Conflict-Sensitive Business Practice: Guidance for Extractive Industries

March 2005

INTERNATIONAL ALERT

Foreword
Kofi Annan, United Nations Secretary General

Businesses operate in conflict zones and conflict-prone countries around the world. If they make the wrong decisions on investment, employment, community relations, environmental protection and security arrangements, they can exacerbate the tensions that produce conflict. But if they make the right decisions, they can help a country turn its back on conflict, and move towards lasting peace.

Companies in the extractive industries are on the front lines. Time and again in recent years, the exploitation of natural resources such as oil, timber and diamonds has fuelled conflict and generated corruption, exacting a heavy toll in lives and undermining faith in public administration. All too often, local populations have been excluded from discussions about the control of natural resources, and have seen few or no tangible benefit from activities carried out in their communities. This leads to resentment, social discord and even violence.

Enlightened self-interest should steer businesses towards playing an active role in promoting transparency and accountability in managing the extraction and sale of natural resources. Increasingly, a company's reputation depends not only on what product or service it provides, but also on how it does so. By adopting a proactive approach, companies can reduce operational risks, promote stability, and improve relations with the communities in which they operate. Indeed, a company's 'bottom-line' can no longer be separated from peace, development and the other goals of the United Nations.

This publication offers practical suggestions for companies in the extractive industries seeking to adopt a conflict-sensitive approach to their operations. It provides ideas for fostering better relationships with stakeholders. And it gives examples of good practices that I hope will serve as an inspiration to companies operating in violent or volatile environments. I welcome this contribution to the efforts of the United Nations to promote responsible corporate citizenship and universal principles, and I hope it reaches the wide global audience it deserves.

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Foreword

Business has an interest in peace. Some business also has an interest in being active in some regions where peace is insecure and unstable. And business has a role – sometimes knowingly, sometimes without full knowledge of what is happening – in shaping the conditions that decide whether instability will evolve into a durable peace or collapse into open war.

In the past decade and a half – approximately since the end of the Cold War and the break-up of the USSR – the international community has succeeded in paying more attention than before to civil wars in developing countries and the suffering they cause. In that period, there have been over 100 wars, causing over 7 million deaths and uncalculated – and perhaps incalculable – material damage. Addressing this problem is a huge task, but the international community is responding to it.

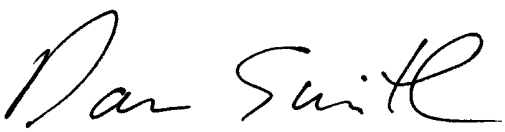
During that same period of 15 years, more peace agreements have been signed than were achieved in the previous two centuries. Significant effort – but around 50 per cent of the agreements broke down within five years of being signed. They break down for various reasons – cheating, hidden agendas, miscommunication, political in-fighting by warlords threatened by the imminence of peace, the hellish burdens created by the consequences of war and, perhaps most important of all, because the long-term, background causes of war have not been properly addressed.

International Alert is a London-based international NGO that specialises in peacebuilding. As we have learned about the causes of war – inadequate economic development and deficient systems of government – so we have also learned more about what is needed to prevent conflicts escalating into violence and what is needed to sustain peace processes.

With this, the role of the private sector has increasingly come into focus. It is not now a controversial proposition to say that the private sector has a role as one of the factors that decide whether there will be war or peace. But it remains a challenge for many businesses to figure out how they can function normally in abnormal conditions, make a profit, contribute to prosperity, and help strengthen the prospects of peace and stability.

This guide to conflict-sensitive business practice is directed towards the extractive industries, which often find themselves close to the frontline of conflict, which can suffer from violent conflict both directly and indirectly, and some of which have been among the first to respond to the idea that business has a role in shaping the prospects for peace. Developed with the indispensable help and involvement of industry professionals, the guide is practical, it is readable, and it takes on the real problems faced by extractive industries.

The adoption of conflict-sensitive business practice by extractive industries could be one step among many that are being taken to improve the chances that this armed and warring planet will steadily become a safer and more secure place. It is part of a cross-sector enterprise – involving governments, inter-governmental organisations, NGOs such as International Alert, and companies – that is contributing to the fight against one of the world's great scourges. We welcome everyone's contribution to it.



Dan Smith
Secretary General, International Alert

Preface

Oil, mining and natural gas companies often invest in conflict-prone societies – the nature of their business setting some limits on choice of risk profile. Most companies have no interest in exacerbating instability or violence, or otherwise becoming caught up in it. Experience shows however, that all too often they lack the skills and experience to avoid doing so.

Despite advances in political risk methodologies and environmental and social impact assessment (ESIA) standards, and the wider corporate social responsibility sphere, fundamental gaps in company practice remain.[1] These include capacity to understand existing or potential conflict and its actors, causes and consequences accurately; and to grasp fully the spectrum of influence that a company's investment may have on such conflict, directly, indirectly and at varying levels. **Conflict-Sensitive Business Practice: Guidance for Extractive Industries** aims to help close this capacity gap and results from several years' research and development led by International Alert, a London-based peacebuilding non-governmental organisation (NGO).

The publication

Conflict-Sensitive Business Practice: Guidance for Extractive Industries consists of guidance on doing business in societies at risk of conflict for field managers working across a range of business activities, as well as headquarters staff in political risk, security, external relations and social performance departments. It provides information on understanding conflict risk through a series of practical documents, including:

- Introduction to conflict-sensitive business practice, including an overview of the regulatory environment for doing business in conflict-risk states
- Screening Tool for early identification of conflict risk
- Macro-level Conflict Risk and Impact Assessment tool
- Project-level Conflict Risk and Impact Assessment tool
- Special guidance on key Flashpoint Issues where conflict could arise at any point during a company's operation.

Each section includes additional resources where company staff can find further useful data and analysis. The guidance as a whole is designed to mirror a basic project cycle for companies engaged in mining, oil and natural gas, but can be picked up at any particular point in the cycle. It is also designed to complement current industry best practice in social performance, political risk analysis and ESIA, adding in a 'conflict lens'.

The research

The research process has included International Alert's contribution to, and learning from, the UN Global Compact **Business Guide to Conflict Impact Assessment and Risk Management**, published as a result of its ongoing policy dialogue, 'The Role of the Private Sector in Zones of Conflict'. International Alert has been an active participant in this dialogue, which included a series of regional workshops in Sub-Saharan Africa, Central Asia and Colombia. The Global Compact workshops provided an important forum for stakeholders to share experiences and challenges in this area, and made a significant contribution to the research process.[2]

1. Advances in the academic research literature are particularly significant, but have not necessarily translated into best practice.
2. UN Global Compact dialogue on 'The Role of the Private Sector in Zones of Conflict'. www.unglobalcompact.org/Portal/Default.asp

Taking this work forward, we conducted a thorough review of current best practice in political risk assessment and ESIA in order to see where these were letting companies down in understanding conflict.[3] When this process was complete, we convened a group of representatives from some of the world's leading oil, mining and gas companies, as well as NGOs and consultancy firms specialised in political risk assessment and management. We brought the group together with specialists from the conflict transformation world to try and progress our goal of closing the capacity gap in companies' understanding of their relationship to conflict.

The project steering group helped keep this aspiration anchored in business realities, emphasising the business case for developing greater capacity on conflict. The concept and elements of conflict-sensitive business practice gradually evolved from this process. The content and arguments of the final publication are, however, International Alert's and not attributable to any of the steering group members.

We believe that **Conflict-Sensitive Business Practice: Guidance for Extractive Industries** provides an opportunity for companies concerned about improving their impact on host countries to begin thinking more creatively about understanding and minimising conflict risk, and actively contributing to peace. Although presented in a practical, step-wise format, it has been developed as an approach as much as a fixed process, and further work needs to be done by individual companies, industry associations and other professionals to adapt and further develop its core concepts through their own practices. Nonetheless, it is our hope that this publication represents a significant step forward in discerning best practice in this sensitive area, and towards promoting more peaceful interactions between companies and host societies around the world.

Project team

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3. Goldwyn, R. and J. Switzer (2004) 'Assessments, Communities and Peace – A Critique of Extractive Sector Assessment Tools from a Conflict-Sensitive Perspective', in **Oil, Gas and Energy Law Intelligence (OGEL)**, vol.2 issue 4, available from www.gasandoil.com/ogel/

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International Alert is grateful to the many individuals who have given time toward developing this publication. First and foremost, the steering group of company representatives and other experts who met four times over the duration of the project and gave feedback, ideas and support throughout; and whose insights and willingness to share experiences and offer constructive criticism were an absolutely invaluable resource for the research: Chris Anderson, Newmont; Titus Fossgard-Moser, Shell; Jos de la Haye, University of Leuven; Paul Kapelus, African Institute for Corporate Citizenship; Randy Gossen, Nexen; Gary MacDonald, independent consultant; Alison McCallum, Environmental Resources Management; Tim McLaughlin, independent consultant; John Maltby, Control Risks Group; Anton Mifsud-Bonici, BP; Gerald Pachoud, Swiss Department for Foreign Affairs; Jonathan Samuel, Environmental Resources Management; Helen Sullivan, Shell; Rory Sullivan, Insight Investment; Jason Switzer, International Institute for Sustainable Development; Frank Vanclay, University of Tasmania; Michael Warner, Overseas Development Institute; Albert Wong, Shell; Luc Zandvliet, Collaborative for Development Action (CDA); and Dick van de Zeeuw, Netherlands Commission for Environmental Impact Assessment. Jason and Luc were particularly active members of the team: Jason conducted a large piece of the early research; and Luc's work made enormous contributions both to this publication (three of the Flashpoint Issue papers are adapted versions of products from the CDA Corporate Engagement Project) and the 'business and conflict' field more broadly.

The research included field trips to Azerbaijan, Colombia and Indonesia. We are grateful to the many individuals there - from steering group and other companies, NGOs, community groups, governments and IGOs - who met with us and were willing to listen and add their ideas to the research and development process. They are too many to list here, but special thanks are due in Colombia to Camillo Gonzales, Indepaz; Alexandra Guaqueta, Fundaçion Ideas para la Paz; Peter Saile, GTZ; and Luis Ernesto Salinas, Colombia Global Compact, as well as Juan Dumas and Carlos Fierro of Futuro LatinAmericano (Ecuador); and in Indonesia Robert Humbersome, Newmont; and Enrico Aditjonro, independent consultant. While the bulk of work took place in London, the conversations facilitated by the above individuals were important in grounding the process in the real experiences of company/conflict interactions. We hope that future phases of our and others work on conflict-sensitive business practice will focus on changing practice and creating stronger relationships between companies and stakeholders in-country.

