, state sovereignty is not absolute and the state system can no longer act alone in dealing with certain types of conflict. Scholars now are exploring how to “[widen] interpretations of sovereignty to allow a balance between a state’s internal legitimacy and the expansion of international ‘community’ standards” (Cooper, English and Thakur 2002, ix).

**Types of Conflict Prevention**

Wenger and Möckli (2003) define three types conflict prevention: systemic, operational and structural. Systemic prevention deals with traditional methods used to deter interstate wars such as achieved through balance of power, military strategy and “international security regimes.” Systemic prevention is thus rarely used in the context of modern conflict. The focus today is instead on operational and structural approaches to conflict prevention.

Operational methods are used to avert an immediate crisis using “tools of diplomacy: negotiation, mediation and arbitration . . . that encourage dialogue and . . . nonviolent resolution.” If necessary, operational elements also include coercive carrot and stick methods such as economic assistance or sanctions, preventive disarmament

As Chapter 2 illustrates, there are many dimensions to conflict and thus a multidimensional approach may provide the best chance of mitigating conflict. Structural prevention does this through various efforts aimed at “. . . reducing poverty, stimulating economic growth, and achieving general social and economic stability . . . Setting up a liberal market economy and favorable conditions for trade and investment, building up a physical infrastructure, and, for instance, strengthening local business capacity . . . health and education” (Wenger and Möckli 2003, 37-38).

Structural prevention, advocates agree, provides the greatest opportunity for business to engage in conflict prevention strategies. In *The Business of Peace*, Jane Nelson (2001) focuses on key elements of corporate governance important to businesses operating in zones of conflict. Nelson’s “principles of corporate engagement” address how companies should integrate policies and procedures broadly in the areas of human rights, corruption and security; conflict risk analysis; stakeholder engagement; and transparent relationships with governments and suppliers; as well as establish measures of accountability, into their management culture (Fort 2007, 17). Fort asserts that it is a “particular kind of company . . . that is constructively engaged in communities where they work: in short, an ethical business company” (Fort 2007, 19-20). In Fort’s assessment, there are three ways that such a business can contribute to sustainable peace in conflict zones – first, through economic development; second, by
avoiding corruption; and third, by building a sense of community (Fort 2007, 19-20).

**Economic Development**

Economic factors present the greatest risk for conflict. Countries with low income, slow growth, and primary commodity dependence upon natural resources, are at greatest risk. As stated previously, the US has been heavily engaged in bringing foreign investment into countries, such as Haiti and Pakistan, as a means of preventing or ameliorating conflict by providing the disaffected population with alternatives to conflict. In Haiti, economist Collier has promoted bringing in labor intensive manufacturing industries, such as the apparel industry, to help the country recover from conflict. “Economic growth and opportunity, which are essential to helping reduce poverty and enhance political stability, can be sustainable only if generated by enterprises,” as opposed to nationalized businesses (Wenger and Möckli 2003, 6). Investors, however, rightly asked about their exposure on the human rights issues.

Collier (2008) and Fort (2007) both discussed the need for resource dependent countries to diversify their economies beyond commodity exports, which are proven to be such a high risk for conflict. They define several types of activities that companies could engage in to help build the economies, such as technology transfer, bringing value-add production to host countries (i.e. DeBeers diamond preparation before cutting), and working with local communities to identify viable business opportunities and develop plans for growth. Collier, in particular, stressed the need for creating access to markets especially in land-locked countries such as those in Africa (Collier

Many of these types of economic activities can positively impact other risk factors identified, such as the presence of natural resources and dependence on exploitation and export of primary commodities. Populations can be more empowered when the business community can engage with home and host states to bring their expertise to help diversify economies and expand the skills and capacity of the local population in a manner that could reduce dependency on natural resources, employ greater numbers of young workers, mitigate effects of demographic shifts, and therefore the risks for conflict.

While aid to many developing states has decreased, private sector resources have “increased sharply,” as has pressure for companies to include “wealth creation” into their corporate social responsibility programs.

Avoiding Corruption

Corruption in developing countries takes on many forms, especially in conflict situations where high levels of public revenue provide the greatest incentives for violence because they contribute to the state administrative, military, and police capabilities. Financing is critical for continuation of conflict. According to the Organisation for Economic Co-Operation and Development (OECD 2002), International Monetary Fund (IMF) reporting indicates a “lack of formal tracking of expenditure, payment orders to central banks, and executive authorizations for extra-budgetary spending” as common problems of countries with weak governments and
poor budget controls (OECD 2002, 18). Such conditions allow diversion of funds to military and paramilitary spending, pet programs and/or the pockets of government officials rather than to development and peace-building efforts.

