

Corporate Crime in a Globalized Economy

An Examination of the Corporate Legal Conundrum and Positive Prospects for Peace

Paula Richardson
NPSIA/CIFP
Carleton University
Ottawa
cifp@carleton.ca

September 2003

Executive Summary

"This is it -- they are going to arrest us all and execute us. All for Shell." This statement was made by Ken Saro-Wiwa, a leader of the Movement for the Survival of the Ogoni People (MOSAP) two weeks before he was arrested in May of 1994. Highlighting Shell's role in directing and arming the Nigerian military to repress dissent toward corporate activities, MOSAP gained international attention and motivated anti-shell campaigns across the world. Over the last decade, similar incidents of corporate misconduct in India, China, Colombia, Chad and Sudan have led to a growing debate surrounding the responsibility and accountability of corporations operating outside their home states. This paper seeks to address the issue of human rights in the era of increasing globalization of capital and extraterritorial operations of corporations, particularly in zones of conflict. The existing governance structure for corporations will be evaluated at a national and international level and voluntary codes of conduct and multilateral efforts at establishing business principles will be reviewed. Evidence will be summarized to suggest that national legislation and voluntary corporate codes of conduct are currently an inadequate means of protecting human rights. In order to improve business practices, international efforts must create an external system of compliance and monitoring which ensures corporations adopt conflict-sensitive policies which positively contribute to peace, prosperity and stability for all their stakeholders.

Source: Roddick, Anita. (2001) "Take it Personally. How to Make Conscious Choices to Change the World." HarperCollins Publishers: Berkeley, California.

I. Corporate Crime in a Globalized Economy

On the threshold of the twenty-first century, we are living in a world of increasing economic interdependence where global markets provide attractive opportunities for firms to do business on six continents, 24 hours a day. The increase of foreign investment has created a myriad of opportunities for expansion within developing countries where the legal and regulatory frameworks governing working conditions radically differ, posing many new challenges for corporations, governments and communities. These challenges have drawn increased public attention and apprehension in recent years, particularly surrounding business activities in zones of conflict.¹ The unveiling of corporate involvement in human rights implications, from the highly publicized stories of Royal Dutch/Shell in Nigeria to British Petroleum in Colombia, has placed the philosophy of corporate governance under the spotlight and raised many pertinent questions as to the regulation of extraterritorial corporate conduct.

In an era of increasing economic interdependence, what role are corporations playing in conflict, and moreover, its prevention? Are international laws adequate in ensuring companies are accountable for human rights abuses when operating outside of their home state, particularly in zones of conflict? Is national legislation in host state countries with weak government structures and repressive regimes strong enough to control and challenge corporate behavior? Is the increasing effort towards self-regulation a progressive path toward addressing fundamental human rights concerns? This paper seeks to address these questions, and examine the recent emergence in public dialogue and debate of the business sector's role in human rights. Evidence will be summarized that suggests a serious governance gap currently exists in the extraterritorial operations of corporations, leaving them unaccountable for violations of international human rights and humanitarian law. While international and multilateral efforts aimed at promoting the incorporation of social accountability for corporations is notable, it is not sufficient in ensuring private sector activity is not a source or support for instability. Businesses can play an important role in contributing to long-term peace and the protection of human rights, especially in conflict-prone areas. However, in light of the growing power and mobility of corporations, legally binding regulations for industry are necessary in order for this role to be realized.

Methodology

First, this paper will review the current reality of corporations operating in zones of conflict. Subsequently, the prospective role of corporations in conflict prevention will be examined and conflict-sensitive policies recommended that support constructive corporate engagement. The following section will address the corporate legal conundrum, focusing on the existing international and national measures of accountability for corporations that operate outside of their home country borders. Next, recent initiatives of corporate self-regulation will be examined, and two multilateral efforts will be reviewed; the United Nations (UN) Global Compact and the Organization for Economic Cooperation and Development's (OECD) Declaration on International Investment and Multinational Enterprises. In conclusion, recommendations for creating a global regulatory and legal framework will be made.

Corporations in Conflict

As we enter into the 21st century, the prevalence of inter and intra state conflict has increasingly important implications for the private sector. A paper produced by International Alert, the Council on Economic Priorities and The Prince of Whales Business Leaders Forum on *The Business of Peace* reported that in 2000, there were 72 countries where the security risk for the majority of locations in which foreign business operates was rated medium, high, or extreme.² Multinational companies were also reported to be investing more than US\$150 billion annually in "nearly 50 countries which fall below the intermediate point in Transparency International's Corruption Perception Index – in other words countries which may be confidently described as fairly to very corrupt."³

There is a widespread assumption that corporations have a vested interest in preventing and managing conflict as it typically negatively disrupts private investment and business activity. However, as a workshop on *Private Sector Actors in Zones of conflict* summarized, "not all corporations share the same level of interest in ethical practices or

¹ Zones of conflict/conflict zones will refer to a region that is experiencing ongoing armed hostilities, and does not necessarily involve an officially declared war. "The adversaries may include the military of one or more states, armed militia, irregular forces, rebel insurgents, mercenaries, or even criminal gangs." Georgette Gagnon, Audrey Macklin, and Penelope Simons. "Deconstructing Engagement. Corporate Self-Regulation in Conflict Zones." January 2003. A Strategic Joint Initiative of the Social Science and Humanities Research Council and the Law Commission of Canada, 123.

² "The Business of Peace. The Private sector in as a partner in conflict prevention and resolution." Produced by International Alert, The Council on Economic Priorities and the Prince of Whales Business Leaders Forum. <http://www.international-alert.org/pdf/pubbus/Busxsum.pdf>

³ *Ibid.*

assessment of risk.”⁴ While corporations generally prefer to operate in politically and economically stable regions, in certain sectors, particularly the natural resource extraction sector, “asset specificity, long production cycles, and the expected returns on investment may simply outweigh the reputation and security costs of continuing to operate in areas of conflict.”⁵ Petroleum, natural gas, mining and other extractive industries are particularly reluctant to withdraw as they have extensive financial and physical investments within the region and are often tied to concession agreements which may carry time-frames of several decades.⁶

Not surprisingly, then, extractive multinationals operating in conflict zones have gained pressing international and domestic concern in recent years. Canadian “junior” mining companies such as Rex Diamond, AmCan Minerals, and DiamondWorks operating in Sierra Leone during the 1990’s are but a few of the handful of companies whose operations have been targeted for their role in exacerbating conflict.⁷ Michael Renner, a senior researcher with Worldwatch Institute in Washington, reports that in 2001 approximately one quarter of the roughly 50 wars and armed conflicts had “a strong resource dimension” (see Appendix 1 & 2). In these cases “legal or illegal exploitation of resources helped trigger or exacerbate violent conflict, or financed its continuation.”⁸ Renner further calculates that from these resource wars, roughly 5 million people have been killed, 6 million have become external refugees and 11 to 15 million have been internally displaced.⁹