Other experts and consultants have contributed either whole papers, or feedback on material and ideas throughout the process: Karen Ballentine; Fafo AIS; Robert Barclay, Planning and Resettlement Solutions; Edward Bickham, Anglo American; John Bray, Control Risks Group; Denise O'Brien, UN Global Compact; Laurent Götschel, Swisspeace; Gavin Hayman, Global Witness; Bob Joseph, Indigenous Corporate Training; Danielle Lalive d'Epinay, Swisspeace; Helen MacDonald, Newmont; Harold Nicholls, Anglo American; Henry Parnham, Publish What You Pay; David Petrasek, Centre for Humanitarian Dialogue; Melissa Powell, UN Global Compact; Jo Render, independent consultant; Jill Shankleman, independent consultant; Andrew Sherriff, independent consultant; Mark Taylor, Fafo AIS; Salil Tripathi, Amnesty International; and Claude Voillat, International Committee of the Red Cross.

The International Alert project team also owe thanks to the many other staff past and present who contributed to the project: Phil Champain; Canan Gündüz; Diana Klein – who conducted consultations along the route of the Baku-Tiblisi-Ceyhan pipeline in Azerbaijan and made an important contribution to the methodology development; Damian Lilly; and Eugenia Piza-Lopez. Michael Griffin helped with his excellent copy-editing skills, and Provokateur provided professional design and production support.

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Abbreviations

ADB	Asian Development Bank
ATCA	Alien Tort Claims Act (US)
CSBP	Conflict-sensitive business practice
CSR	Corporate social responsibility
DRC	Democratic Republic of the Congo
EITI	Extractive Industry Transparency Initiative
ESIA	Environmental and social impact assessment
EU	European Union
IA	International Alert
IADB	Inter-American Development Bank
IFI	International financial institutions
IFC	International Finance Corporation (World Bank)
IHL	International humanitarian law
IMF	International Monetary Fund
ILO	International Labour Organisation
INGO	International non-governmental organisation
M-CRIA	Macro-level Conflict Risk and Impact Assessment tool
MNC	Multinational company
NGO	Non-governmental organisation
OECD	Organisation for Economic Cooperation and Development
OHCHR	Office of the UN High Commissioner for Human Rights
PRA	Participatory rural appraisal
P-CRIA	Project-level Conflict Risk and Impact Assessment tool
PSA	Production sharing agreement
SME	Small to medium-sized enterprise
TNC	Transnational corporation
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees

Section 1

Introduction

Introduction

Company experience in Angola, Burma, Colombia, Indonesia, Nigeria and elsewhere demonstrates that there are a range of conflict risks posed by investing in unstable states. Oil, gas and mining projects can inadvertently trigger or sustain violence, or become the focus of resentment themselves.

Improved management systems are needed for companies to deal with the challenges of operating in such contexts, specifically with regard to the incidence of violent conflict. This section describes practical frameworks to help understand and address the interaction between company investments and conflict to the mutual benefit of business and host societies.

Conflict-sensitive business practice: benefits for business

Violent conflict imposes a range of costs on companies. A 'conflict-sensitive' approach to doing business – one that seeks to avoid these costs by developing informed conflict-management strategies – is therefore a strategic choice for company managers. At both a local level, through improved relationships with stakeholders, and at regional and national levels, companies can benefit from avoiding, or handling conflict more effectively through a joined-up understanding of all conflict risks and impacts.

Box 1: Costs of conflict to companies

Direct costs	Example
Security	Higher payments to state/private security firms; staff time spent on security management.
Risk management	Insurance, loss of coverage, specialist training for staff, reduced mobility and higher transport costs.
Material	Destruction of property or infrastructure.
Opportunity	Disruption of production, delays on imports.
Capital	Increased cost of raising capital.
Personnel	Kidnapping, killing and injury; stress; recruitment difficulties; higher wages to offset risk; cost of management time spent protecting staff.
Reputation	Consumer campaigns, risk-rating, share price, competitive loss.
Litigation	Expensive and damaging law suits.
Indirect costs	**Example**
Human	Loss of life, health, intellectual and physical capacity.
Social	Weakening of social capital.
Economic	Damage to financial and physical infrastructure, loss of markets.
Environment	Pollution, degradation, resource depletion.
Political	Weakening of institutions, rule of law, governance.

Source: adapted from Nelson, J. (2000) **The Business of Peace: The Private Sector as a Partner in Conflict Prevention and Resolution** (London: International Alert, International Business Leaders Forum and Council on Economic Priorities).

The range of costs imposed by conflict on companies are direct and indirect. Direct costs most obviously relate to the increased cost of protecting staff and property. Indirect costs are those that impact the operating environment, only to rebound as costs on the company. Direct and indirect costs imposed by conflict on companies are listed in box 1.

Conflict-sensitive business practice: benefits for communities

Conflict-sensitive business practice (CSBP) benefits host communities, as well as the wider regional and international contexts, by ensuring that company investments avoid exacerbating violent conflict. Violent conflict clearly represents a threat to life, security, growth and prosperity for affected communities. It undermines decades of development and destroys the social fabric of a locality, country or region. CSBP can help companies avoid causing, triggering or accelerating these destructive dynamics to the mutual benefit of themselves and communities. It can also help them develop legitimate steps towards contributing to peace and stability in unstable states.

Early, consistent, meaningful and empowering stakeholder engagement processes lie at the core of CSBP. Improved relationships between companies and communities help different stakeholder groups to understand what the impacts of investment are likely to be. Transparency about company plans, schedules and prospects, and the creation of effective channels through which stakeholders can raise and address problems, invites trusting relationships, reduces uncertainty over the future and creates a sense of shared ownership over a company's operations. This is of real benefit to stakeholders who have a legitimate interest in company investments that impact their livelihood or landscape.

What is conflict?

Conflict occurs when two or more parties believe their interests are incompatible, express hostile attitudes or take actions that damage the other's ability to pursue its interests. 'Violence' is often used interchangeably with 'conflict', but violence is only one means among many that parties choose to address a given conflict. Non-violent conflict is essential to social change and development, and a necessary component of human interaction. When violence erupts, however, a profound breakdown in social relationships occurs that will have destructive effects. CSBP aims to prevent violent conflict, or contribute to its transformation towards peace.

Conflict is sometimes viewed as a separate 'issue' that can be addressed in isolation from other 'issues' such as human rights, the environment or sustainable development. However conflict is a cross-cutting theme or context – a violent manifestation of tensions that may have arisen for a variety of reasons (e.g. human rights abuses, environmental scarcity or degradation, unjust governance, economic insecurity). Conflict sensitivity, therefore, involves consideration of the spectrum of issues that may have, or may in the future, cause and trigger violence.

Box 2 lists different types of causes of conflict and box 3 shows the dynamic 'conflict cycle', along which conflicts often progress and regress through their duration.

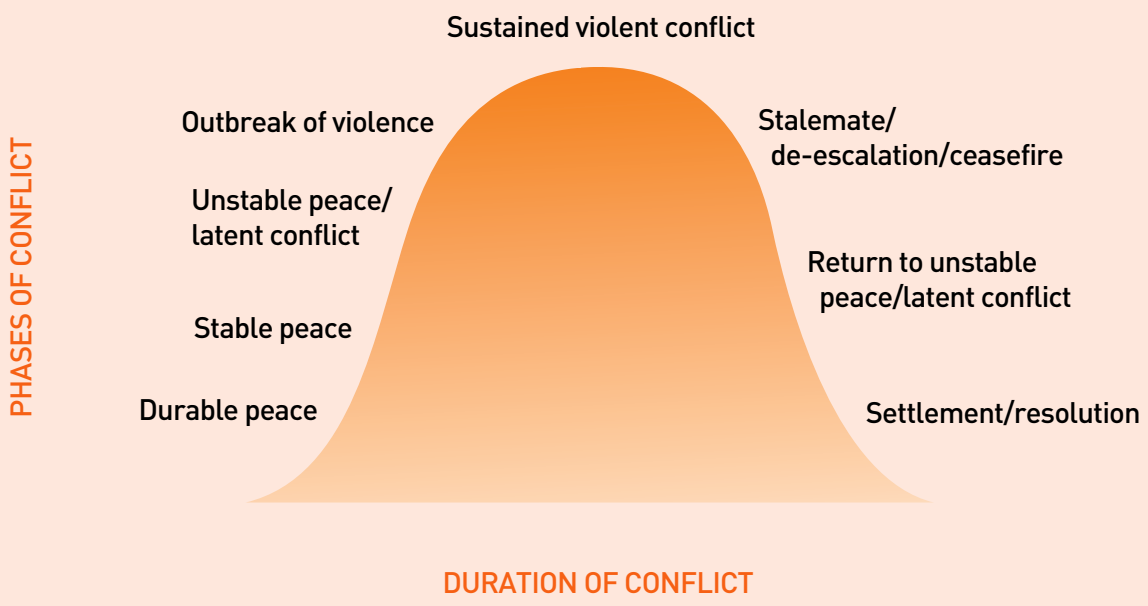
Box 2: Causes of conflict

Structural/root causes: Pervasive factors that are built into the policies, structures or fabric of society and may create the preconditions for violent conflict (e.g. illegitimate government, lack of equal economic and social opportunity, lack of political participation).

Proximate causes: Factors that are symptomatic of the root causes of conflicts or may lead to further escalation (e.g. light-weapons proliferation, human rights abuse, objectives of political actors, role of diasporas).

Triggers: Single acts, events or the anticipation thereof that set off violent conflict or its escalation (e.g. elections, behaviour of political actors, sudden collapse of currency, increased food scarcity).

Box 3: Phases of violent conflict



Source: Rupesinghe, K. (1998) **Civil Wars, Civil Peace: An Introduction to Conflict Resolution** (London: Pluto Press).

Interactions between company investments and conflict

A company's investment interacts with conflict in many ways. Following are some common characteristics and variables that can shape that interaction:

Dynamic two-way dimensions. Company investments may cause conflict (e.g. resettlement causes conflict between host and relocated communities), or may interact with pre-existing conflicts/tensions (e.g. hiring policy selects staff from one ethnic group, increasing resentment from others). At the same time, conflict can impact a company investment (e.g. infrastructure may be targeted by conflict actors), imposing a variety of costs.

Box 4: Potential interaction between project investments and conflict

The company causes... SOCIAL IMPACTS which contribute to conflict	The conflict causes... SOCIAL IMPACTS which affect the company
Resettlement leads to a deepening of power imbalances within a community. Hiring policy inadvertently privileges staff from one ethnic group, causing resentment in others. Criminal gangs target compensation recipients for extortion.	Large proportion of youth become militarised and intimidate local staff. Populations dislocated by conflict lose access to livelihoods and steal from the company, or try to generate income through kidnapping staff. Actions of regime to 'pacify' an area prior to investment damage a company's ability to develop good relationships locally, and its reputation internationally.
The company causes... ENVIRONMENTAL IMPACTS which contribute to conflict	**The conflict causes... ENVIRONMENTAL IMPACTS which affect the company**
Company use of land leads to competition among previous land users for access. Construction of pipeline across a river affects downstream water quality, exacerbating historical tensions between two groups by causing a power shift in favour of those upstream. Damage to sacred sites of indigenous people fuels state/community conflict.	Conflict actors deforest area to generate income through timber sales, causing uncontrolled runoff that damages infrastructure. Scorched-earth tactics of conflict actors damage operations. Conflict actors target oil fields, pipelines or other structures, causing spills.