The movement known as “Publish What You Pay,” and similarly inspired initiatives such as the Extractive Industries Transparency Initiative (EITI), seek to tackle the problem by urging corporations to disclose revenues paid to governments of developing countries. This is viewed as a central means for holding governments accountable for the management of revenues they gain from corporate fees and taxes, while creating positions of neutrality for companies and enhancing investor confidence. A state’s natural resources should be a source for growth and development if managed transparently and responsibly (PWYP). The tracking of natural resources revenues is a key to preventing conflict.

Tracking of funds is made increasingly difficult when host governments require companies “to not make public their payments to them” (OECD 2002, 18). Nigeria has had such a requirement of extraction companies, which has raised questions about the integrity of how public funds are used (OECD 2002, 16). However, this level of confidentiality exceeds the typical non-disclosure requirements of OECD oil-producing countries, which suggests that revenue transparency need not harm the “legitimate interests of both business and governments” (OECD 2002, 18). The Publish What You Pay initiative asks that companies reveal only what they “already routinely disclose in the developed world” (PWYP).
“This is a necessary first step towards a more accountable system for the management of revenues in resource-rich developing countries” (PWYP). “[Y]ou cannot manage what you cannot measure” (PWYP).

The OECD takes into account the role of state-owned enterprises and subsidiary companies, strongly suggesting that transparency should extend to these entities (OECD 2002, 18). The government and many larger companies may “hide behind” these organizations to avoid some of the accountability issues attributed to obvious MNCs (Wicks 2005, 2). In response to the OECD’s request for public comments on investment, the Director of External Affairs for De Beers proposed that the principal behind “publish what you pay” should apply to host countries to “publish what they get” as well (O’Ferrall, 4). More recent multi-stakeholder dialogue on this issue revealed some of the same concerns.

“The same minimum standards should apply to all companies, large or small,” stated O’Ferrall. “Whilst it may be unreasonable to expect small companies to adopt the same levels of reporting as large and listed companies, in weak governance countries in particular any lowering of the requirements on integrity and transparency will encourage irresponsible elements. In terms of legislation and guidelines affecting business practice, a level playing field is essential” (O’Ferrall, 5).

Revenue-watch programs have begun to have some impact. Shell, as well as Chevron, has now begun to disclose “disaggregated payment information” to Nigeria. Investors seem to be responding positively, as well as the host countries. Nigeria has
introduced transparency legislation, and has plans for a complete overhaul of its oil and
gas sector (Soros 2005, 43).

Connected to the ‘Publish What You Pay’ approach, NGOs often call upon
multinationals to assert conditions in their contractual relationships regarding “a host
country government’s allocation of revenue derived from [MNC] activities” (Kline,
44). Such “[n]egotiations over the allocation of project revenues between joint venture
partners is expected business practice, but a TNC attempting to influence how
government chooses to spend its own share of project revenue steps far beyond
business practice and into the arena of domestic politics” (Kline, 44).

It’s too early yet to tell whether such an approach has worked in the Chad-
Cameroon pipeline project. In principle, such a request mirrors some of the U.S.
government’s efforts to use trade agreements to advance labor standards and human
rights in other countries. Certainly companies have sufficient leverage in these
situations to have a positive impact on human rights. However, a company would be
better to engage local stakeholders in the process of developing the resource allocation
agreement to avoid any backlash that the company is wielding too much power.
Another concern in these resource allocation schemes is that the country will simply
shift revenue not subject to the agreement to other government projects.

Establishing Security Conditions

Managing security issues responsibly in zones of conflict is essential to reducing
conflict and supporting sustainable development. How companies protect themselves,
whether by government security forces, private military or rebel gangs, is of paramount concern in conflict zones. Their actions may be seen as complicit in state violence. For example, Shell provided the military with ammunition and logistical and financial support for operations in the Ogoni region of Nigeria, effectively giving support to human rights violations, which included beatings, killings, detentions and destruction of entire villages. Other companies have been exposed for abuses by the private security forces in their employ. The “Voluntary Principles on Security and Human Rights” provide companies with guidelines on security not found in previous frameworks.