The Prospective Role of Corporations in Conflict Prevention

With the influx of capital and cross-border operation of major corporations, new opportunities have been presented for private sector actors to play an influential role in addressing some of the structural issues which underpin conflict. While there is no proven formula for conflict prevention, research has shed light on structural factors, including economic and social conditions, which are more conducive to the prospects of peace. As a 2002 Development Dimensions of Conflict Prevention and Peace-Building report notes,

Certain levels of achievement and improvement in conditions of life, such as economic well-being, freedom and choice, social stability and social justice, seem to be a necessary part of such development, as so do trusted mechanisms of open, responsive governance, and the respect of individual and minority rights. At some point, these supporting beams, working together, do seem to provide a solid foundation for internal peace, and ultimately to be more conducive to peaceful relations with others – as well as being manifestly desirable in themselves.¹⁰

Indeed, statistics have indicated a correlation between economic, political and social instability, and conflict. A recent study by Jonathon Goodhand on the links between poverty and violence found that horizontal inequalities and social exclusion, particularly when they coincide with identity or regional boundaries, may increase a society’s predisposition towards violent conflict. Poverty was also shown to play a role in sustaining wars, as crime and violence become the only viable livelihood strategy for the poor.¹¹ Generally speaking, the risk for violent conflict increases when people are marginalized from economic opportunity and access to social services, when they have no means for providing for themselves or their families, and when they have no voice within the political arena.

In light of the aforementioned evidence, the concept of Conflict Prevention has begun to shift focus over the last decade from “preventative diplomacy,” which includes a limited set of diplomatic or military initiatives, toward structural interventions, which seek to address the underlying causes of conflict itself. This is reflected in the 2001 Report of the Secretary General on *Prevention of Armed Conflict*, when “an effective preventive strategy” is defined as a comprehensive approach that “encompasses both short-term and long-term political, diplomatic, humanitarian, human

⁴ Ibid, 7.

⁵ This said, there have been instances when extractive industries have withdrawn from countries experiencing serious instability and conflict. (for example multinational oil companies in Burma/Myanmar. “Private Sector Actors in Zones of Conflict: Research Challenges and Policy Responses.” International Peace Academy.

⁶ Ibid, 6.

⁷ Ian Smillie, Lansana Gberie and Ralph Hazleton. “The Heart of the Matter: Sierra Leone, Diamonds & Human Security” (Partnership Africa Canada, 2000).

⁸ “FROM WAR ZONES TO SHOPPING MALLS: *New study reveals deadly link between consumer demand and third world resource wars*” World Watch Institute. <http://www.worldwatch.org/pubs/paper/162/press.html>

⁹ Ibid.

¹⁰ Wood, Bernard. “Development Dimensions of Conflict Prevention and Peace-Building”, An Independent Study Prepared for the Emergency Response Division, UNDP. June 2001. http://www.undp.org/erd/ref/undp_pb_study.pdf

¹¹ Goodhand, Jonathon. “Chronic Poverty and Conflict.” Chronic Poverty Research Center. INTRACK 2001. www.chronicpoverty.org/pdfs/violence.pdf

rights, developmental, institutional, and other measures taken by the international community, in cooperation with national and regional actors.”¹²

While this approach is still relatively recent, it is potentially of great benefit to both developing countries, which are the sites for most contemporary conflicts, and to corporations, who are playing an increasingly prominent role within them. As Kofi Annan stated in 1999 at an address to the United Nations,

The private sector and security are linked in many ways, most obviously because thriving markets and human security go hand in hand. Global corporations can do more than simply endorse the virtues of the market, however. Their active support for better governance policies can help create environments in which both markets and human security flourish.

Through the adoption of conflict-sensitive internal management strategies and through policy dialogue and institution-building, corporations can help to maximize their contribution to peace. The following suggests policies and initiatives that could be undertaken.¹³

Table 1. Conflict-Sensitive Policies and Initiatives for the Private Sector

I.	<u>Internal Management Policies</u>
1. Risk and Impact Analysis	Corporations can examine their impact on local communities by undertaking social impact studies. ¹⁴
2. Process of Dialogue and Consultation	Corporations can implement a system that ensures corporations regularly engage and consult with community members and key stakeholders. Rather than perspectives of stakeholders merely being taken into account, they need to be actively incorporated into the policy process. As Fletcher notes, Operation Policy Manager for the International Business Leaders Forum, “the result is that a participative policy-making process can be nurtured which allows the community to have an element of ownership in the activities of the company.” ¹⁵
3. Recruitment and Human Resources	Corporations can ensure minority or oppressed groups are given an equal chance as employees. This may include the active recruitment and encouragement of these groups through affirmative action programs. ¹⁶
4. Security Policies	Corporations can coordinate security policies with other groups, which may include the local community themselves. ¹⁷ Amnesty International and Human Rights Watch have drafted recommendations on security policies to ensure they do not result in human rights abuses.
5. Building Trust and Support	Corporations can promote diversity and inter-dependency in the workplace by providing places of worship for different religious groups and/or offering workshops to educate employees on different religious and cultural traditions. ¹⁸
6. Anti-Corruption	Corporations can help to improve the lack of transparent government and business transactions that fuels conflict by implementing anti-corruption policies within business operations, and making public the clear condemnation of accepting or paying bribes.
7. Improving Transparency	Corporations can be required to report information about their investment activity, including their social and environmental impact in the community of operation, based on a “well-developed concept of “disclosure.” ¹⁹

¹² Report of the Secretary General on *Prevention of Armed Conflict*, 2001.

¹³ While this list is by no means exhaustive it is meant to give direction to future policy makers in this area.

¹⁴ Reychler has developed a model for a conflict impact assessment. See Reychler, L. 2001. “From Conflict to Sustainable Peacebuilding: Conceptual and Analytical Tools”. Pp. 3-15 in Reychler, L. & Paffenholz, T. 2001. *Peace-Building*, London, Lynne Rienner Publishers.

¹⁵ Fletcher, H. and Arora Bela. “The Business of Peace. How companies can promote long-term peace through core business practices and policies.” Paper for the conference on Business Leadership in Development and Conflict Management, Oslo, Norway, 14-16 2001.

¹⁶ Note that agricultural companies have adopted policies to train and recruit former Muslim rebels in the war-torn region of Mindanao in the Southern Philippines. “Beyond tackling unemployment and economic exclusion, this has had the knock-on effect of promoting peace and stability in the region,” and similar initiatives are now being considered in Indonesia, Colombia, Sri Lanka and Nigeria. *Ibid*, 5.

¹⁷ This is specifically relevant to corporations operating in zones of conflict as their security policies must not increase tensions or undermine the security of the local community.

¹⁸ *Ibid*, 6.

II.	Policy Dialogue and Institution Building²⁰
1. Good Governance and Democracy	Corporations can play an advocacy role in improving local governance by promoting local and national government institutions to adopt democratic and transparent practices. ²¹
2. Tax revenues and Land compensation	Corporations can use their leverage to encourage land reform and fair distribution of tax revenues.
3. Provision of social services	Corporations can pressure national governments to improve provision of education and health services, particularly to neglected communities.
4. Judicial Reform	Corporations can pressure national governments to ensure a fair and transparent judicial system.