As the examples in box 4 show, conflict can become a dynamic context in which cause and effect feed one other. Second-, third- and subsequent-order impacts tend to escalate conflict, drawing in other actors and geographical areas.

Geographical scales. Company investments can interact with conflict at all geographical scales, from the area closest to the project up to the national scale – for instance, through revenue streams to government being used to purchase weapons – and beyond. Linkages exist between these different scales, with local-level tensions or conflict visible at national, regional or international levels; and vice versa.

Level of complicity. Companies seldom wilfully seek to start conflict, but company actions can directly or indirectly contribute to it. There is ongoing legal debate and an emerging body of case law over the extent to which companies can be found to have been 'complicit' in war crimes when

operating in conflict zones, especially with regard to the principle of 'known or should have known', relating to egregious human rights abuses. The question of legal accountability is discussed below, and is likely to become more pressing in the future. For the purposes of CSBP, there is clearly a high responsibility and interest in preventing conflict, especially when company actions have been a significant factor at either the local or national levels. For the business-case reasons outlined above, there is also an interest in acting to prevent conflict where the company's actions may be only a minor factor. Given its escalating and dynamic nature, any manifestation of conflict in a country should be a cause for concern for the companies that operate there.

Box 5: Company/conflict scenarios

1. Displacement of local communities to clear land (e.g. for a mine) leads to conflict between communities and a company, and within communities.

2. Company operations exacerbate pre-existing tensions either among communities, or between communities and regional/national authorities, triggering violence.

3. Revenue payments to government have a destabilising influence on already poor governance structures, increasing the likelihood of conflict in the long-term.

4. Revenue is used to purchase arms, sustaining or escalating conflict.

What is the regulatory environment for doing business in conflict-risk states?

Observation of national law in host societies is a primary obligation for companies, though laws may be inadequately enforced and fail to create the correct enabling environment for CSBP. Companies may avoid incurring the business costs associated with operating in conflict-risk states if they actively uphold relevant international instruments, ensuring their operations are in line with international law and good practice, even when governments are too weak to do so.

Given the cross-cutting nature of 'conflict', which is best viewed as a context rather than an issue, it is hardly surprising that no single overarching, legal or voluntary instrument has emerged to date on how to conduct business in unstable states in a way that minimises conflict risk. The absence of regulatory clarity on how ethical business should be undertaken in conflict-affected countries leads to reputational pitfalls for companies.[1]

Various efforts are underway to close the gap in international frameworks for addressing, advising and holding companies accountable for their operations in conflict zones. Instances of this momentum include international policy developments relating to the extractive industries such as the Voluntary Principles on Security and Human Rights and the Extractive Industries Transparency Initiative. Looking across sectors the UN Draft Norms on Responsibilities of TNCs with Regard to Human Rights and the OECD's efforts to clarify the relevance of its 'integrity instruments' in weak governance states, as well as ongoing initiatives from lawyers and researchers specialised in international humanitarian law are further evidence of this trend.[2] Over time, it is

1. In 2002, controversy erupted when the UN Expert Panel Report on Illegal Exploitation of Natural Resources in the Democratic Republic of Congo (DRC) criticised the activities of named OECD country companies in relation to their operations in the DRC and accused them of acting 'in breach' of the OECD Guidelines for Multinational Enterprises. The report was itself criticised for its approach, in particular by the OECD and its member states for incorrect usage of the OECD Guidelines. Governments were quick to defend their companies, but the incident fueled NGO outrage and attention.
2. At the time of going to print, debate at the OHCHR as to the future status of this document is ongoing – with clarification possibly due to emerge from the 61st session of the Commission scheduled for April 2005.

likely that these efforts, together with emerging case law under national jurisdictions e.g. under the US Alien Tort Claims Act, will give rise to stricter rules governing companies' legal responsibilities in relation to conflict.

Box 6: Legal questions for companies operating in conflict-risk states

In the absence of effective domestic rule of law, and scant global regulation of these sectors, what law applies? Is there international humanitarian law that applies to business entities? Can a company be held civilly or criminally liable when it uses slave labour, an international crime? What does the law say about corporations that deal with local combatant forces or private military companies? Do companies that provide financing to governments or rebel factions become complicit in the abuses – such as pillage, plunder and the employment of child soldiers – committed by potential business partners?[3]

Respect for the norms contained in international legal frameworks and standards on business and conflict issues is an important step toward conflict-sensitivity, and is likely to place companies in a good position for the future. A summary of the most important legal instruments and voluntary standards relating to operating in conflict-prone societies is shown in box 7.

Box 7: Summary of legal instruments and voluntary standards

Issue	Relevant international law	Relevant code of conduct, principle or international standard
Employee relations	ILO Tripartite Declaration of Principles concerning Multilateral Enterprises and Social Policy; ILO Declaration on Fundamental Principles and Rights at Work	UN Global Compact; UN Draft Norms on the Responsibility of TNCs and Other Business Enterprises with Regard to Human Rights; OECD Guidelines for Multinational Enterprises; Social Accountability 8000; Global Sullivan Principles
Resettlement	Geneva Conventions and Additional Protocols I and II	IFC Operational Directive 4.30 on Involuntary Resettlement;[4] ADB Involuntary Resettlement Policy; IADB Operational Policy on Involuntary Resettlement; Equator Principles
Indigenous people	UN Draft Declaration on the Rights of Indigenous Peoples; ILO Convention 169	World Bank Draft Operational Policy 4.10 on Indigenous Peoples

3. Extract from **Business and International Crimes: Assessing the Liability of Business Entities for Grave Violations of International Law** (2004) (Oslo: International Peace Academy and Fafo AIS), which surveys the provisions of international and national law, and summarises relevant jurisprudence as a first step towards answering these questions.
4. As this publication went to print, the IFC was in the process of revising all of its social safeguard policies.

Box 7 (continued)

Security arrangements /dealing with armed groups	Geneva Conventions and Additional Protocols I and II; UN Convention against the Recruitment, Use, Financing and Training of Mercenaries; International Convention for the Suppression of the Financing of Terrorism	Voluntary Principles on Security and Human Rights; UN Draft Norms on the Responsibility of TNCs and Other Business Enterprises with Regard to Human Rights; UN Code of Conduct for Law Enforcement Officials and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials
Human rights	UN Declaration on Human Rights; Geneva Conventions and Additional Protocols I and II; International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; Convention against Torture; Convention on the Rights of the Child; Convention on the Elimination of All Forms of Discrimination against Women; International Convention on the Protection of the Rights of All Migrant Workers; ILO Conventions 87, 98, 29, 105, 100, 111, 138 and 182	UN Global Compact; UN Draft Norms on the Responsibility of TNCs and Other Business Enterprises with Regard to Human Rights; Voluntary Principles on Security and Human Rights; Amnesty International Human Rights Principles; The Red Cross Movement's Code of Conduct on Humanitarian Assistance; OECD Guidelines for Multinational Enterprises; Global Sullivan Principles
Environmental impact	Rio Declaration of the UN Conference on Environment and Development; Aarhus Declaration on Prior Informed Consent	IFC Environmental Impact Standards; UN Global Compact; UN Draft Norms on the Responsibility of TNCs and Other Business Enterprises with Regard to Human Rights; OECD Guidelines for Multinational Enterprises; Equator Principles

Bribery and corruption/ transparency	OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; OAS Inter-American Convention Against Corruption; Council of Europe Criminal and Civil Conventions on Corruption; UN Convention against Corruption	Wolfsberg Principles; UN Draft Norms on the Responsibility of TNCs and Other Business Enterprises with Regard to Human Rights; IMF Code of Good Practices on Transparency; Second EU Money Laundering Directive; OECD Guidelines for Multinational Enterprises; Corporate Integrity Pacts; Extractive Industries Transparency Initiative; Financial Action Task Force; Basel Committee for Banking Supervisions; Global Reporting Initiative; Equator Principles; UN Global Compact
Trade	UN Security Council Resolutions on Angola, Sierra Leone, DRC, Liberia and Cambodia; EU sanctions; Unilateral sanctions; UN Convention to Combat Transnational Organised Crime	Kimberley Process Certification Scheme; Forest Stewardship Council Standard

Company role in conflict prevention and peacebuilding

Companies can adopt a range of strategies for managing corporate/conflict impacts. At a minimum, companies should comply with national regulations (even if host governments are not implementing or monitoring them effectively) and internationally agreed laws, conventions and standards, as discussed above. This is shown as 'compliance', at the base of the pyramid shown in figure 1.

Beyond compliance, companies should be aware of their ability to create or exacerbate conflict and develop mitigation measures to avoid or minimise negative impacts. This requires improved conflict risk and impact assessment tools, and is shown as 'do no harm' at the centre of the pyramid.

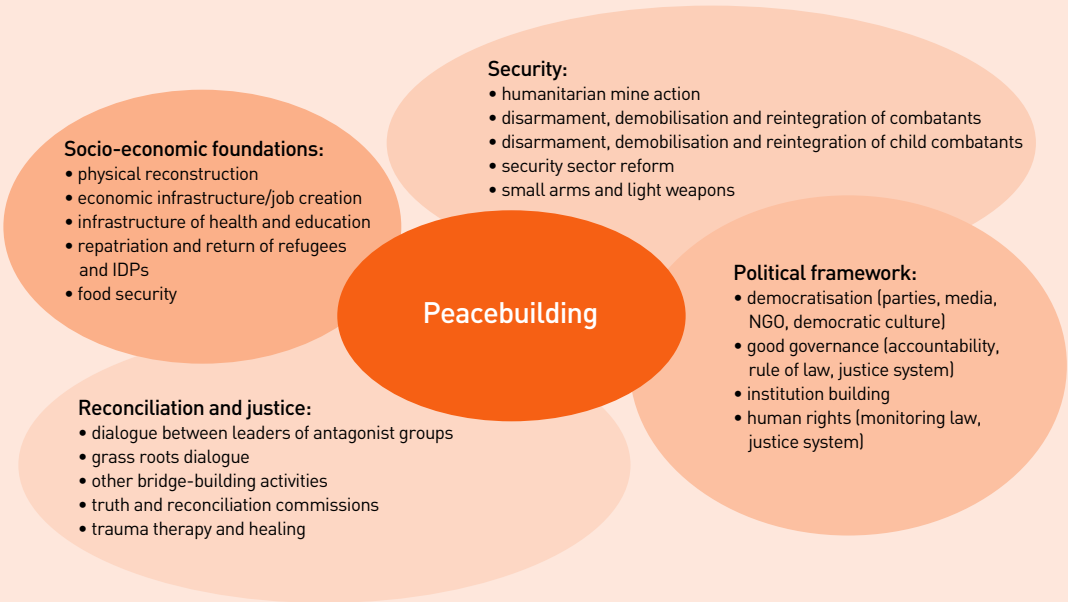
Building on 'compliance' and 'do no harm' is the role companies can pro-actively take in contributing to the alleviation of the structural or trigger causes of conflict in the interests of a more stable operating environment and safer world. This is shown as 'peacebuilding' at the top of the pyramid.