The “Voluntary Principles on Security and Human Rights” was developed to ensure that companies in the extractive industry take into account human rights at the same time they are protecting their operations. The foundations of the Voluntary Principles are within the United Nations Code of Conduct for Law Enforcement Officers (1979) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) (OECD 2002, 23). The instrument was developed jointly by the governments of the United States, United Kingdom, Netherlands and Norway to address how MNCs should manage security issues in zones of conflict. Announced in December 2000, a central focus of the document was to affect change in Nigeria, where corporate and government conduct in securing the operations of the oil companies has led to significant human rights abuses.

The Voluntary Principles are broken down into three categories regarding
corporate security: risk assessment, interactions with public security, and interactions with private security. The core of these principles focuses on corporations taking greater responsibility for understanding the complex political, social and economic landscape that may generate civil violence, and how their presence and activities in the community may fuel problems. Risk assessment products, such as those developed to help guide conflict prevention policies and strategies, can provide analysis that might help companies mitigate conflict.

The Voluntary Principles further require greater responsibility or ownership of relationships with government regarding public security and greater due diligence of private security forces that may aid in securing a company’s facilities and employees. The corporation has to establish the ground rules for protecting human rights. The Voluntary Principles are very direct, that force should only be used when necessary and not at all to restrict freedom of association and peaceful demonstrations. Whether security is being provided by the government or by private organizations, corporations have the responsibility to be attentive to any abuses that occur in the protection of their employees, contractors and facilities. Companies further have the duty to investigate, monitor and remedy human rights abuses.

The most glaring omission from this set of principles is the concept of complicity. Also missing is any suggestion of condemnation of acts carried out by governments in the protection of corporate facilities. In Nigeria, Shell was found to be complicit in human rights abuses for not publicly condemning the hanging of
environmental activist and human rights leader Ken Saro-Wiwa and not using their seemingly considerable influence to stop the government from taking this action. There are also no guidelines for determining when it is appropriate to bring in outside security and what level of engagement is needed.

The weak governance of the organization has also been called into question. “The [Voluntary] Principles’ precedent is limited by the narrow scope of the issues addressed, sectors encompassed and governments involved, but at least this exercise demonstrated a willingness to tackle standards for TNC conduct that can involve matters closely linked to a country’s internal political affairs” (Kline 2005, 43). Ruggie, Special Representative to the Secretary General of the U.N., offered two observations about how the Voluntary Principles could be strengthened: first that greater participation was needed so that even companies and countries without great records could benefit and second, that the VPs required a more “empowered Secretariat if the effort is to attain and sustain momentum.” Ruggie pointed to the Fair Labor Association, a multi-stakeholder initiative aimed at protecting workers rights in corporate supply chains globally, as the “gold standard among voluntary initiatives” because “its Secretariat is encouraged and even mandated to cast a critical eye on performance” (Ruggie 2009).

Risk Analysis and Conflict

While political risk consultants help companies identify situations that will adversely affect the MNCs business and harm its assets, rarely do corporations examine the
potential impacts its operations may have on the state of affairs in a conflict region. If MNCs are to take a more active role on conflict prevention, conflict analysts have proposed that we must have a better understanding of the “gaps between private sector needs and available tools for MNCs” (Campbell, 4). They perceive that risk assessment methodology can be extrapolated to serve the private sector’s needs to understand conflict and its role, as well as serve to help identify unique risk factors of the particular MNC in relationship to a particular conflict situation (Campbell, 4). They would then be better informed about the impacts of their actions and be better equipped to make alternative choices to prevent conflict, including “no go” decisions. Additionally, the tools would serve to help an MNC create a program for conflict prevention and resolution.

“No-Go” Policy and Indicators

The international community suggests that there should be ‘no-go’ areas or zones where a company’s risks of infringing on human rights are simply too great for investment. For some, such a policy should be applied to any area where “war crimes and crimes against humanity are taking place.” Multi-stakeholder dialogue conducted by Ruggie identified the need for greater clarification on the definition of conflict zone and on the ‘no-go concept’ and how it should be applied.