Ensuring Corporations Play their Role

Will corporations continue to play a negative role by creating or exacerbating violent conflict, or a positive role by helping to tackle it? As will be shown, in order to ensure corporations take an active role in conflict prevention, international legislation is necessary to set a guiding framework for their accountability.

II. The Corporate Governance Conundrum

1) Corporate Accountability under International Law

At present, corporations that operate extraterritorially cannot be held accountable for violation of international human rights standards under international law. Transnational and multinational corporations are under no direct obligation to respect, nor ensure respect, of human rights within their sphere of influence.²² While new initiatives toward addressing corporate social responsibility issues are developing within the UN and various free trade agreements, no substantial progress has been made in monitoring and enforcing corporate accountability for complicity in, or perpetuation of human rights abuses.

On December 10, 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights (the "UDHR").²³ The declaration set an international precedent, aiming to recognize responsibility of states and individuals to respect human rights. As the preamble states:

Every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance. Respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

The final article in the document further clarifies obligation of groups as well as individuals to "do no harm," and specifically includes corporations. This provision, also echoed in the International Covenant on Civil and Political Rights and many regional human rights treaties, states:

¹⁹ A few leading companies have been following guidelines on social and environmental reporting developed by a UN backed multi-stakeholder group called the Global Reporting Initiative. Farred, Jason and Paul James. "Making Corporations Accountable." A Background Paper for the United Nations Financing for Development Paper, 17.

²⁰ These have been suggested by Fletcher and are currently being tested by the International Business Leaders Forum and International Alert with a select group of companies.

²¹ Fletcher notes that this role is best tackled collectively (for example through business associations) and may involve companies offering management training for local government staff.

²² Gagnon, Georgette et al. "Deconstructing Engagement. Corporate Self-Regulation in Conflict Zones," 53.

²³ The Universal Declaration of Human Rights. <http://www.un.org/Overview/rights.html>

Nothing in this Declaration may be interpreted as implying for any state, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.²⁴

While the obligations outlined in the Declaration have become the framework for many other human rights treaties and corporate rights doctrine within free trade agreements, the Declaration itself is not legally binding or enforceable for corporations. As the 2003 report on Corporate Self-Regulation notes, “respecting (or under) the UDHR, the best that can be said is that TNC’s have a moral and social obligation to respect the universal rights enshrined in the Declaration.”²⁵ While the UDHR is clearly a highly authoritative statement by UN member states, and establishes a model of expected moral behavior, it remains an unenforceable ideal in a world motivated by economic profit.²⁶

2) Corporate Accountability under National Law

a) Home State Responsibility

There exists no legislation within international law that makes national governments liable for extraterritorial acts of its national corporations.²⁷ Although states “are in certain circumstances liable for the acts or conduct of private actors,” there is no imposed duty by which states attempt to prevent, or punish corporations that are complicit in human rights abuses in host states.²⁸ The US Foreign Corrupt Practice Act stands as an example of states attempt at extending criminal legislation to national corporations, however, most nations have been highly resistant to this approach, due to the fear of “the potential costs to diplomatic cooperation and access to markets, investment sites, and raw materials.”²⁹

There exists also a serious political barrier to establishing corporate boundaries of responsibility, as many wield considerable influence with host governments. In a 2002 report by Amnesty International entitled *Environmentalists Under Fire*, four companies, which include ExxonMobil, Chevron and Texaco, Occidental Petroleum and Freeport-McMoRan, were highlighted for committing grave human rights violations. The report argues the companies were able to significantly influence the U.S. government’s response due, in large part, to their collective contribution of more than \$2.8 million during the 2002 election cycle.³⁰

b) Host State Responsibility

There is a pervasive argument in public dialogue on corporate accountability that regards receiving states as the necessary regulatory body. This conception also holds significant weight on a legal basis. International human rights law does recognize host states as being responsible for preventing abuses by private actors, including companies.³¹ This is confirmed in several human rights treaties, and has been recognized by an overwhelming majority of governments through UN declarations.³² As specified by the UN Committee on the Elimination of Discrimination against Women in 1992, “Under general international law and specific human rights covenants, states may also be responsible for private acts.”³³ While states are clearly not expected to be held responsible for every crime committed by private parties, they

²⁴ *Ibid.* Article 30.

²⁵ Gagnon, Georgette et al. “Deconstructing Engagement. Corporate Self-Regulation in Conflict Zones,” 54.

²⁶ This said, the UDHR has become a part of customary law. Also, A dialogue of hope has been emerging recently on unilateral regulation of extraterritorial conduct by corporations, particularly within the U.K., the U.S., and Australia. While prospects remain low that legislation will in fact solidify, mere consideration of this draft legislation by three of the most powerful countries in the world reflects an important step forward for regulating corporate activity. See, US Corporate Code of Conduct Act, August 2001. 1st Bill 145, Corporate Responsibility Bill (U.K.), 2001-0220 Sess., 2002, 2nd Bill Corporate Responsibility (Environmental, Social and Financial Reporting). See, Bill 193, cited at <http://www.parliament.the-stationery-office.co.uk/pa/cm200102/cmbills/145/2002145.htm>. See, The Australian Corporate Code of Conduct Bill 00163, Senate 2002, cited at <http://search.aph.gov.au/search/ParlInfo.ASP>.

²⁷ This said, crown corporations can be held accountable in certain circumstances.

²⁸ Gagnon, Georgette et al. “Deconstructing Engagement. Corporate Self-Regulation in Conflict Zones,” 58.

²⁹ *Ibid.*, 103.

³⁰ “Corporations Put Environmentalists Under Fire.” Worldwide, News Release. <http://www.amnestyusa.org/news/2003/world02202003.html>

³¹ “Beyond Voluntarism. Human Rights and the developing International Legal Obligations of Companies.” International Council on Human Rights. www.ichrp.org/ac/excerpts/30.pdf

³² *Ibid.* 23.

³³ *Ibid.* 24.

can be held accountable when “they fail to exercise due diligence in protecting the rights of people within their jurisdiction.”³⁴

Yet, in reality this approach toward corporate accountability remains highly problematic, as governments operating in a world of global markets are now less capable than formally of effectively challenging and changing corporate behavior. Through mergers, corporations have grown remarkable quickly, and currently the largest six corporations are larger than all but the seven largest nation states, comparing corporate revenues with states revenues.³⁵ Investor pressure, new international trade rules, weakened government tax bases and budget cuts have all combined to weaken regulation at the national level.³⁶ As exemplified by the cases of Unocal, Total and Premier Oil in Burma, and Talisman Energy, major barriers exist which obstruct the willingness of government authorities to adopt or enforce remedial regulation.³⁷ Often governments either lack the physical capacity or political motivation to confront corporate abuses, or they may be themselves prime perpetrators of violence. This is particularly true for corporations operating in conflict zones. As David Petrasek notes, Research Director for the International Council on Human Rights Policy,

If companies engage in systematic discrimination in the workplace, knowingly work in a manner that supports repressive state institutions, show little concern for hazardous production processes that destroy people’s livelihoods (and lives), or suppress freedom of association, it is of little help to the victims of such abuses that, in theory, duties to respond lie with the national government. Of course, individual governments should put in place the legal structure (laws, courts etc.) that would prevent such abuses, or act quickly against perpetrators. The fact is, however, that there are real obstacles to effective action at the national level. Even well intentioned governments may find resource and other constraints work to the advantage of those companies that are abusing rights.³⁸

Due to the aforementioned factors, it is unlikely that host states will be effective for ensuring constructive corporate engagement in conflict-settings.