Figure 1: Strategies for managing company/conflict risk

Source: Banfield, J. et. al (2003) **Transnational Corporations in Conflict-Prone Zones: Public Policy Responses and a Framework for Action** (London: International Alert).

At first sight, the concept of 'contributing to peace' can appear to be beyond companies legitimate activities as private sector entities. On the contrary, CSBP simply enables companies to carry out their legitimate business activities in a manner that prevents conflict and promotes peace.

Figure 2: The 'peacebuilding palette'



Source: Smith, D. et. al. (2004) **Towards a Strategic Framework for Peacebuilding: Getting their Act Together** (Oslo: Norwegian Ministry of Foreign Affairs).

Peacebuilding, as illustrated in figure 2 above, requires a spectrum of conditions and activities. Through improved conflict risk and impact assessment, stakeholder engagement and relationship-building processes, CSBP helps companies to identify conflict issues directly or indirectly impacted by a project, and design mitigating strategies to alleviate them and contribute to peace, in partnership with others, through core business, social investment or policy dialogue activities.

Box 8: Company/conflict interaction, with suggested mitigating steps

Conflict cause	Company/conflict interaction, identified through CSBP	Mitigating step
Unemployment is a source of conflict in the project area. While discriminatory laws have changed, employer prejudice remains intact and jobs tend to favour one group over another.	Recruitment could favour the privileged ethnic group, which tends to have higher levels of education and employment experience. This leads to escalation in inter-group rivalry and triggers reprisals against the company.	**Core business:** Company develops affirmative-action recruitment policy and reconciliation-in-the-work-place programmes that foster more positive inter-group relationships. **Social investment:** Company develops and funds long-term vocational training programme. **Policy dialogue:** Company engages with local government on economic diversification and equitable job-creation schemes.
State security forces commit human rights violations.	Company plans to hire private security firm, but also accepts state protection when a riot occurs locally. Either of these solutions could anger communities, and fuel conflict between them and the company or state.	**Core business:** Company ensures all private security staff's human rights records are screened; and trains them in human rights, including international human rights and humanitarian law and the Voluntary Principles on Security and Human Rights. **Social investment:** Company works with credible third party to develop training programmes for state security forces; and sets up grievance procedures for the local community.

Box 8 (continued)

		Policy dialogue: Company maximises opportunities for dialogue with government on human rights, including through cooperation with other companies. Also promotes corporate observation of human rights law at the international level.
Upcoming election a likely trigger for violence.	Company could be perceived as supporting particular parties, and be targeted by opponents. Workspace could become tense if politicised by staff or others campaigning on the premises.	**Core business:** Company strictly observes political party funding rules and does not allow premises, infrastructure or equipment to be used for campaigning purposes. Also conducts training for staff on meaning of 'free and fair' elections. **Social investment:** Company supports wider civic awareness training programmes. **Policy dialogue:** Company works together with other companies to share information with election monitors on potential sources of violence; and, through dialogue, to encourage political elites to conduct their campaigns peacefully.

Using the Conflict-Sensitive Business Practice Guidance

Conflict-Sensitive Business Practice: Guidance for Extractive Industries is designed as a tool for managers to help ensure their operations are conflict-sensitive. It enables them to anticipate, monitor and assess the interaction of business operations with local, regional or national tensions, triggers and accelerators of conflict, and design strategies that contribute to conflict prevention and peacebuilding. It has been developed as a generic set of guidance that companies could adapt to suit their specific context.

Ideally, companies will adopt a conflict-sensitive approach from the pre-investment phase, which means an early analysis of potential conflict risk factors and interactions in all conflict prone societies (see box 9). Conflict-sensitive business practice can also be developed for projects that are well underway, however, by adopting a 'catch-up' approach and fast-tracking the analysis.

Box 9: 'No conflict here'

Relatively few major greenfield projects are developed in areas of actual violent conflict, precisely because of the risks entailed. More commonly, violence at the local level will follow the start of operations.

Major investments inevitably alter traditional systems and, even in relatively peaceful environments, can easily lead to a heightening of tensions and possibly violence. In areas of pre-existing social tension, the odds on such an outcome increase.

The absence of violence in a project area is no guarantee of what might happen in the future. Understanding the tensions that existed prior to the arrival of the company at local and national levels, and anticipating how the project might impact on them (and indeed on the wider socio-economic context) is fundamental to CSBP.

Box 10 shows the different recommended elements for developing a conflict-sensitive approach in sequence and with a brief summary of each of their functions. After reading this introduction, managers should turn to the operational charts in the next section to identify which documents they might want to use, depending on where they are in the project cycle.

Box 10: CSBP Guidance

Operational Guidance Charts. These link the typical project cycles of oil and gas or mining investments to the relevant elements of **Conflict-Sensitive Business Practice Guidance** and other recommended actions.

Screening Tool. A rapid assessment to identify key conflict issues early in the pre-investment phase. The Screening Tool provides an initial analysis of the country and its conflict dynamics, flags key issues of concern and identifies the level of risk, as well as potential 'showstoppers'.

Macro-level Conflict Risk and Impact Assessment tool (M-CRIA). An expert-led national and regional level context analysis. This further explores issues of concern raised in the screening and identifies potential interactions of the project with these issues.

Project-level Conflict Risk and Impact Assessment tool (P-CRIA). Building on the understanding of conflict generated thus far, P-CRIA takes analysis of the potential interactions between the project and its context to a deeper level. Including processes for participatory analysis and decision-making with stakeholders, this tool helps companies to build trusting relationships and design shared actions that prevent conflict and build peace.

Box 10 (continued)

Flashpoint Issue papers. This collection of papers outlines key issues that commonly arise at the company/conflict interface, describing likely impacts and good practice in each area. The list of issues is not exhaustive, but includes:[5]

1. Stakeholder Engagement
2. Resettlement
3. Compensation
4. Indigenous Peoples
5. Social Investment
6. Dealing with Armed Groups
7. Security Arrangements
8. Human Rights
9. Corruption and Transparency.

5. These issues emerged as priorities through International Alert's research process. Where appropriate, other conflict-sensitive guidance required might include: Investment Closure; Illegal Mining; Contractors; In-Migration; and Environment.

Resources

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Fund for Peace **Conflict Assessment System Tool**. www.fundforpeace.org/programmes/cpr/cpr.php

Gerson, A. (2001) 'Peacebuilding: the Private Sector's Role', **American Journal of International Law** 95, no.1

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Haufler, V. (2001) 'Is there a Role for Business in Conflict Management', in Crocker, C.A., Hampson, F.O. and Aall, P. (eds) **The Challenges of Managing International Conflict** (Washington D.C.: US Institute of Peace Press)

Institute for Multi-Track Diplomacy, **Business and Peacebuilding Initiative**. www.imtd.org/initiatives-businesspeacebuilding.htm

Jungk, M. (2001) **Deciding Whether to Do Business in States with Bad Governments** (Denmark: Confederation of Danish Industries, Danish Centre for Human Rights, Industrialisation Fund for Developing Countries)

Lederach, J.P. (1997) **Building Peace: Sustainable Reconciliation in Divided Societies** (Washington D.C.: US Institute of Peace)

Miall, H., O. Ramsbotham and T. Woodhouse (1999) **Contemporary Conflict Resolution** (Cambridge: Polity Press)

Mitchell, J. (ed) (1999) **Companies in a World of Conflict** (London and Washington D.C.: Royal Institute of International Affairs and Earthscan)

Nelson, J. (2000) **The Business of Peace: The Private Sector as a Partner in Conflict Prevention and Resolution** (London: International Alert, International Business Leaders Forum and Council on Economic Priorities)

Rupesinghe, K. (1998) **Civil Wars, Civil Peace: An Introduction to Conflict Resolution** (London: Pluto Books)

Sherman, J. (2001) **Private Sector Actors in Zones of Conflict: Research Challenges and Policy Responses** , IPA workshop report (New York: International Peace Academy)

Smith, D. et. al. (2004) **Towards a Strategic Framework for Peacebuilding: Getting their Act Together** (Oslo: Norwegian Ministry of Foreign Affairs)

SustainAbility (2004) **The Changing Landscape of Liability: A Director's Guide to Trends in Corporate Environmental, Social and Economic Liability** (London: SustainAbility)

UN Global Compact, **Dialogue on Companies in Zones of Conflict** www.unglobalcompact.org/portal/default.asp

Wenger, A. and D. Möckli (2003) **Conflict Prevention: The Untapped Potential of the Business Sector** (Boulder: Lynne Rienner)

Section 2

Operational Guidance Charts

Operational Guidance Charts

Purpose

The Operational Guidance Charts give a very brief overview of possible company/conflict issues that can arise at the different stages of oil, gas and mining projects at both macro and project levels, showing the relevant stage of the Conflict-Sensitive Business Practice (CSBP) Guidance. They are included as an operational guide and attempt neither to summarise all the issues that can arise, nor convey full detail of CSBP Guidance, which is explained further in this publication, including practical steps and indications of the kinds of management resources required.

The CSBP Guidance is intended to begin from the earliest stages of a potential investment. For companies seeking to adopt CSBP part-way into a project cycle, an analytical team should be appointed to conduct a preliminary review assessing the level of the company's understanding of existing or potential conflict risks, the state of relationships with stakeholders and the effectiveness of risk management strategies. The team should then fast-track the Screening Tool, the Macro-level Conflict Risk and Impact Assessment tool (M-CRIA) and the Project-level Conflict Risk and Impact Assessment tool (P-CRIA) in order to revise management strategies in light of the conflict-sensitive perspective.

CSBP is designed to accompany the entire lifecycle of an investment, including additional concession areas that go into development later. Its steps are presented as a linear process in order to give approximate indications as to where each element is intended to be used. It is important to note, however, that its method is iterative and ongoing, requiring that regular analysis of conflict-risk issues and impacts informs project design as it unfolds, and that this analysis is kept 'live' to accommodate both internal (new phases of development, staff changes, etc) and external (elections, increased violence, a change in government, etc) shifts to the operating environment.

A. Geological investigations/evaluating potential concessions to bid for or buy

Typical activities

Oil and gas
Interaction with government authorities/other oil companies and review of geology, legal and commercial frameworks.

Mining
Interaction with government authorities, review of geology, legal and commercial frameworks.

CSBP Guidance

Screening Tool
A rapid assessment to identify key conflict issues early in the pre-investment phase. The Screening Tool provides an initial analysis of the country and its conflict dynamics, flags key issues of concern and identifies the level of risk, as well as potential 'showstoppers'.