Conflict risk assessment organizations mentioned in Chapter 2 continue to seek to find key indicators that could help businesses assess risks and also to help both companies and home states understand in near-term when conflict is imminent.
International Alert and the Fifo Institute for Applied International Studies took another approach in determining potential liabilities to companies, ranging from inaction on abuses in or around a business project or abuses carried out by others associated with the company. They reviewed “existing international law and court cases in more than a dozen jurisdictions” to determine a set of indicators that could warn companies of “possible legal risks, and the need for urgent action.” These indicators were listed in a “Red Flags” guide and launched in May 2008. Among these indicators were violations of well-recognized international labor standards: using threats and violence to force people from their communities or to work, receiving or managing “suspicious” funds through “legitimate” transactions or making “significant off-the-book” transactions, “used of disproportionate force by government or private security” to protect facilities or disband protestors, and providing the means to kill or commit crimes such as weaponry or financing (International Alert and the Fifo Institute).

Commodity Certification

Rebel groups too must find financing to recruit, organize and perpetrate violence. According to Ian Bannon and Paul Collier, many rebel groups obtain the funding they need through “various forms of extortion and the exploitation and trade of primary commodities,” such as oil, diamonds, and other natural resources such as the minerals used in cellular phones (Bannon, 4). Unregulated or illicit trade activities serve as a direct source of financing for conflict. In some cases, as well, companies pay futures to rebel organizations for access rights to oil extraction in case the rebel movement
succeeds. Commodity control initiatives seek to limit financial flows to non-state armed groups and reduce the scope of illicit trade in lucrative commodities. Additional efforts are needed to provide guidance to companies on how they should interact with non-state armed actors in the conflict, as well as in dealing with corrupt governments where rule of law does not truly exist.

The Kimberley Process Certification System (KPCS) is the first multi-stakeholder initiative, which aimed to get conflict diamonds off the market and cut the source of funding to rebel armies. Among the intrastate conflicts that were erupting in the 1990s were those in Angola, Sierra Leone and the Democratic Republic of the Congo (DRC). Rebel armies in these countries “exploited the alluvial diamond fields of these countries in order to finance wars of insurgency.” Alluvial diamonds are more easily mined because they often are found only a “few inches or a few feet below the surface of the earth.” This accessibility and that they also have a “high weight-to-value ratio” makes them very attractive source of income for rebel armies (Partnership Africa Canada 2006, 2). Diamonds entering the trade market from these sources became known as conflict diamonds; and in the 1990s, “represented as much as 15 percent of the world’s total” (Partnership Africa Canada 2006, 3).

There are measurable accomplishments with the implementation of the Kimberley Process. Today less than one percent of the world’s diamonds come from conflict situations, and the KPCS has also surfaced significant issues in illicit diamond trade as well and helped to turn criminals into “honest men” (Partnership Africa
Canada 2006, 3). However, as with the Voluntary Principles, the governance of the KPCS has been weak, with the secretariat or chair rotating every year and having little authority other than to convene meetings. Accountability is low and the certification program puts the monitoring in government hands predominantly, where often there is known corruption. New initiatives or requirements can only be passed with consensus from all parties, meaning that one dissenter can “block forward movement” (Partnership Africa Canada 2009, 1).

**Building a Sense of Community**

Good corporate citizenship can go a long way toward ensuring positive engagement with the communities. In conflict situations, it can be doubly important to make sure that companies are protecting environmental resources of host communities, are being sensitive to the local customs and religions, and especially taking care that their activities with the government are not permitting discrimination or the destruction of the indigenous or other cultures at the expense of another. This is equally important within the operations of the business. Further, engaging in multi-stakeholder dialogue in the communities can help open channels of communication should problems arise from the business that impact the community. Just as grievance procedures mitigate corruptive behavior, they too serve an important function in the community if the local population feels free to voice its concerns.

Consultative exchange through formal mediated frameworks could help governments, corporations and communities identify problems and potential solutions
together, while also developing more of an understanding of each other’s concerns, culture, motivations and realities. Joint seminars could be held on pertinent topics and joint visits to company facilities to understand positive and negative implications of specific business activities. Fundamentally, governments and companies should have a process to involve communities in the decision making processes in order to achieve mutually beneficial outcomes.

An example of such an exchange was promoted in an OAS/Harvard report on the U’wa/Occidental case, which suggested that a consultative exchange through formal frameworks that provided “technical assistance” to the U’wa and the oil companies could have helped them better understand each other’s culture, motivations and realities (Macdonald 1997, 15). The U’wa, for example, would be assisted in understanding the oil industry, such as petroleum economics and engineering, to help them during consultations. A similar process in other situations would apply well. Companies could become well-versed on indigenous rights and cultures. A dimension that is often missing in similar conflict situations lies in the relationship between the government and its citizens, including local and indigenous populations. There is much that can be done to help parties understand the economic concerns and incentives driving certain projects and the state’s actions.