III. The Emerging Conception of Ethical Business

Due to the widespread media attention gained by recent corporations’ extraterritorial activities, the “bottom line” of the corporate stance has come under increasing scrutiny; the conventional view that held corporations’ two sole responsibilities to be profit maximization and responsibility to a company’s shareholders has been uprooted from its historically solid ground. As Aron Framer, Vice President at Business for Social Responsibility articulates, “there is a fundamental shift taking place. Human rights principles were really written with governments in mind. (But) it’s clear that more and more, the (public) is looking at what the private sector is doing on human rights.”³⁹

At issue is the responsibility corporations have as global citizens and members of the local communities in which they operate. Even if the legal duties of a company remain solely with its shareholders, there is a growing acceptance that companies need to be more accountable to other stakeholders, such as employees, customers, suppliers, creditors, governments and the community. The heightened expectations of what companies can or should contribute in terms of social progress has shed light on the corporate governance conundrum that currently exists, and has, moreover, raised serious concerns over how and if corporate accountability should be practically implemented in the future.

Voluntary Standards and Self-Regulation

Accompanying the recent public shift in perspective toward increasing corporations’ scope of responsibility has been a growing initiative within the business sector itself to develop and implement policies and practices that ensure compliance with human rights. Several companies have begun to adopt corporate codes of conduct and create new corporate functions dedicated to addressing human rights and labor practices. Most of the new voluntary codes adopted by corporations state broad objectives and values of the organization, and specify commitments the company has toward

³⁴ *Ibid*, 23.

³⁵ Farred, Jason and Paul James. “Making Corporations Accountable.” A Background Paper for the United Nations Financing for Development Paper. Global Policy Forum. <http://www.globalpolicy.org/socecon/ffd/2000paper.htm>

³⁶ Many countries, notably Mexico’s implementation of an 11-mile export-trading zone called the “maquiladoras”, have created special investment zones that are both tax free and virtually free of all regulations. *Ibid*, 3.

³⁷ See Corporate Knights <http://www.corporateknights.ca/>

³⁸ Petrasek, David. “Beyond Voluntarism,” 3.

³⁹ Belsie, Laurent. 2002. “At the Intersection of Business and Human Rights.” www.globalpolicy.org/socecon/tncs/coresp.html

stakeholders, consumers and often host governments. Employing inspirational language (“strive”, “work towards”, “try to minimize”) many of the codes attempt to project the companies’ values, ethical standards and expectations.⁴⁰ Critical of national investment rules and international regulations, pro-business voices have advocated for self-initiated voluntary codes arguing they reflect an effective move toward corporate accountability and responsibility in the new millennium; however, as will be shown below, this remains to be proven.

While responsibility for governing behavior remains in individual corporate hands, the voluntary efforts are often based upon an over-arching framework of values and corporate standards. The United Nations and the International Labor Organization (ILO) have already established several codes of conduct and international principles that outline private-sector human rights responsibilities. Similar global initiatives have also taken hold, including the Global Reporting Initiative, Social Accountability 8000, the Ethical Trading Initiative, the Fair Labor Association, and the Global Sullivan Principles.⁴¹ These guidelines have allowed companies to remain flexible and innovative in their operating contexts, and do not involve enforceable commitment mechanisms or punitive measures for non-compliance.

The International Chamber of Commerce (ICC), also coined the World Business Organization, along with its supporters, have presented an adamant argument in support of self-monitoring and voluntary regulation.⁴² As one of the organization’s spokesperson states,

To be effective, business principles should be developed and implemented by the companies themselves... Clearly, the way to ensure a greater business contribution to environmental and social progress is not through prescriptive codes and regulations imposed from outside, but by persuasion and peer pressure.⁴³

From this perspective, the existence of an external regulating framework is unlikely to be a viable alternative to voluntary principles developed by companies themselves. This argument rests upon two central points.

First, it is essential that company principles be appropriate to the vastly different conditions which corporations face. Highlighting the culturally and geographically diverse climates in which corporations operate, the organization has argued government-mandated or other external codes that employ a “one-size-fits-all” approach are ineffective.⁴⁴ Voluntary codes are seen to be more “flexible” than regulatory rules in a rapidly changing and dynamic environment, as they can be adopted more swiftly and are far less expensive to administer.⁴⁵ Also, the diversity within voluntary business initiatives and principles acts as a “source of innovation in defining responsible business conduct.”⁴⁶

While a notable argument, flexibility is a double-edged sword, and results in codes being vague statements of principles that rarely provide reliable guidelines for behavior in concrete situations.⁴⁷ Codes are often neither transparent nor accountable, and they “do not generally include complaint procedures, nor any basis for legal claims or redress, and thus provide little scope for individuals to be compensated for corporate violations that cause harm.”⁴⁸

A second argument presented in favour of self-regulation is that voluntary codes are essentially in business’s best interest. In 1998, the UN Human Rights Commissioner, Mary Robinson asked: ‘Why should business care about human rights?’ She replied, ‘because business needs human rights and human rights need businesses.’⁴⁹ The rationale behind her statement rested firstly on the assumption that corporations would be hampered in an environment where fundamental human rights were not respected, and secondly being implicated in human rights would lead to consumer discontent and loss of “brand value,” thereby jeopardizing economic profitability.

While Non-governmental organizations (NGOs) and public scrutiny have undoubtedly made some notable progress in pressuring corporations in a few important cases,⁵⁰ it is still of fundamental concern whether all corporations

⁴⁰ Petrusek, David. “Beyond Voluntarism,” 70.

⁴¹ Kelleher, Kevin. 2003. “Measuring and Reporting Corporate Performance on Human Rights.” Business for Social Responsibility. www.bsr.org/BSRResources/Magazine/CSRTrends.cfm?DocumentID=266

⁴² The ICC includes thousands of companies in over 130 countries worldwide. Its mandate is to be the “voice of world business championing the global economy as a force for economic growth, job creation and prosperity.” It is the only truly global business organization and has strong links to national governments and the United Nations.

⁴³ Cattau, Maria. “Responsible Business conduct in a Global Economy.” 2003. The World Business Organization. www.iccwbo.org/home/global_compact/business_conduct.asp

⁴⁴ *Ibid.*

⁴⁵ Farred, Jason and Paul James. “Making Corporations Accountable,” 5.

⁴⁶ *Ibid.*, 2.

⁴⁷ *Ibid.*, 5.

⁴⁸ *Ibid.* 5.