If a high conflict risk is identified, determine whether there is potential to operate in a way that it not likely to exacerbate conflict. 'Show-stoppers' relate to likely difficulties of operating within business principles on human rights, corruption and environment issues, or within international humanitarian and criminal law relating to war crimes and human rights abuses.

Involve environmental/social/conflict specialists into process of selecting and bidding for assets.

Review concession contracts and policies/procedures of government and potential partners including state-owned companies, and include conflict-risk mitigation clauses. Key issues are:

- Confidentiality clauses/public domain information/transparency of all payments and revenues
- Standards for environmental and social impact and/or conflict risk assessment and management standards relating to any involuntary resettlement
- Requirement for security arrangements to be consistent with the Voluntary Principles for Security and Human Rights and international law
- Provision for civil society involvement in monitoring environmental and social performance
- Ensuring that governments are required to provide finance for their share of projects from the outset.

A. Geological investigations/evaluating potential concessions to bid for or buy (continued)

Establish block or country-specific investment criteria and conflict-risk management strategies, defining conditions required for further investment, e.g:

- Development by government of a revenue management system
- Support from affected communities for the potential development.

Bringing home-country governments and international organisations into projects, via export credit financing in order to influence host governments can help achieve these criteria.

B. Pre-feasibility

Typical activities

Oil and gas
Exploration studies and surveys to plan exploration drilling within acquired concessions.

At this stage the company has paid any signature bonus associated with the contract, is developing a commercial strategy for the asset should exploration be successful, and also planning for exploration.

Mining
Various forms of exploration ranging from non-ground disturbing to major ground disturbing. Requires agreement of exploration permit with government.

CSBP Guidance

At this stage the company needs to deepen its understanding of conflict risk issues and likely impacts through a **Macro-level Conflict Risk and Impact Assessment (M-CRIA)**, an expert-led national and regional level context analysis of conflict issues and stakeholders.
This explores issues of concern raised by the Screening Tool and identifies potential interactions of the project. For example, extractive industry investment may bring with it a risk of 'Dutch Disease', further entrenchment of corrupt or repressive regimes and the possibility of violent political competition for control of the enriched state.

M-CRIA involves engaging with key stakeholders at the national level to deepen understanding, start building relationships and identify potential partners for future conflict-risk mitigation initiatives.

The **Project-level Conflict Risk and Impact Assessment (P-CRIA)** should also begin. Building on the understanding of conflict generated thus far, P-CRIA takes analysis of the potential interactions between the project and its context to a deeper level. Including processes for participatory analysis and decision-making with stakeholders, this tool helps companies to build trusting relationships and design shared actions that prevent conflict and build peace. Such an approach is necessary even during pre-feasibility since the company has unavoidably become part of any existing or potential conflict context from the moment the first geologist stepped into the locality. It will, however, be 'light' at this stage, addressing the impacts and conflict issues around exploration itself.

B. Pre-feasibility (continued)

As part of CSBP, companies should at this stage:

- Provide information in any areas where fieldwork is undertaken about the planned survey work, what it involves, when it will happen, the expected duration and processes for making 'next step' decisions
- Set up a conflict-risk management system as early as possible to address issues such as: temporary land acquisition; induced access management; cultural resources; use of natural resources; and consultation and communication
- Establish a 'promise register' to track all staff engagement with local communities: this accountability helps avoid future misunderstandings
- Set up codes of conduct between companies and contractors, or companies and state security forces, to ensure that exploration activities do not adversely impact people living or working in the area. Such arrangements should be shared locally and monitored regularly.

Consult Flashpoint Issue papers for further guidance on Stakeholder Engagement; Resettlement; Compensation; Indigenous Peoples; Social Investment; Dealing with Armed Groups; Security Arrangements; Human Rights; Corruption and Transparency.

C. Feasibility

Typical activities

Oil and gas
Exploratory and appraisal drilling.

This stage aims to assess and quantify if there are commercially viable reserves. For onshore concessions, exploration and appraisal drilling is the first stage at which there is an extensive local footprint. Where concessions are offshore, the on-shore footprint may still be much smaller and limited to logistics support activities only.

Mining
In-depth investigations to estimate the amount of exploitable ore, extraction costs and sales price.

In-depth risk assessment including: company's capacity to manage operation; social impact assessment and management plans; extended consultation; closure plans; feasibility report; and mine design.

CSBP Guidance

M-CRIA and P-CRIA continue through feasibility, with conflict-risk mitigation steps underway to address some of the issues surfaced, for instance through pressing for revenue transparency and management systems. The participatory analysis component to assist P-CRIA analysis and early impact identification should be underway and deepen in relevant areas.

Conflict issues at this stage could include:

- Land use: relocation, resettlement and compensation
- Environmental/natural resource impacts
- Demands on existing infrastructure
- Inadequate information/consultation
- Security arrangements
- Anxiety about distribution of benefits
- In-migration/behaviour of incomers
- Opportunities for extortion/theft financing violent groups
- Contested rights to exploration.

This is a key stage for making conflict-related 'no go' decisions, in light of the 'showstopper' issues raised initially in the Screening Tool, understanding of which will have deepened through M-CRIA and P-CRIA.

Conflict-risk mitigation strategies at both macro and project levels will influence core business project design at this stage, and include interventions through social investment and policy dialogue, in partnership with other stakeholders.

Consult Flashpoint Issue papers for further guidance on Stakeholder Engagement; Resettlement; Compensation; Indigenous Peoples; Social Investment; Dealing with Armed Groups; Security Arrangements; Human Rights; Corruption and Transparency.

D. Field development/construction

Typical activities

Oil and gas
This is the stage when the development of the field is planned in detail and then executed.

Includes deciding where temporary and permanent facilities will be located and the route of pipelines, hiring contractors to supply equipment and undertake construction.

Environmental and social impact assessments and associated studies on oil spill and emergency response planning, resettlement and compensation plans will be completed. Decisions about location and further development of impact mitigation and management plans are underway.

On-shore activities reach a peak of visible activity and include:

- Site preparation
- Well heads
- Separation/treatment facilities
- Power plant
- Increased oil storage
- Facilities to export product
- Flares
- Gas production plant
- Accommodation
- Infrastructure
- Export facilities (usually port)
- Drill rigs.

Mining
Construction of mining, processing and waste disposal features.

- Engineering of mine structure
- Construction of infrastructure and facilities, including power and water to the mine, and waste from it
- Processing facilities
- Construction camp.

CSBP Guidance

M-CRIA and P-CRIA continue through field development and construction, with P-CRIA moving into deeper phases of participatory analysis with primary, secondary and indirectly affected stakeholders.

Effective communications strategies, both internal (to ensure that all relevant areas of the business, including geologists, political risk and security managers, staff from external relations, procurement and human resources departments, and management are involved in CSBP); and external (to ensure accurate information about project timing, employment creation, size and timing of government revenues is shared, and stakeholder consultation processes are underway) must be in place at this stage.

Conflict issues can include:

- Behaviour of contractors and security staff
- Infrastructure demands and development
- Environmental impacts of development
- Employment
- In-migration
- Construction camps
- Resettlement
- Community compensation
- Cash injections to local economy.

CSBP analysis thus far will enable an initial conflict-risk mitigation strategy at both levels to be developed to address issues across business activities. This should be reflected in work plans and schedules, and could include:

- Agreements with contractors including security staff that incorporate conflict-risk mitigation components
- Preference for local employment/suppliers
- Establishing community relations communications infrastructure

- Capacity development for central and local government particularly with regard to revenue transparency
- Conflict-sensitive social investment projects that address conflict-risk issues and respond to genuine needs
- Development of outline exit strategy ensuring that community dependence is avoided.

Consult Flashpoint Issue papers for further guidance on Stakeholder Engagement; Resettlement; Compensation; Indigenous Peoples; Social Investment; Dealing with Armed Groups; Security Arrangements; Human Rights; Corruption and Transparency.

E. Operation/ production

Typical activities

Oil and gas
For both onshore and offshore projects this is the stage at which there is likely to be less visible activity than was the case during construction.

Typically government revenues will be low during initial years of production because exploration and development costs are being offset, but they will then start to rise.

In many cases, fields are developed in stages, or other exploration blocks are let nearby, so that alongside production in some areas there is exploration or development activity also being carried out.

Accompanying production, this is the stage where the greatest concentration of social investment activity typically occurs.

Mining
Mining and processing, open pit or underground; drilling; blasting, hauling; possibly smelting or refining; tailings disposal.

Accompanying mine operation, this is the stage where the greatest concentration of social investment activity typically occurs.

CSBP Guidance

Comprehensive conflict-risk management strategies at both macro and project levels addressing core conflict issues in partnership with others are well underway, with both M-CRIA and P-CRIA regularly updated to ensure this remains relevant and effective.

At the project level, avoid rewarding negative behaviour or violence and maintain open lines of communication with affected stakeholders at all times.

The M-CRIA and P-CRIA analyses and mitigation design, and CSBP Guidance in particular on social investment, will ensure that companies not only seek to 'do no harm' through their activities but are actively seeking opportunities to contribute to peace through all areas of their operations.

Consult Flashpoint Issue papers for further guidance on Stakeholder Engagement; Resettlement; Compensation; Indigenous Peoples; Social Investment; Dealing with Armed Groups; Security Arrangements; Human Rights; Corruption and Transparency.

F. Closure/decommissioning and rehabilitation

Typical activities

Oil and gas
Decommissioning and rehabilitation can occur after each of the above steps if wells prove unviable, or other risks are realised:

- Plug wells
- Demolish and remove installations
- Restore site.