Furthermore, the report recommended joint seminars on pertinent topics and joint visits to extraction sites and indigenous territories to understand positive and negative implications of oil activities (Macdonald 1997, 15). The report also
specifically called for the oil companies and Colombian government to respect the U’wa system of authority and allow them to participate within that context. “Any attempts to establish relations with the U’wa that ignores their political and traditional cultural system can only increase tensions and create confusion” (Macdonald 1997, 14).

Where there are people “adversely affected by an investment project,” the World Bank has begun to identify better means, and indeed requirements, for companies to better ensure that their lives are at least restored to the standard they knew if not improved (OECD 2002, 23). At the same time, it must be recognized that for some indigenous groups that have held a territory a long time, any displacement at all can be fully devastating to their culture and way of life, as with the U’wa. Far too little attention has been paid to these concerns. In addition to satisfying basic needs of displaced peoples, a more consultative process might go a long way toward alleviating the alienation that these people feel.

These are just some of the ways in which companies can proactively engage to help prevent conflict in the communities in which they operate. According to International Alert (2006), businesses also have been engaged in peace building by participating in and supporting formal peace negotiations, “addressing economic contributions, building relationships across conflict lines, helping to protect their own security, and encouraging women entrepreneurs” (Fort 2007, 18).

“The extent to which business has made contributions to the cause of peace
unawares [through trade and economic investment] suggests strongly that its contributions could be massive if willed” (Wenger and Möckli 2003, 53). So how does conflict prevention become more integrated into the corporate social responsibility dialogue and how does the international community provide business guidelines for engagement?
CHAPTER 5: CONCLUSION

This thesis began by asking whether U.S. corporations that have foreign operations should have a different role or obligation, beyond current voluntary guidelines, with regard to peace building and promotion of human rights, and if so, how to define this enhanced role for MNCs. In the 1990s, the corporate social responsibility (CSR) and conflict prevention paradigms emerged to address the gaps in governance in developing countries, and both sought greater engagement from business in solving some of the economic, social and environmental challenges.

The CSR movement has matured significantly over the last couple of decades, with companies taking greater responsibility to mitigate the impact of their operations. However, the various CSR instruments provide little guidance to corporations operating in zones of conflict where violence is prevalent. Rather CSR instruments seem to be most useful for corporations operating in more or less peaceful environments (Wolf et al. 2007, 301). The Voluntary Principles and Kimberley Process have been somewhat effective in the last decade, however, problems of accountability, scalability and leadership continue and the narrow focus of these frameworks make them difficult to replicate in a larger conflict prevention context.

While the conflict prevention movement has been the driver for a significant body of research on the causes of today’s conflict and has been used in the development of early warning systems, its engagement of the business community has evolved more slowly. Corporations continue to be reluctant to enter this
sphere of conflict prevention. While the profit motive and principle of non-interference are two articulated reasons, another most likely is that there doesn’t appear to be a concerted effort or framework leading corporations in conflict prevention strategies in a more structured way. “Corporations lack the know-how and experience to deal with issues such as political and military negotiations and the promotion of human rights” (Wenger and Möckli 2003, 132). Further, the development of current early warning systems, according to an OECD study, has not “translated into better responses,” so critics who believe that the essential purpose of early warning should be to prevent such conflict as in Rwanda, the Balkans, DRC, and Sudan, among others, have legitimate concern about its effectiveness (Nyheim 2008, 9, 19). The uncertainty of whether taking certain actions will be successful or not could be having a dampening affect. The risks of acting too hastily are also high, and “corporate preventive efforts in [certain] fields can end up doing more harm than good, for the company as well as for the cause of peace” (Wenger and Möckli 2003, 132).