⁴⁹ Mary Robinson, “The business case for human rights.” 1998. In Financial Times Management, *Visions of ethical business*. London: Financial Times Professional. p. 14.

⁵⁰ The “name and shame” campaign by NGO’s against De Beers persuaded the company to withdraw from all trade in conflict diamonds and to support rough diamond certification. Sherman, Jake. “Private Sector Actors in Zones of Conflict: Research Challenges and Policy Responses,” 9.

will implement voluntary standards which respect human rights, and moreover whether they adhere to the internal codes which they have implemented.

A study conducted in 1998 by the Natural Heritage Institute found that fewer than ten percent of US- based TNC's adopt codes at all.⁵¹ Since the threat of public pressure and negative publicity act as the driving force behind motivating corporate conduct, only a few sectors that are especially vulnerable to consumer pressure are adopting codes. This has been empirically shown as the "consumer products and natural resource industries represent the lion's share of codes, predominantly in the apparel and petroleum sectors."⁵²

The few companies that do adopt conflict prevention and management strategies or codes of conduct may actually find themselves at a comparative disadvantage if they put the codes into practice; Firstly, they may lose out on lucrative contracts and access to markets,⁵³ and secondly, they face a "free-rider" problem, by privately bearing the costs of supplying the public good which others may benefit from. As an International Peace Academy Workshop on *Private Sector Actors in Zones of Conflict* notes: "a single corporation is unlikely to make decisions which place it at a disadvantage vis-à-vis its competitors, such as placing conditions upon its investment, particularly when competition is high."⁵⁴ Indeed this has been shown to lessen the incentive to adhere to self-implemented codes. A report released in 1999 by the UN Research Institute for Social Development (UNRISD) entitled 'Visible Hands', argues that many companies have "mastered socially responsible rhetoric," but only a few have taken concrete action to addressing human rights concerns.⁵⁵ The report points out that the small proportion of companies which have implemented business codes of conduct have done so in a narrow scope that rarely involve independent verification.

The fact that the threat of negative publicity acts as the only deterrent to hold companies back from committing human rights abuses is particularly concerning with corporations operating in zones of conflict. As articulated by Broadhurst,

Serious problems are posed by abuses occurring in countries where public protest is prohibited, where the press is controlled and where the legal system and/or the government are corrupt... In the case of companies located in North America, Japan and Western Europe, legal systems of enforcement and restraint operate within the context of abundant state resources and high levels of education. In countries where these systems and structures are not yet in place, national and local businesses can function without regard to formal and legal codes of conduct.⁵⁶

Perhaps more significantly, contrary to conventional conceptions, evidence has shown that the failure of corporations to pursue a human rights strategy is unlikely to be reflected in the markets. According to a study by Zadek and Forstater, while Shell, Nestle, Monsanto and Nike were identified as having a poor human rights record and subjected to public boycotts, no demonstrable effect appeared on their share prices or dividends. Even when Nike chief executives were claiming a negative effect on share prices, the empirical evidence did not support this claim.⁵⁷ Due to the aforementioned challenges, it is unlikely that voluntary codes will be effective for ensuring constructive corporate engagement in conflict-settings.

International Efforts at Corporate Accountability

In order to assess the effectiveness of voluntary standards in the global context, the two most renowned voluntary guidelines for multinational corporations in existence; the United Nations Global Compact and the OECD initiatives, will be examined.

⁵¹ Leighton and Getzler. 1998. Natural Heritage Institute. "Corporate Codes of Conduct". In *Outreach: the NGO Voice at the CSD 2* (5).

⁵² Farred, Jason and Paul James. "Making Corporations Accountable," 5.

⁵³ This is known to economists as the problem of defection.

⁵⁴ Sherman, Jake. "Private Sector Actors in Zones of Conflict: Research Challenges and Policy Responses," 8.

⁵⁵ Knight, Danielle. 2001. "UN agency says TNC's need legally binding rules." *Third World Network*. www.twinside.org.sg/title/binding.htm

⁵⁶ Broadhurst, Arlene. "Corporations and the ethics of social responsibility: an emerging regime of expansion and compliance." www.blackwellpublishers.co.uk/journals/beer, 89.

⁵⁷ See Simon Zadek and Maya Forstater, 'Making civil regulation work', in Addo, ed., *Human rights standards*, 69-70.

1) The United Nations Global Compact

One half century after the UN Declaration of Human Rights was drafted, at an address to the World Economic Forum on 31 January 1999, United Nations Secretary-General Kofi Annan called on business leaders, trade unions and NGO's to consolidate efforts in developing and implementing a set of principles in the areas of human rights, labour standards and the environment. His call was well received by the international community, and resulted in the launching of the UN Global Compact at UN headquarters on July 26 2000. The Compact received widespread enthusiasm from the business community, and within the first six months the number of participants rose to over two-hundred-and-fifty.⁵⁸ The Global Compact encompasses nine central principles and asks "companies to act on these principles in their own corporate environment."⁵⁹ These principles include:

- Principle 1:** support and respect the protection of international human rights within their sphere of influence;
- Principle 2:** make sure their own corporations are not complicit in human rights abuses.
- Principle 3:** freedom of association and the effective recognition of the right to collective bargaining;
- Principle 4:** the elimination of all forms of forced and compulsory labour;
- Principle 5:** the effective abolition of child labour; and
- Principle 6:** the elimination of discrimination in respect of employment and occupation.
- Principle 7:** support a precautionary approach to environmental challenges;
- Principle 8:** undertake initiatives to promote greater environmental responsibility; and
- Principle 9:** encourage the development and diffusion of environmentally friendly technologies.

This Global Compact has become a general framework for UN cooperation with the private sector, and is argued to reflect a unique space for dialogue and learning, "with few formalities and no rigid bureaucratic structures."⁶⁰ As the Secretary-General's report to the General Assembly articulates, "the Global Compact is not intended as, and does not have the capacity to be, a corporate code of conduct or global standard."⁶¹

Although an important precedent in portraying international interest in corporate citizenship, the Global Compact's voluntary nature and lack of monitoring mechanism makes it little more than a public relations exercise, and may in fact act as a veil for corporate irresponsibility. Most crucially, it remains questionable whether the poetic mandate of the Compact stated by Kofi Annan to "unite the powers of markets with the authority of universal principles" will be achieved.⁶² As will be explored below, in several instances the Compact has not led to a concrete commitment to the core principles by corporations, and fails to reflect businesses' desire to enhance and support the awareness of societal values and concerns.

Due to the lack of monitoring mechanisms in place to ensure adherence to its principles, the Global Compact has encountered serious difficulty in producing real changes in company performance. As *Making Corporation Accountable* points out, "corporations signing up are able to claim the legitimacy of a wide-ranging code under the prestigious United Nations, while only having to adhere to it symbolically."⁶³ Several renowned international NGO's, including Amnesty International and CorpWatch, have publicly announced violation of the Principles of the Compact by several Global Compact companies since it was launched. Nike⁶⁴ was pronounced as violating Principle 3 in Vietnam, China, Indonesia, Cambodia and Mexico; Rio Tinto⁶⁵ was targeted for violating Principle 3 and 8 at the PT kelian gold

⁵⁸ Farred, Jason and Paul James. "Making Corporations Accountable," 7.