Mining
Closure and rehabilitation:

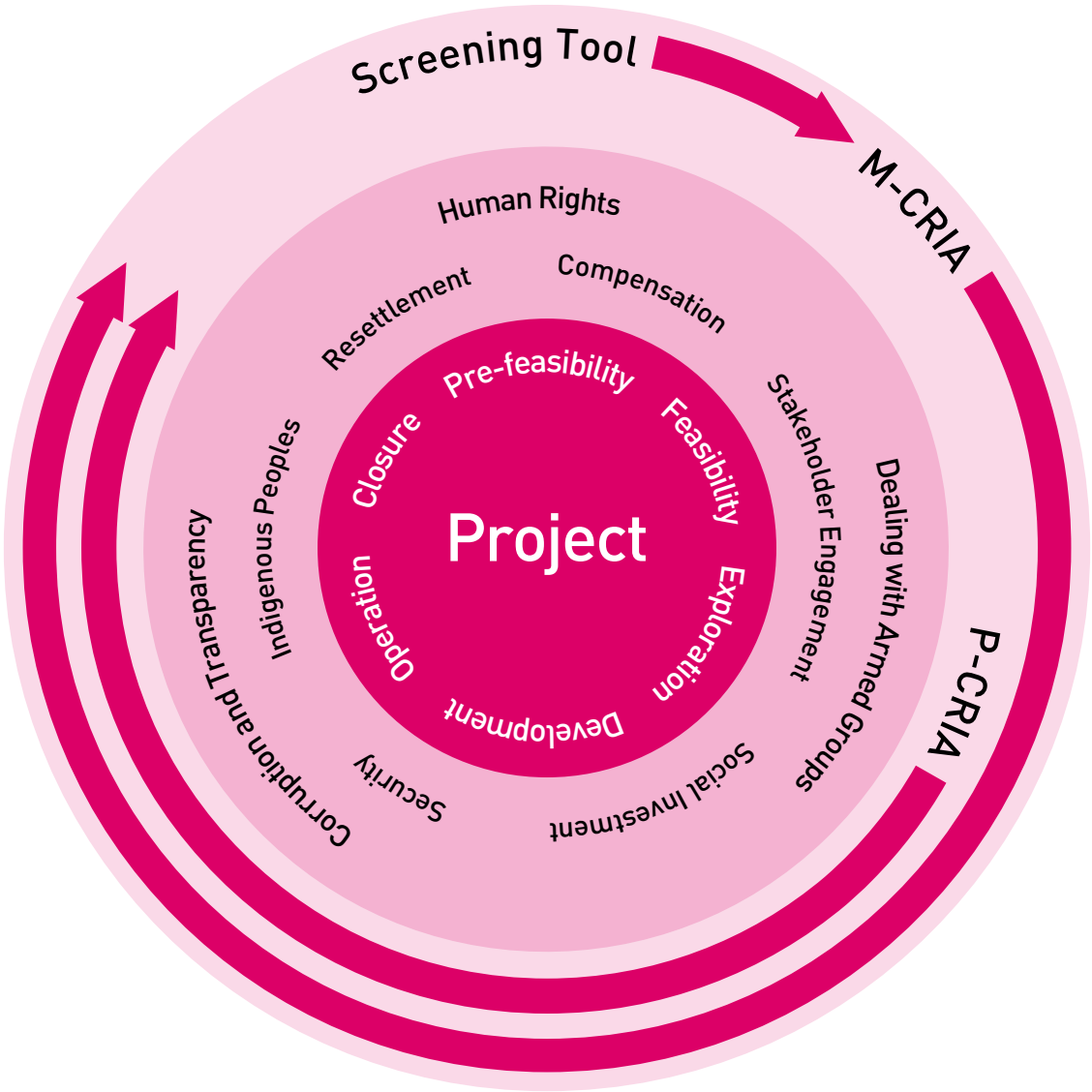
- Mine decommissioning
- Dismantling of buildings and infrastructure.

CSBP Guidance

If the country's economy has, in the absence of coordinated efforts to promote diversification, depended on extractive industry production, closure is likely to pose threats to the central budget and, potentially, stability. Conflict can also arise from community anxiety and frustration with both company and government; and, within communities, as a result of demographic changes and power shifts caused by the investment.

When the long-term production profile is clear and timing of closure and decommissioning can be forecast, start internal and external consultation on managing the social impacts of closure. Closure plans should be developed well in advance, and follow the principles of P-CRIA, with full participation of all affected stakeholders and in line with international best practice.

Figure 1: Illustration of CSBP Guidance



Section 3

Screening Tool

Screening Tool

Purpose
The Screening Tool is the departure point for the Conflict-Sensitive Business Practice (CSBP) Guidance, and is particularly useful for new or 'greenfield' projects. It helps a company confirm whether the country is at risk of conflict. It then offers a framework for an initial assessment of the type and level of conflict risk, which in turn alerts the company to the level of urgency required for mainstreaming a conflict-sensitive approach. In worst-case scenarios, this includes raising potential 'showstopper' issues that may require a decision not to proceed with the investment at all. In less extreme cases, when investment proceeds, the initial assessment made through the screening should be deepened using the Macro-level Conflict Risk and Impact Assessment tool (M-CRIA) and the Project-level Conflict Risk and Impact Assessment tool (P-CRIA) during subsequent stages of the project cycle.

Method
The screening consists of desk-based research by staff responsible for country risk at headquarters level and involves consultation of a variety of online sources to answer a list of questions, presented below.

Project investment stage
The screening is done at the desk-based evaluation stage of potential concessions prior to bidding for assets. While screenings are most relevant to greenfield sites, elements of the tool are important for understanding how a project will relate to its operating context at any stage of the project cycle.

CSBP synergies
This is the first stage of implementing CSBP in a greenfield project but managers should also read the CSBP Introduction.

Non-CSBP synergies
The Screening Tool complements regular screening processes.

Timeframe
Two weeks.

Resources
Limited to existing staff time.

Output
1. Completed table flagging key conflict issues and level of risk, including awareness of potential legal risks under international humanitarian law and international criminal law.

Introduction

The outbreak of violent conflict cannot be predicted in a scientific manner, but there are different conditions that are associated with it, including high levels of corruption and widespread human rights abuses (so-called 'correlates').[1] This does not mean that conflict is inevitable wherever such correlates are present. Equally, a conflict may break out where some or most of these correlates do not exist. However, a good overview of a country's conflict correlates (and hence its 'conflict context') will provide a sense of the overall level of conflict risk, and help managers to plan ahead.

With the Screening Tool, information is organised under four categories, capturing four major spheres relevant to the analysis of conflict in any society: governance, economic, socio-cultural and security. This enables the detection of a range of potential issues (such as those outlined as examples in box 1) in any given context.

Box 1: Social spheres

1. This tool builds on a wide literature on statistical correlates of war, derived from analysis of civil wars that took place between 1945 and 2001. Most civil wars over the past 50 years have featured characteristics outlined in the Screening Tool. To find out more about how different issues may relate to conflict, see Correlates of War Project website, www.umich.edu/~cowproj/

Based on this information, the Screening Tool helps identify whether a country should indeed be considered at risk from conflict, and what degree of priority should be given to mainstreaming a conflict-sensitive approach by working through the subsequent elements of this guidance.

Given the complex nature of conflict, the screening cannot be used as a definitive guide, but serves rather to highlight risk conditions. It is conducted in parallel to other screening profiles – adding the additional conflict lens required by CSBP – and should be seen as the first step towards more thorough research and conflict analysis.

The questions asked in the matrices below require choice of a basic red, amber or green scoring – with red indicating a high risk, amber a moderate risk and green a negligible risk – although it is recommended that further detail about each question be noted by the staff member conducting the screening in order to produce a more nuanced report on the research findings. A majority 'green' score indicates that the country probably does not need to be considered at risk; a majority 'red' conversely indicates that the level of conflict risk is high and therefore that CSBP approaches should be mainstreamed across business activities right from the start.

It is, however, important in using the Screening Tool not to take too schematic an approach, and to keep 'common sense' to the fore. There are certain indicators and information that will of course qualify the crude traffic light scoring. The questions relating to 'security', for instance, are the most critical in indicating the level of conflict risk, and a high score in this section should raise serious questions as to whether the investment is wise, particularly on questions relating to existing conflict. Sources such as the International Crisis Group list of countries currently in crisis (www.crisisgroup.org) should be consulted as part of the screening so that any existing or recent conflict is clearly noted. Additional considerations relating to international humanitarian law, international criminal law and companies' own policies and standards should also be considered at this stage, as described in box 2 on potential 'showstoppers', not least because they could indicate that proceeding with a particular investment in a particular context may incur unavoidable and serious conflict impacts and legal risk.

The Screening Tool matrices are shown overleaf, with 'sample findings' for a fictional country context.

A. Governance

Question	Rationale	Source	Sample findings
Does the country rank highly on the Corruption Perceptions Index?	Government corruption is highly correlated with violent conflict. It relates to government efficiency and responsiveness to citizens' concerns.	Transparency International www.transparency.org/surveys/index.html	Red
Does the country rank highly on the Human Poverty Index?	Poverty is not correlated with the potential for intra-state violence, but can be a proxy for weak government (strongly correlated).	UNDP Human Development Reports www.undp.org/hdr2003/faq.html	Amber
Does the country face problems with the effectiveness and independence of its judiciary?	From a conflict perspective, dispute resolution is one of governments' most important functions.	Transparency International www.transparency.org/	Amber
Has the government been accused of major human rights abuses within the past 12 months?	Civil war is frequently preceded by serious governmental human rights abuses.	Amnesty International web.amnesty.org/library/engworld	Red
Do historic human rights grievances exist against the state?	A history of abuses can leave a legacy that feeds into conflict.	Amnesty International web.amnesty.org/library/engworld	Red
Has there been political instability within the past three years?	Political instability is highly correlated with incidences of civil war.	Heidelberg Institute on International Conflict Research www.hiik.de/en/index_e.htm	Red
If the country is a 'democracy', have there been problems in the last five years associated with the credibility of election results?	Democracy is an indicator of the potential for peace only in developed countries, and development decreases the risk of violence only in democracies. As an indicator, levels of democracy must be considered alongside levels of development (see economic section below).	Freedom House www.freedomhouse.org/research/survey2004.htm International Institute for Democracy and International Assistance www.idea.int/	Red

Question	Rationale	Source	Sample findings
Does the country prevent freedom of expression?	Limits on the right to free speech can fuel grievances and lead to instability.	IFEX www.ifex.org Reporters sans Frontières www.rsf.org Article 19 www.article19.org	Amber
Has violence been associated with election or political party activities in the last five years?	A clear indicator of instability.	Freedom House www.freedomhouse.org/research/survey2004.htm International IDEA Election project www.epicproject.org/	Red
Is the country in transition between autocracy and democracy? Is the political dynamic stabilising, or not?	Countries in transition between autocracy and democracy are particularly vulnerable to conflict.	Freedom House www.freedomhouse.org/research/survey2004.htm www.freedomhouse.org/research/crossroads/cac.htm International IDEA Election project www.epicproject.org/	Green
Is the country autocratic? (Questions for consideration: Who is seen to hold national power? Who actually holds power? How is this power expressed at the regional level? How long has the current regime been in power? How do interest groups express dissent? How are rules and regulations communicated? How open is the regime to international influence?)	Regime change, political instability and the inability of the state to repress violent outbreaks are stronger correlates to conflict than autocracies that can suppress dissent. However, most autocracies lead to change eventually and should be considered 'weak' in their ability to meet the needs of their people.	Freedom House www.freedomhouse.org/research/survey2004.htm www.freedomhouse.org/research/crossroads/cac.htm International IDEA Election project www.epicproject.org/	Green