However, as the risks and opportunities for companies operating in zones of conflict and weak governance are enhanced, MNCs must become smarter about the dynamics of conflict and engage cooperatively to create stable environments for their business and economic development in general. Cooperation will be essential as tri-sector engagement in conflict zones is relatively new, and not all parties readily trust each other. Several areas of improvement are needed to advance motives for corporate conflict prevention, as well as the corporate promotion of human rights.
First, the proliferation of international frameworks, codes of conduct and multi-stakeholder initiatives demonstrates a much greater awareness of the need for collaboration in defining the role of business in promoting human rights. Among the challenges noted by stakeholders engaged in a recent undertaking by John Ruggie on behalf of the United Nations Human Rights Council is “the urgent need for a common framework of understanding, a foundation on which thinking and action can build in a cumulative fashion going forward” (Ruggie 2008, 2). Protecting human rights requires more due diligence by corporations, but companies face many challenges in implementation given the number of organizations and multi-stakeholder initiatives they must align themselves with to ensure that they are demonstrating a commitment to promoting the broadest range of human, social, economic and environmental rights.

There also remains on a macro level a good bit of confusion about where the lines are between state and corporate responsibility, which allows both parties to clearly understand their obligations and boundaries in promoting human rights. Ruggie sees the problem as not one of having too few laws, but an inability to enforce those laws. This has been said about codes of conduct as well.

At the micro level, the struggles in developing these common frameworks often lie at the fringes of issues where various interest groups clash over philosophical differences as each tries to advance its own agenda. For example, the ILO standard on freedom of association states that workers should have the “right” to join an association and to organize. Pro-union organizations will say that if there is no union,
there is no freedom of association and there are no workers rights. Some groups have taken the position further to suggest that companies should therefore not invest in countries where freedom of association is illegal, such as in China and Vietnam. With the levels of concerns raised around companies operating in conflict zones, similarly it has been suggested that “go/no-go” criteria be developed to provide guidance on investment decisions and that home states should be working closely with companies earlier in the investment cycle to aid in the analysis of the human rights situation. This, of course, has greater ramifications in international relations and politics, where states are specifically using foreign corporate investment as a tool for preventing conflict such as in Pakistan and Haiti.

A case study on the Voluntary Principles concluded that, “The partnership was sustained in part by a narrow focus on an achievable set of goals that highlighted the common interests of the participants while avoiding irreconcilable differences.” Defining those common interests “in terms of economic development instead of conflict prevention” or human rights was found to be the most effective in establishing the goals of the Voluntary Principles. Often such “irreconcilable differences” have led to splinter groups with varying degrees of scope, authority and effectiveness at promoting and driving the human rights agenda forward (Hauffler 2002, 5).

The result is that corporations continue to have a broad impact on human rights, with infringements on labor and non-labor rights. Some of the worst cases in which corporations caused “harm” to human rights were found, not surprisingly, in states that
had low income, were emerging from or embroiled in conflict, and had weak rule of law and protections (Ruggie 2008b, 6). These are three of the factors found to have the greatest statistical causal link to conflict or to be triggers for conflict as represented in Chapter 2.

Secondly, as Ruggie’s work acknowledges, some of the most egregious violations of human rights occur in conflict zones. The unique challenges, responsibilities and opportunities for businesses to impact human rights in this context are not integrated into the overall business and human rights dialogue, but rather addressed as a side issue. Existing frameworks provide guidelines in some key areas, such as corruption, transparency, and non-discrimination, which can have a direct impact on human rights issues in conflict zones. The language of these frameworks, however, fails to address the urgency of addressing human rights abuses in areas of the world where such infringements can ignite widespread violence and have disastrous consequences for greater numbers of people. No instrument looks at the role of companies in these high-risk areas comprehensively or as part of a conflict prevention strategy undertaken in partnership with government, international organizations and civil society. Activities undertaken by various actors, including corporations, must be linked to conflict-specific situations. “The neglect often has a negative impact on the entire preventative operation” (Wenger and Möckli 2003, 52).

Socioeconomic peacebuilding, or private sector development, has been “largely neglected” and various movements for change focus on single issues or single
industries. The Voluntary Principles, for example, which provide some of the clearest guidance on corporate relationships with the governments, use of security services, and community engagement to the extractive industries operating in high-risk areas, have been criticized because of a lack of due diligence in implementation and its limitations on who can sign on to the Principles.

Civil society groups have undertaken various independent initiatives to address specific conflict issues associated with corporate investments in weak states. An international agenda has been emerging – with the leadership of such international institutions as the United Nations, Organization for Economic Co-Operation and Development, and the World Bank – to review these initiatives and to develop a framework of “conflict sensitive business practices” that can be integrated into “mainstream” human rights policy frameworks that guide business behavior and in international conflict management policy. Further, Ruggie’s efforts on behalf of the U.N. Human Rights Council are bringing together representatives from governments of conflict prone states to discuss challenges and possible engagement to mitigate conflict.