⁵⁹ The UN Global Compact.2002. http://www.ildglobal.org/newsite/ild/smes/smes_gc.htm

⁶⁰ *Ibid.*,1.

⁶¹ Cooperation between the United Nations and all relevant partners, in particular the private sector, Report of the Secretary-General, United Nations General Assembly, 28 August, 2001 A/56/323.

⁶² The United Nations Global Compact. 2002. <http://www.unglobalcompact.org/Portal/>

⁶³ Farred, Jason and Paul James. "Making Corporations Accountable," 7.

⁶⁴ Nike's failure to uphold "freedom of association and the effective recognition of the right to collective bargaining" along with related violations including accounts of repression, firings, violence and threats have been documented since 1997. In addition, Nike "has been actively involved in lobbying Washington against using trade policy to pressure China to respect worker's rights." The UN's Global Compact, Corporate Accountability and the Johannesburg Earth Summit. CorpWatch.

⁶⁵ The Indonesian government's National Human Rights Commission investigated human rights abuse allegations in 2000 and found "egregious violations." Since opening of the mine in 1992, the Commission revealed that the company, in coordination with the Indonesian military, evicted traditional miners and burned down local villages. Several incidents of sexual harassment, rape and violence against local women have also been linked directly to Kelian employees and senior company staff. Danny Kennedy. "PT Kelian: A Case Study of Global Operations," July 13, 2001, www.corpwatch.org/un, and Asia-Pacific Human Rights Network.

mine in Indonesia; and Norsk Hydro⁶⁶ was targeted for violating Principle 1 and 2 at their bauxite/alumina joint venture in India. Although the Guidelines on *Cooperation Between the United Nations and the Business Community* issued on July 20th 2000 states that “businesses entities that are complicit in human rights abuses... are not eligible for partnership,” this has clearly not been the case. More recently, the inclusion of Shell in the Global Compact, a company renowned for human rights abuses in Ogoni land territory in Nigeria, has seriously undermined the credibility of the initiative.

Another skepticism of voluntary corporate responsibility, as CorpWatch points out, is that it can “become an obstacle when used as a diversion from attempts to hold corporations accountable.”⁶⁷ With the implementation of the Global Compact and other voluntary measures, there is a distinct possibility that corporations will use these as a leverage point to negate the necessity of a legal framework to hold corporations accountable internationally. As the United Nations Research Institute for Social Development (UNRISD) report warned, “there is a danger that corporate self-regulation, as well as various partnership arrangements, are weakening the role of national governments, trade unions and stronger forms of civil society activism.”⁶⁸ Unfortunately, this seems to be the case. As previously mentioned, the ICC, representing the interests of corporations across the globe, has publicly stated external corporate monitoring to be unnecessary, proposing voluntary self-regulation as the most effective path toward the protection of human rights.

The Global Compact does, no doubt, reflect a significant focal shift by the international community. The UN human rights system, which traditionally focused exclusively on the responsibilities of government, is now addressing the role of the business sector in achieving public goals. However, there is so far little convincing evidence that this has been an adequate measure in ensuring human rights norms are more influential, effective and enforceable in today’s globalized world.

2) OECD Agreements on Corporate Accountability

Adopting the principles of the declaration, several corporate rights and accountability measures are being incorporated, most significantly within the OECD and the International Labor Organization (ILO) Tripartite Declaration.⁶⁹ However, these agreements hold similar weaknesses as the Global Compact, as none specify a legal obligation of corporations to respect human rights in the conduct of business.

In 1976, the OECD adopted the Declaration on International Investment and Multinational Enterprises.⁷⁰ It was designed primarily to protect the rights of investors, yet also included *Guidelines for Multinational Enterprises*. A revised version of these OECD Guidelines was adopted by member states in June 2000. Standards were proposed in the guidelines for multinationals that covered worker’s rights and industrial relations, environmental protection, bribery, consumer interests, payment of taxation, science and technology, and most significantly, respect for human rights. As paragraph II.2, states:

[Enterprises should] respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments.⁷¹

As the document states, it is a “non-legal recommendation that companies are invited to follow voluntarily,” it is highly questionable whether it will have a significant impact on changing corporate behavior.⁷² The agreement also fails to include mechanisms that allow for citizens or groups, whose human rights may have been violated by business practices, to express their concerns. This places into question how the rights guaranteed under the agreements can be adequately enforced.⁷³

⁶⁶ Norsk Hydro in December 2000 faced a crisis in the Eastern Indian state of Orissa, when locals began protesting the bauxite/alumina project in which the Norwegian corporation had a US\$1 billion dollar investment. Police were called in to repress any dissent, resulting in two villages dead and nine seriously injured. While project implementation was “temporarily curtailed” it continued to be implemented despite the wishes with local people. Nityanand Jayaraman, “Norsk Hydro, Global Compact Violator,” 10/18/01, www.corpwatch.org/un, October 4, 2001.

⁶⁷ The UN’s Global Compact, Corporate Accountability and the Johannesburg Earth Summit. CorpWatch., 3.

⁶⁸ Knight, Danielle. 2001. “UN agency says TNC’s need legally binding rules.” *Third World Network*. www.twinside.org.sg/title/binding.htm

⁶⁹ In 1977 the ILO’s Governing Body adopted a *Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy*. The Declaration covers several human rights issues, however, also states that it is not legally binding on states or the business sector.

⁷⁰ Members of the OECD include Australia, Austria, Belgium, Canada, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Korea, Luxembourg, Mexico, The Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom, and United States.

⁷¹ “Beyond Voluntarism,” 65.

⁷² *Ibid*, 67

⁷³ Gagnon, Georgette et al. “Deconstructing Engagement. Corporate Self-Regulation in Conflict Zones,” 53.

While currently the OECD agreement displays little hope for enforceability of human rights norms, it does set a significant precedent in public policy. The OECD is composed of 29 countries, which collectively produce two-thirds of the world's goods and this reflects an important recognition by the world powers that businesses do play a role in social responsibility. As the OECD Secretary-General expressed at the June 2000 ministerial meeting:

The Guidelines are the only multilaterally endorsed and comprehensive code that governments are committed to promoting. The Guidelines' recommendations express the shared values of governments of countries that are the source of most of the world's direct investment flows and home to most multinational enterprises. The Guidelines aim to promote their positive contributions to economic, environmental and social progress.⁷⁴

In this respect, the agreement might have some impact as a set of "soft laws."⁷⁵ This results when several states are unable to reach a legally-binding treaty and so compromises are made in order to structure behavior around a set of norms. "Soft laws" have shown to have an impact in directing international conduct, and may have at least some "anticipatory effect in judicial or quasi-judicial decision-making and in shaping new, binding, international norms."⁷⁶ However, this remains an inadequate measure in ensuring corporations play a constructive, rather than destructive, role in conflict settings.