B. Economic

Correlate	Rationale	Source	Sample findings
Has there been a recent economic crisis or decline?	A significant decline in an identifiable group's economic status is strongly correlated with the outbreak of violent conflict.	UNDP Human Development Reports hdr.undp.org/statistics/data/ Economist Intelligent Unit www.economist.com/countries/	Red
Is the economy dependent on natural resource exports?	Economies dependent on a narrow range of natural resources have a higher propensity to civil war.	World Bank Conflict Prevention and Reconstruction Unit lnweb18.worldbank.org/ESSD/sdvext.nsf/67ByDocName/ConflictPreventionandReconstruction	Red
Are there signs of other economic actors engaging in conflict activities?	Economic drivers of conflict can contribute to its longevity and have particular implications for investors.	World Bank econ.worldbank.org/prr/CivilWarPRR/	Red
Is one identifiable group (ethnic, linguistic, cultural, geographic) at a serious economic disadvantage (as measured by the percentage of a group's population below the income poverty line of US$1 a day)?	Gini coefficients (which measure the degree of inequality in the distribution of income in a given society) are not helpful here as they measure vertical (i.e. overall) inequality. Only horizontal inequality (i.e. inequality amongst identifiable social groups) is correlated with intra-state violence.	UNDP Human Development Reports hdr.undp.org/statistics/data/	Red
Does the national long-term unemployment rate (as a percentage of the labour force) vary significantly by region?	A high level of unemployment in an identifiable social group is an indicator of horizontal inequality.	CIA Factbook www.cia.gov/cia/publications/factbook/docs/profileguide.html	Red

Correlate	Rationale	Source	Sample findings
Is there a large proportion of unemployed males from 15-24 years old?	High unemployment, particularly among young males, is generally an indication of economic instability.	Intractable Conflict Knowledge Base Project, University of Colorado www.beyondintractability.org/m/violence_prevention.jsp	Red
Are resources distributed in such a way that excludes regional areas or social groups?	Unequal distribution of resource revenues is an indication of horizontal inequality.	Intractable Conflict Knowledge Base Project, University of Colorado www.beyondintractability.org/m/distribution_issues.jsp	Red

C. Socio-cultural

Correlate	Rationale	Source	Sample findings
Does the country have a large population?	Countries with large populations are correlated with an increased risk of violence. There also appears to be a correlation with population density, although this is less clear.	CIA Factbook www.cia.gov/cia/publications/factbook/docs/profileguide.html	Amber
Does the country have a significant urban/rural divide?	Urban/rural divisions often point to inequitable concentrations of wealth.	UNDP Human Development Reports hdr.undp.org/statistics/data/	Red
Does the country have different ethno-nationalist groups spread unevenly in different regions?	While ethnic diversity is not in itself correlated with conflict, when population distribution is significantly skewed on a regional basis this can correlate.	www.worldbank.org/data/countrydata/countrydata.html	Red

C. Socio-cultural (continued)

Correlate	Rationale	Source	Sample findings
Is the population growth rate high?	Rapid population growth and demographic change impose social tensions on a population that often express themselves violently.	UNDP Human Development Reports hdr.undp.org/statistics/data/	Amber
Is there a clear class or caste system of discrimination in operation?	Environments with one identifiable group highly disadvantaged (e.g. Dalits in South Asia) or advantaged (e.g. Chinese in Malaysia) over another identifiable group are strongly correlated with violent conflict.	International Crisis Group www.crisisgroup.org	Amber
Does one social group enjoy better access to education than other groups?	Access to education is an indicator both for possible social exclusion, as well as government strength.	International Crisis Group www.crisisgroup.org	Amber
Have large populations relocated to or within the country or region due to violence?	While initially a symptom of conflict, large population relocations within and across countries can cause conflicts over distribution of resources.	UNHCR www.unhcr.ch/cgi-bin/texis/vtx/statistics hdr.undp.org/statistics/data/index_alpha_indicators.cfm	Red
Is infrastructure outside the major urban centres weak?	The ability of insurgents to hide from government forces, which weak infrastructure implies, is strongly correlated with violence.	Human Development Reports hdr.undp.org/statistics/data/ www.worldbank.org/data/countrydata/countrydata.html hdr.undp.org/statistics/data/index_alpha_indicators.cfm	Red

D. Security

Question	Rationale	Source	Sample findings
Is annual government military expenditure high as a percentage of GDP?	Governments focused on military solutions to state problems prioritise military expenditure.	SIPRI web.sipri.org/contents/milap/milex/mex_data_index.html	Amber
Does the government have difficulty controlling state security forces, including military, police, intelligence and militia groups?	Security forces controlled by public institutions of government are thought to be more controllable than armies controlled by individuals.	SIPRI Yearbook editors.sipri.se/pubs/yearb.html International Crisis Group www.crisisweb.org/home/index.cfm	Green
Has the size of the state army increased over the last five years?	Large armed forces reflect state priorities and have implications for disarmament and the reintegration of troops.	SIPRI Yearbook editors.sipri.se/pubs/yearb.html The Military Balance www.tandf.co.uk/journals/titles/04597222.asp	Red
Are state armed forces underpaid?	Underpayment of armies can lead to poor discipline and fragmentation into armed splinter groups.	SIPRI Yearbook editors.sipri.se/pubs/yearb.html The Military Balance www.tandf.co.uk/journals/titles/04597222.asp	Amber
Are any state opposition groups armed?	A clear indicator of potential or existing conflict.	SIPRI Yearbook editors.sipri.se/pubs/yearb.html The Military Balance www.tandf.co.uk/journals/titles/04597222.asp	Red

D. Security (continued)

Question	Rationale	Source	Sample findings
Are any of the following known to take place in the country: • Use of forced labour/enslavement • Pillage and plunder • Deployment of child soldiers • Use of land mines?	These crimes are prohibited under international humanitarian and criminal law, and companies run the risk of being accused of complicity if operating in proximity, or in partnership, with governments engaged in such practices. See box 2.	Fafo AIS www.fafo.no/liabilities/	Red
Does the state face problems controlling the private use of small arms and/or the activities of private security companies?	The proliferation of small arms and light weapons supports conditions for violent conflict.	NISAT www.nisat.org/default.asp?page=database_info/search.asp IANSA www.iansa.org/documents/index.htm	Red
Is there currently violence in the country?	This points to a high level of conflict-risk.	The International Crisis Group (www.crisisgroup.org) and the Heidelberg Institute on International Conflict Research, www.hiik.de/en/index_e.htm identify countries and areas of countries that are currently experiencing high levels of violence. ICG also has a monthly Crisiswatch bulletin, giving an overview of current 'hotspots'. www.crisisgroup.org/home/index.cfm?id=1200&l=1	Red

Question	Rationale	Source	Sample findings
Is there a history of violent conflict in the country?	Countries with a history of violent conflict are more likely to experience future violence than countries with a peaceful past.	International Institute for Strategic Studies, armed conflict database. www.iiss.org	Red
Has any previous violent conflict had a regional dimension?	Regional violence has important national implications.	International Crisis Group's Conflict Histories' Database www.icg.org/home/index.cfm?id=2937&l=1#C2	Red
Are there incidences of group violence in a neighbouring country?	Known as the 'bad-neighbour effect', countries that border conflict-affected areas suffer more from violence than countries with peaceful neighbours.	Heidelberg Institute on International Conflict Research: www.hiik.de/en/index_e.htm	Green

Box 2: Potential investment 'showstoppers' – complicity in human rights abuses

In some states, probable conflict risks of investment at the local, regional or national level can be so high that from the conflict-sensitive perspective it is unwise for a company to proceed. A majority 'red' score in the Screening Tool analysis points to a high possibility that such circumstances exist.

One way of assessing this is to examine existing internal principles and standards in the light of the findings of the Screening Tool. These include company policies on human rights, corruption, business ethics and environmental issues. It should be possible to anticipate the extent to which it will be possible to adhere to these given the risk factors that the assessment has identified.

Another way of assessing whether a situation crosses a threshold where impact can be benevolent is through consulting international humanitarian law and international criminal law in order to understand the types of abuses that are prohibited, and where corporate 'complicity' in them will open a company to potential legal action. They are included in the Screening Tool under the security section, but require special attention.

A number of national jurisdictions permit the criminal or civil prosecutions of business entities on certain grave breaches of international law. In the past, individual officers and managers of business entities have been held accountable in civil and criminal courts for violations of international criminal law, including genocide, crimes against humanity and war crimes. Such cases have most recently stood in US courts under the Alien Tort Claims Act and often relate to subsidiaries or joint venture partners. The doctrine of complicity has developed to address the way in which companies are unlikely to be the direct perpetrators of crimes, but rather accomplices to (or 'aiding and abetting') the violence through their relationship with state or non-state armed groups.

The most frequent violations of international humanitarian and criminal law in which companies can be found complicit are:

- Use of forced labour/enslavement
- Pillage and plunder
- Deployment of child soldiers
- Use of land mines.

A company can be directly implicated by its proximity to such abuses, or indirectly through the payment of revenue to governments engaged in them. While the number of cases found against companies on such charges is few, there is evidence that policy norms are hardening toward stricter rules. In the meantime, civil society organisations are quick to highlight situations of companies' proximity to such practices, impacting on reputation and share price. CSBP requires that companies be aware of their relationship to such activities and take all possible steps to avoid fueling them, including taking 'no-go' decisions where necessary.

For further information on these legal issues see **Business and International Crimes: Assessing the Liability of Business Entities for Grave Violations of International Law** (2004) (Oslo: International Peace Academy and Fafo AIS).

Section 3

Macro-level Conflict Risk and Impact Assessment tool (M-CRIA)

Macro-level Conflict Risk and Impact Assessment tool (M-CRIA)[1]

Purpose

Experience indicates that traditional political and financial risk assessment and management processes are inadequate in analysing and assessing the full range of issues that might cause, trigger or exacerbate violent conflict. They are limited to looking at the impact of certain external factors on the investment. Less attention is paid to how the investment might impact on the wider conflict context. The M-CRIA tool addresses this gap.

M-CRIA provides companies with a detailed understanding of the conflict situation in a given country in order that they can:

- Make informed decisions on investment
- Understand the existing or potential causes and drivers of conflict
- Understand the roles, interests and capacities of major conflict stakeholders
- Develop transparent relationships with a broad cross-section of society
- Make a preliminary assessment from the macro perspective of their impact on conflict dynamics (and vice versa)
- Make a preliminary assessment from the macro perspective of possible conflict prevention or peace-promoting priorities
- Develop institutional capacity on conflict-sensitive business practice (CSBP).

Method

M-CRIA builds on the preliminary findings of the Screening Tool and uses a combination of desk research, targeted consultations and internal company brainstorming. It develops a thorough context analysis focusing on the macro level. The information gathered during the process is discussed inter-departmentally to identify company/conflict impacts and begin the design of mitigating actions. The material should be regularly updated.

Project investment stage

For greenfield sites, M-CRIA should be undertaken at the pre-feasibility and exploratory stages. For existing projects, it should be carried out as soon as possible following the CSBP screening.

CSBP pre-requisites

M-CRIA follows on from and builds on the Screening Tool. It focuses on the national level (including the relevant regional and international factors) and informs the more localised Project-level Conflict Risk and Impact Assessment (P-CRIA).

Non-CSBP synergies

M-CRIA complements existing company political and financial risk management processes and should initially be undertaken simultaneously.

Timeframe

M-CRIA should take approximately three months, although it is designed to be updated regularly throughout the project cycle.