Further, it is important to distinguish between a company’s obligations within its ‘sphere of influence’ and other activities that a company could take to be a citizen participant in preventing and managing conflict. Corporations should not take on any conflict prevention activities without coordination of multiple stakeholders; activities should be part of multi-sector plan where actors are determined according to the needs
of the case.

Ruggie correctly assesses that the “human rights regime cannot function as intended in circumstances of sporadic or sustained violence, governance breakdown, and absence of the rule of law” (Ruggie 2008b, 6). The international community is looking to home states to take on greater responsibilities for the actions and investment decisions of companies in host states. “Specific policy innovations are required to prevent corporate abuse, yet it seems that many [home] States lag behind international institutions and responsible businesses in grappling with these issues” (Ruggie 2008b, 6).

This “lag” highlights again the reasons that the international community has looked to multinational corporations with great resources and perceived influence to help promote human rights and ameliorate conflict. Many host states simply lack the capacity to uphold human rights through both the creation and enforcement of laws and regulations, and in many conflict zones, states are blatantly violating human rights themselves. Home states, often more developed nation states, have been reluctant in the past to infringe on national sovereignty or there have been other situations where taking on the human rights challenges in a particular country is perceived to hurt the home state’s economic and political interests globally.

It is Fort’s assertion that “economic globalization will continue to increase the power of corporations vis-à-vis the nation-state. … Yet, if the state is the primary check on business, the continued weakening of the state may also lead to the increased
vulnerability of individuals and societies” (Fort 2007, 6).

**Toward a Common Framework**

There are signs that the pendulum is swinging back toward a more regulated approach. The most recent attempt in 2005 by the UN Human Rights Commission to impose on companies “the full range of human rights duties that states have accepted for themselves” was in the form of a draft set of norms on transnational corporations and other business enterprises. This too reached an impasse with NGOs all for it, companies dead set against it, and governments on the fence (Ruggie 2008, 2).

Ruggie, Special Representative of the Secretary-General of the U.N. Human Rights Council, was asked to develop a “conceptual and policy framework to anchor the business and human rights debate, and to guide all relevant actors” as they seek to reduce negative impacts on human rights caused by gaps in governance. “The framework comprises three core principles: the State duty to protect . . .; the corporate duty to respect . . .; and the need for more effective access to remedies” (Ruggie 2008b, 1).

This “protect, respect and remedy” framework recognizes the need for states to perform their core duties. Even companies that once eschewed interference by states have found that conducting business in states where laws are weak or unenforced has not helped them. With more of the burden shifting to them, states seem to have become weaker and businesses operations have taken on greater risks.

Ruggie found that governments by and large take a “narrow approach to
managing the business and human rights agenda,” resulting in “inadequate domestic policy coherence” in areas that “shape business practices, including commercial policy, investment policy, securities regulation and corporate governance” (Ruggie 2008b, 8). Perhaps governments assumed they were helping business, but “[o]n the contrary, the less governments do, the more they increase reputational and other risks to business” (Ruggie 2008b, 8).

“Experts disagree on whether international law requires home States to help prevent human rights abuses abroad by corporations based within their territory. There is greater consensus that those States are not prohibited from doing so where a recognized basis of jurisdiction exists, and the actions of the State meet an overall reasonableness test, which includes non-intervention in the internal affairs of other States. Indeed, there is increasing encouragement at the international level, including from treaty bodies, for home States to take regulatory action to prevent abuse by their companies overseas” (Ruggie 2008b, 7).

Governments have the means and may bring diverse groups together to negotiate appropriate engagement in conflict situations (Murphy 2005, 44). Endorsement of particular frameworks also provides direction to MNCs as they establish corporate standards and policies toward a human rights agenda (Murphy 2005, 46).

Governments should seek to endorse transparency and “truth in advertising” of companies who make claims of corporate social responsibility. To the degree that
companies have used their “adherence to voluntary codes” as a selling attribute, “MNCs should be prepared to have those claims scrutinized” (Murphy 2005, 52).