IV. Beyond Good Intentions: Corporate Citizenship in the New Century

The pervasiveness of the problems associated with voluntary codes and national legislation implies that corporations' behaviour in conflict zones can only be modified if a framework for corporate accountability is established at the global level. Adopting and enforcing binding regulations can play the essential role of providing a universal standard against which corporate conduct can be judged, and can complement and strengthen both voluntary efforts and national regulation.⁷⁷ As Petrusek states, "if human rights are not to remain abstract and intangible, there must be systems in place to ensure individuals whose rights have been abused can seek redress. This in turn implies that there be *legal* remedies and, further, that those individuals and institutions which have the duty to protect the right are clearly identified."⁷⁸

Binding legal regulations are wide-ranging, consistent and demand adherence, removing the competitive problems faced by voluntary codes. Features of compulsion, which includes fines, withdrawal of licenses and other penalties, can also be ensured by a public authority.⁷⁹ As Peter Utting, research co-coordinator at the UNRISD, highlights, "while multinational corporations would prefer to comply through voluntary initiatives, the public interest can only be fully served through stronger regulation and monitoring."⁸⁰ A statement made by Human Rights Watch to the UN Sub-Commission on the Working Methods and Activities of Transnational Corporations in August 2002, echoed these concerns stating, "only when binding standards are combined with the possibility of punitive sanctions for their violations can corporations be uniformly prevented from having a negative impact on the enjoyment of human rights."⁸¹

While global society has been slow to build internationally harmonized regulations for corporate behavior, the dramatic changes in both the corporate landscape and governance philosophy in the past decade represents a positive possibility of the increased importance of international law in the near future. Concerned citizens are raising the issue of a new rule-based global economic system and the conditions for its existence are beginning to take root.

⁷⁴ OECD Guidelines for Multinational Enterprises: Review 2000, Report by Secretary-General, 27 June 2000, C(2000)96/REV.1., para.3.

⁷⁵ "Soft law" was developed to describe "declaration, resolutions, guidelines, principles and other high-level statements by groups of states such as UN, ILO and OECD that are neither strictly binding norms nor ephemeral political promises." "Beyond Voluntarism," 73.

⁷⁶ "Soft laws" have had an important impact on government and corporate conduct surrounding the environment and sustainability. *Ibid*, 74.

⁷⁷ International law can set benchmarks for developing nation legislation and its enforcement. As the report *Beyond Voluntarism* points out, in almost all cases victims of human rights abuses will be expected to first seek redress in their own national courts. "International enforcement mechanisms usually only kick-in where national efforts have failed or been found wanting. If there were clearer international legal rules in regard to companies, it is likely that they would give priority attention to steps that states (and national institutions) should take to better regulate company conduct." Petrusek, David. "Beyond Voluntarism," 3

⁷⁸ *Ibid*, 3.

⁷⁹ Farred, Jason and Paul James. "Making Corporations Accountable," 8.

⁸⁰ *Ibid*, 1.

⁸¹ Statement by Human Rights Watch on the United Nations Sub-Commission on the Promotion and Protection of Human Rights' Working Group on the Working Methods and Activities of Transnational Corporations. 2002. Human Rights Watch. www.business-humanrights.org/HRW-statement-Aug-2002.htm

The increased commitment to corporate accountability is reflected in several new UN human rights bodies that are dedicated to the behaviour of transnational corporations, including the Working Group on Transnational Corporations of the Sub-Commission on the Promotion and Protection of Human Rights and the Committee on Economic, Social and Cultural Rights.⁸² More recently, the cumulative effort by the Security Council to pass new resolutions on conflict diamonds, the arms trade, finance, oil, and smuggling has set new rules for corporate conduct and accountability in zones of conflict.⁸³

Possibilities for Creating a Regulatory and Legal Framework

A global framework for ensuring the integration of socially responsible policies and practices into mainstream business activities can play an essential role in preventing and stabilizing conflict, particularly in conflict-prone or conflict-ridden countries. A rule-based approach can help to ensure the private sector acts as a partner in conflict prevention and resolution rather than exacerbating tensions. The following suggests important steps to strengthening international criminal and liability action against corporations in extraterritorial operations.⁸⁴

1. Improve research on the consequences of private sector activity and corporate decision-making in conflict settings.⁸⁵
2. Improve international cooperation of judicial institutions in gathering evidence, questioning of suspects and witnesses, and related access to critical information.
3. Expand the funding and staffing of UN human rights bodies.
4. Create an intergovernmental agency that is committed to addressing issues of corporate accountability and monitoring.
5. Draft new rules, by means of the UN Security Council, to manage and control the potentially negative impacts of corporate policy on peace and security crises.
6. Develop global consumer protection rules that ensure fundamental product safety and reliability, and ensure restrained, truthful and un-manipulative advertising, based on strengthened UN guidelines.
7. Improve the availability of legal protection for employee whistleblowers and NGO watchdogs. This may include creating a stronger relationship between the UN and NGO groups.

V. Conclusion

We must attune the international law of the future to the concept that a large variety of new actors have appeared on the international scene, with rights and responsibilities which international law will recognize as inhering in them. The great corporations are a very important group of these new international actors whom the law of the future will recognize as accountable to the international legal system.⁸⁶

In the context of growing economic integration and expansion of global investment, there is a rising concern of ungoverned market-led globalization. International protests have begun to target economic actors and institutions, leading to an international debate surrounding corporate responsibility and accountability. Of central importance is the role business can and should play in ensuring sustainable peace and security in cross-border operations, particularly in zones of conflict. Corporations can play a critical role in both structural prevention of conflict, and in developing conflict-sensitive policies and practices that help to achieve lasting peace. However, for this role to be realized internationally harmonized regulations are necessary. The current corporate legal conundrum provides weak and insufficient assurance that corporations operating extraterritorially will respect human rights. Similarly, voluntary codes drafted and implemented by corporations themselves including voluntary guidelines proposed by the UN and multilateral initiatives are insufficient in themselves to prevent human rights abuses and their complicity. Significant progress has already been achieved in

⁸² In 1999, the Sub-Commission began a three year inquiry in into the possible development of a corporate code for TNC's in relation to human rights (UN Doc. E/CN.4/Sub.2/2000/WG.2/WP.1/Add.1 of 25 May 2000)

⁸³ Farred, Jason and Paul James. "Making Corporations Accountable," 9.

⁸⁴ This is based on guidelines proposed by James Paul and Jason Garred in Making Corporations Accountable.

⁸⁵ First and foremost, more research and empirically-based analysis is needed to understand the role corporations can play in mitigating conflict.

Fletcher points out that "while the growing global role of private sector actors is widely recognized, to date there has been little empirical study of the actual consequences of private sector activity, particularly in countries at risk of, or undergoing, conflict."

⁸⁶ Christopher Weeramantry, former judge of the International Court of Justice in Weeramantry, Christopher G. "Human Rights and the Global Marketplace." *Brooklyn Journal of International Law*. Vol. 25, No. 1, 1999.

convincing companies to accept their important role in protecting human rights. International law can provide the incentive and assurance that that perspective will be put into practice.

Appendix 1. Resource-related Conflicts Involving Extractive Industries

Location	Conflict Period	Conflict Resources
Afghanistan	1979-2001	Opium, lapis lazuli, emeralds
Angola	1975-2002	Diamonds, oil
Burma	1949-present	Timber, natural gas, opium, precious stones
Cambodia	1988-1997	Timber, rubies, sapphires
Colombia	1948-present	Oil, coca
Democratic Republic of the Congo	1996-present	Diamonds, gold, copper, cobalt, timber, coffee, and others
Indonesia (Aceh)	1976-present	Natural gas, timber
Indonesia (Kalimantan)	Late 1960s-present	Timber
Indonesia (West Papua)	Mid-1960s-present	Gold
Liberia	1989-present	Diamonds, timber
Nigeria	1990s-present	Oil
Papua New Guinea	1988-1998	Copper
Sierra Leone	1991-2001	Diamonds

Appendix 2. Estimated Revenues from Conflict Resources (Selected Cases)

Combatant	Resource	Period	Estimated Revenue
Angola rebels (UNITA)	Diamonds	1992-2001	\$4-4.2 billion total
Sierra Leone rebels (RUF)	Diamonds	1990s	\$25-125 million / year
Liberia government	Timber	Late 1990s	\$100-187 million / year
Sudan government	Oil	Since 1999	\$400 million / year
Rwanda government	Coltan (from Congo)	1999-2000	\$250 million total
Afghanistan (Taliban, Northern Alliance)	Opium, Lapis Lazuli, Emeralds	Mid-1990s-2001	\$90-100 million / year
Cambodia / government, Khmer Rouge	Timber	Mid-1990s	\$220-390 million / year
Burma government	Timber	1990s	\$112 million / year
Colombia (FARC rebels)	Cocaine	Late 1990s	\$140 million / year

Source: Renner, Michael. "Anatomy of Resource Wars." WorldWatch Institute.
<http://www.worldwatch.org/pubs/paper/162/press.html>

Bibliography

Belsie, Laurent. 2002. "At the Intersection of Business and Human Rights."
www.globalpolicy.org/soecon/tncs/coresp.html

- Cattai, Maria. "Responsible Business conduct in a Global Economy." 2003. The World Business Organization.
www.iccwbo.org/home/global_compact/business_conduct.asp
- Collier, Jane. "Corporations and the ethics of social responsibility: an emerging regime of expansion and compliance."
www.blackwellpublishers.co.uk/journals/beer,
- "Corporations Put Environmentalists Under Fire." Worldwide, News Release.
<http://www.amnestyusa.org/news/2003/world02202003.html>
- Danny Kennedy. July 13, 2001. "PT Kelian: A Case Study of Global Operations."www.corpwatch.org/un
- Farred, Jason and Paul James. "Making Corporations Accountable." A Background Paper for the United Nations Financing for Development Paper. Global Policy Forum. <http://www.globalpolicy.org/soecon/ffd/2000paper.htm>
- Fletcher, H. and Arora Bela. "The Business of Peace. How companies can promote long-term peace through core business practices and policies." Paper for the conference on Business Leadership in Development and Conflict Management, Oslo, Norway, 14-16 2001.
- Geislerova, Marketa, "Report from the Conference "Global Compact and United Nations Institutions." Canadian Center for Foreign Policy Development. July 14-15, 2000. Tokyo, Japan.
- Goodhand, Jonathon. "Chronic Poverty and Conflict." Chronic Poverty Research Center. INTRACK 2001.
www.chronicpoverty.org/pdfs/violence.pdf
- Human Rights Watch. www.business-humanrights.org/HRW-statement-Aug-2002.htm
- Ian Smillie, Lansana Gberie and Ralph Hazleton. "The Heart of the Matter: Sierra Leone, Diamonds & Human Security" (Partnership Africa Canada, 2000).
- Kelleher, Kevin. 2003. "Measuring and Reporting Corporate Performance on Human Rights." Business for Social Responsibility. www.bsr.org/BSRResources/Magazine/CSRTrends.cfm?DocumentID=266
- Knight, Danielle. 2001. "UN agency says TNC's need legally binding rules." *Third World Network*.
www.twinside.org.sg/title/binding.htm
- Knight, Danielle. 2001. "UN agency says TNC's need legally binding rules." *Third World Network*.
www.twinside.org.sg/title/binding.htm
- Leighton and Getzler. 1998. Natural Heritage Institute. "Corporate Codes of Conduct". In Outreach: the NGO Voice at the CSD 2 (5).
- Mary Robinson, 'The business case for human rights', in Financial Times Management, Visions of ethical business (London: Financial Times Professional, 1998), p. 14.
- Nityanand Jayaraman, "Norsk Hydro, Global Compact Violator," 10/18/01, www.corpwatch.org/un, October 4, 2001.
- OECD Guidelines for Multinational Enterprises: Review 2000, Report by Secretary-General, 27 June 2000, C(2000)96/REV.1., para.3.
- Petrasek, David. "Beyond Voluntarism. Human Rights and the developing International Legal Obligations of Companies." International Council on Human Rights. [www.http://www.ichrp.org/ac/excerpts/30.pdf](http://www.ichrp.org/ac/excerpts/30.pdf)
- Report of the Secretary General on *Prevention of Armed Conflict*, 2001.

Renner, Michael. "Anatomy of Resource Wars." WorldWatch Institute.
<http://www.worldwatch.org/pubs/paper/162/press.html>

Reychler, L. 2001. "From Conflict to Sustainable Peacebuilding: Conceptual and Analytical Tools." Pp. 3-15 in Reychler, L. & Paffenholz, T. 2001. *Peace-Building*, London, Lynne Rienner Publishers.

Robert Howse and Makau Mutua. 2000. "Protecting Human Rights in a Global Economy: Challenges for the World Trade Organization." International Centre for Human Rights and Democratic Development..

Sherman, Jake. April 19, 2001. "Private Sector Actors in Zones of Conflict: Research Challenges and Policy Responses." A report of the Fafo Institute for Applied Social Science Programme for International Cooperation and Conflict Resolution (PICCR) and the International Peace Academy projects on "Economic Agendas in Civil Wars." International Peace Academy. New York, New York.

Statement by Human Rights Watch on the United Nations Sub-Commission on the Promotion and Protection of Human Rights' Working Group on the Working Methods and Activities of Transnational Corporations. 2002.

The UN Global Compact. http://www.ildglobal.org/newsite/ild/smes/smes_gc.htm

The Universal Declaration of Human Rights. <http://www.un.org/Overview/rights.html>

Weeramantry, Christopher G. "Human Rights and the Global Marketplace." *Brooklyn Journal of International Law*. Vol. 25, No. 1, 1999.

Wood, Bernard. "Development Dimensions of Conflict Prevention and Peace-Building." An Independent Study Prepared for the Emergency Response Division, UNDP. [Online]. June 2001.
http://www.undp.org/erd/ref/undp_pb_study.pdf