Not many voices advocate mandatory compliance with a code as a means for getting MNCs to improve labor standards or to prevent conflict. Rather, it is believed that governments can extend some carrots to MNCs that demonstrate they have established and enforced code compliance procedures. Regulatory laws are often a heavy burden for many companies. Governments can provide some leniency from regulators, criminal prosecution and civil suits (Murphy 2005, 46-49). Both Elliot Shrage and Sean Murphy refer to this as a “safe harbor” from lawsuits (Shrage 2004, xiv). Companies adhering to a “qualified” code of conduct might be granted preferred consideration for government procurement contracts and/or participation in foreign trade missions (Shrage 2004, xiii).

In the case of transparency, MNCs might welcome a regulatory initiative to level the playing field and give companies cover to do the right thing. With an increasingly competitive market, lone volunteers may risk losing contracts and operating licenses. Some reported cases of companies publishing payments have left them more vulnerable to extortion (OECD 2002, 22). From the MNC point of view, their first concern is protection of their investment and physical and human resources. Second concern is assuring a return on the investment to shareholders. Companies are reluctant to allow other companies to gain competitive advantages. Regulatory laws on transparency could alleviate negative impacts to MNCs. When engaging on conflict
sensitive areas, governments can provide companies with knowledge about conditions that could impact their business or put them at risk for human rights abuse or for contributing to conflict. Knowledge sharing could be reciprocal and help build cooperative engagement should companies be needed to assist governments with more operational forms of conflict prevention. The public sector could provide “political risk insurance” to companies that step up to be part of conflict prevention efforts, as with all engagement of this sort, there are real risks material and nonmaterial (Wenger and Möckli 2003, 151).

**Tri-Sectoral Approach**

The international community also sees the involvement by international financial institutions as “central to reducing the risks” of investment in conflict regions. International financial institutions too could make code compliance or participation in an endorsed program a “condition of financing” (Shrage 2004, xiii). The IUCN Commission on Environmental, Economic and Social Policy supports this view (Wicks 2005, 2). In the Chad-Cameroon pipeline project, for example, the World Bank’s “structural adjustment programmes in both countries include measures to improve transparency, financial management and the judicial process,” with specific requirements to “direct oil revenue to poverty alleviation” (OECD 2002, 29). Additionally, the International Financial Community could serve as auditors, examining the financial books to ensure MNCs are being transparent (Wicks 2005, 2). They could also direct greater resources to private sector development initiatives
beyond physical reconstruction efforts that could help develop job sectors and bring in corporations on as partners in the development of those projects (Wenger and Möckli 2003, 136).

Industry associations and civil society organizations have been and should continue to work on getting a critical mass of companies involved in coordinated initiatives, such as transparency efforts, so as to eliminate competitive disadvantages and provide cover for organizations working around confidentiality agreements that prohibit payment disclosures and under national laws that may be allowing human rights abuses to persist. They have also served an important role in monitoring companies closely and raising public awareness as warranted.

In some cases, it is virtually impossible to invest in a country without providing financial or material support to a military regime. The international community largely agreed that Myanmar presented precisely this challenge. International trade unions and the International Labour Organisation (ILO) thus publicly “invited” over 310 companies to leave the country upon this determination made in November 2000 (OECD 2002, 31). Industry associations and watch groups have also initiated campaigns to put pressure on these companies to leave the region. Eight “top” pension funds have jointly begun communicating concerns about potential “loss of shareholder confidence, negative press and publicity campaigns, safety risks and corruption” associated with companies operating in Myanmar (OECD 2002, 31). Indeed they are doing what they do best when other methods are not in place to address the negative
impacts of MNCs, particularly in zones of conflict.

“There is no best practice in the area of economic peacebuilding” but it may be at the heart of resolving or correcting sources of conflict if indeed economic factors are the greatest contributors conflict (Wenger and Möckli 2003, 133). Corporations have the “greatest expertise” and the “assets . . . to advance private sector development” if they can be channeled in a common multi-sector approach (Wenger and Möckli 2003, 134). Corporations can provide guidance on “how best to create an enabling business environment, how to develop local business capacity, and how to attract foreign direct investment” (Wenger and Möckli 2003, 144). A more dynamic approach to socioeconomic peacebuilding is the missing element in today’s conflict prevention approach. A concerted effort is needed to bring this into focus and to engage all sectors. Corporations must coordinate with other actors, and this will “mean integrating non-commercial actors into corporate decisionmaking processes” (Wenger and Möckli 2003, 151). Companies are driven by their self-interest. Peace and stability is important for business to thrive, and only by continually engaging business on these terms will trisector governance be realized and successful (Wenger and Möckli 2003, 99).
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