1. A full list of useful documents is attached (see Resources), but this document has drawn in particular on three publications: Nelson, J. (2000) **The Business of Peace: The Private Sector as a Partner in Conflict Prevention and Resolution** (London: International Alert, International Business Leaders Forum and Council on Economic Priorities); International Alert, Africa Peace Forum, Cecore, CHA, Fewer, Saferworld (2004) **Conflict-Sensitive Approaches to Development, Humanitarian Assistance and Peacebuilding: A Resource Pack**. www.international-alert.org/publications.htm; and UN Global Compact (2002) **Business Guide to Conflict Impact Assessment and Risk Management**. www.unglobalcompact.org

Resources

M-CRIA requires only limited financial resources. The main requirement is a small team with the right mix of skills, including conflict analysis expertise, knowledge of and sensitivity to the local context and history, fluency in local language(s), and facilitation and interviewing skills. Ultimately, the quality of the analysis depends on the skills and expertise of those who undertake it. Although it is likely that such a team will include external consultants, it is important that company staff are involved in the process. This ensures that the company benefits fully from the understanding and knowledge acquired during M-CRIA.

Outputs

20 – 30 page conflict analysis, including:

- Conflict profile
- Issues analysis
- Stakeholder analysis
- Summary of interacting issues
- Assessment of two-way project/context and context/project impacts
- Initial mitigation measures
- Series of tables providing senior management and other interested company stakeholders with an accessible summary of the analysis.

1. Introduction

Conflict analysis is the systematic study of the profile, issues and stakeholders that shape an existing or potential conflict, as well as factors in the interaction between the three. It helps companies gain a better understanding of the environment in which they operate and their role in that context. Conflict analysis is therefore a central component of CSBP.

Most companies have long-standing practices for carrying out political risk analysis at the country and project levels. In many cases, however, these are *ad hoc*, 'top-down' procedures that tend to rely heavily on externally commissioned work and desk-based research. They do not make full use of more sophisticated conflict-analysis tools developed by other sectors, such as the development and humanitarian aid sectors. Most focus on limited political and financial issues and are informed by a narrow range of high-level, political and international contacts.[2]

While such analyses are adequate in some countries, they are less likely to suffice in others where there may be significant tensions at the national and/or project level, and where political and legal systems do not provide transparent and inclusive mechanisms for addressing grievances. In such cases, the company often becomes the focus of those grievances and may find itself held locally responsible for addressing them.

It therefore becomes a priority for companies planning to invest in conflict-risk countries to establish a thorough understanding of the national and regional context as a basis for anticipating and mitigating their exposure to risk, and identifying their potential contribution to the political, security, social and economic development of the country and region in question. Without such an understanding, even the best-intentioned companies may find themselves inadvertently heightening tensions or triggering conflict, to the detriment of their own investments.

2. Approach

The process for undertaking the M-CRIA tool can be summarised in seven steps:

Step 1

Building on the findings of the Screening Tool, use secondary sources (see Resources below) to develop a more detailed understanding of the history and background of any existing or potential conflict, as well as the broader social, political, security and economic context, the key actors/stakeholders, and how these elements relate to one other. This provides a basis for the consultations in Step 2.

Step 2

Conduct one-on-one consultations with approximately 20-30 national and regional representatives (e.g. politicians, NGOs, media actors, religious leaders, academics, business owners, international community officials), identified through Step 1. They are valuable sources of information, helping to identify further issues and stakeholders relevant to the project.

Step 3

Categorise key issues and concerns under the headings used in the Screening Tool: political/governance; economy; socio-cultural; and security, adding a regional/international strand. Write the findings up into a detailed, draft conflict analysis report.

2. Nelson, op. cit. Also see Goldwyn, R. and J. Switzer (2004) 'Assessments, Communities and Peace – A Critique of Extractive Sector Assessment Tools from a Conflict Sensitive Perspective' in **Oil, Gas and Energy Law Intelligence** (OGEL), vol.2 issue 4. www.gasandoil.com/ogel/

Step 4
Discuss the report internally with relevant departments, agreeing on the critical (potential) conflict issues. This can then lead into a discussion which focuses on those issues on which the project is likely to have the greatest impacts (positive and negative). The information collected thus far should then be summarised into a matrix format.

Step 5
Develop an initial mitigation strategy in the form of proposed actions to address impacts identified.

Step 6
Add the findings of this internal impact and mitigation discussion into the report. Synthesise the report into tables.

Step 7
To the extent possible, given constraints of confidentiality or other restrictions, discuss the findings with a mixed group drawn from those consulted in Step 2, as well as internal company stakeholders, in order to assign responsibility for different areas. Then proceed to implementation, ensuring that the M-CRIA team regularly reviews the analysis itself, and progress with the mitigation plan.

Box 1: Ensuring analysis is 'conflict-sensitive'

In undertaking M-CRIA, care must be taken that the process of gathering information on what are likely to be sensitive issues does not in itself cause tension. The best way of avoiding this is to ensure that a skilled and experienced team leads the process.

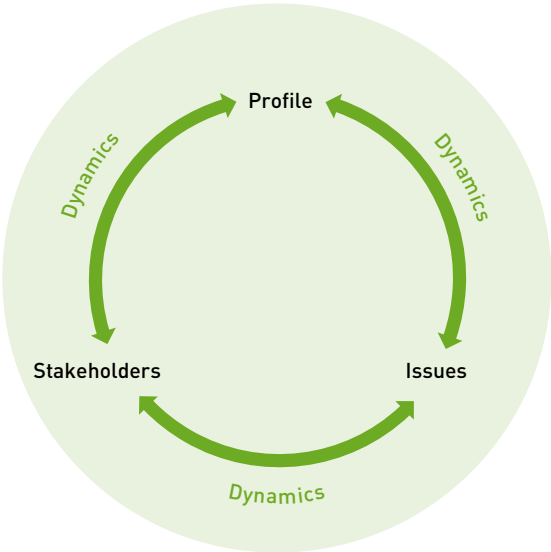
In many situations, the use of the term 'conflict' may itself be controversial. This is particularly true in cases where conflict is potential rather than actual, or in repressive regimes where the conflict is officially characterised as something else (e.g. 'disturbance', 'dispute', etc). Government representatives and indeed other stakeholders may well take offence at the idea of a 'conflict' analysis. In such instances, 'context' analysis may be a more appropriate term and indeed can be used interchangeably with 'conflict'.

The information that needs to be collected through the desk research and consultations during Steps 1-3 is broken down into three interconnected parts, as illustrated in figure 1:

- Profile of the context and any existing or potential conflicts
- Key issues underpinning existing or potential conflict
- Mapping of relevant stakeholders.

Although the framework suggests differentiating the issues and stakeholders, it is critical to consider the interactions and dynamics both among and between them. For example, how do the country's history and culture affect societal attitudes towards democracy and human rights? How do different stakeholders relate to one other?

Figure 1: Framework for analysis[3]



2.1 Profile

Box 2: Features of the macro-level profile

The categorisation used below is designed to ensure that all major contextual elements are covered in a broad 1-2 page overview.

1. Key facts
Physical geography, population size and make-up, climate, political system, military size and structure, macro-economic indicators, social indicators (poverty, literacy, health, etc), religion(s), language(s).

2. History
Political evolution, occupation/colonisation, past conflicts, mass migration, relations with neighbouring states.

3. Political/social profile
Government structures (national and local), elections, reform processes, human rights record, status of media/judiciary/civil society, exclusion of minorities, status of women, importance of religion.

4. Economic profile
Major industries, employment, rural/urban, natural resources, business associations, foreign investment, debt, trading partners, regional/international bodies.

5. Conflict
Conflict/stage, geographical locations, critical events, peace processes, role of international community, role of neighbouring states, primary actors and stated agendas, number of deaths, infrastructure damage, refugees/internally displaced people.

3. Figures 1, 2 and 3 are adapted versions of diagrams for conflict analysis in International Alert, Africa Peace Forum, Cecore, CHA, Fewer, Saferworld (2004) **Conflict-Sensitive Approaches to Development, Humanitarian Assistance and Peacebuilding: A Resource Pack**. www.international-alert.org/publications.htm

A context profile is designed to provide a background narrative to the more detailed analysis of current or potential conflict issues and stakeholders, and serves as the introductory section to the final report. It gives a brief characterisation or overview of the context, and enables a preliminary identification of key stakeholder groups as a basis for subsequent consultations. It is important to recall that conflict and potential conflict issues often arise in seemingly unlikely places so, in putting together the profile, it is important to look beyond macro-level political conflicts (e.g. state vs. insurgents) to find the issues within society that contribute to violence. In many countries there may be more than one violent conflict. The causes and stakeholders involved in these conflicts will be linked to varying degrees.

Box 2 suggests an outline for the context profile. The list is not exhaustive and should be adapted according to the specific context. Information gathered with the Screening Tool will help identify relevant issues. The profile has an additional value as a context overview which can serve both as a basis for developing greater institutional knowledge and as a country introduction for all staff. Having completed the initial profile, the M-CRIA team should move on to examine issues and stakeholders in greater depth through desk research and consultation.

2.2 Issues

The issues analysis is designed to identify the most important factors underpinning an existing conflict, or threatening to lead to conflict if not properly addressed. The resulting analysis is not a comprehensive study of the society but rather a mechanism for pinpointing those issues which are causing or threatening instability. These may be relatively obvious, like the presence of an armed separatist group in one region of the country, but the analysis should also include more subtle threats, such as the impending removal of US and EU textile quotas in an economy dependent on textile exports. At this stage, the analysis treats the operating environment as distinct from the anticipated project itself. Potential risks associated with the interaction between the operating environment and the planned project will be identified later.

Box 3: Conflict not company

A key failing of most existing corporate political/financial risk assessments is the sole focus on viewing conflict through the lens of the company. The question asked tends to be 'what might the impact of conflict be on the project?' not 'what is the conflict?'. M-CRIA takes the context of any existing or potential conflict as its starting point, thereby ensuring that the full range of two-way impacts can be understood, anticipated and addressed.

In undertaking the issues analysis, it is important to bear in mind that there is never one single cause of conflict, but a number of inter-related factors which need to be prioritised in terms of their importance. These can be understood as:

• **Structural or root causes.** Pervasive factors that are built into the policies, structures and fabric of a society. Examples could include groups excluded from political participation, economic or social opportunities; systemic corruption; or inequitable distribution of natural resources. Structural causes of conflict are inevitably the most complex and long-term, and pose a constant threat.

• **Proximate causes.** Factors that are symptomatic of the root causes and may heighten the risk of violent conflict, or exacerbate and perpetuate existing conflict. Examples could include the availability of light weapons (suggesting weak or corrupt security structures), widespread human rights abuses (suggesting poor governance or repressive regime) or the objectives of political actors. Proximate causes can also be valuable in providing the basis for conflict indicators that can be monitored over time.

• **Triggers and escalating factors.** Single acts, events or their anticipation that may escalate violent conflict. Examples include elections, political assassinations or other behaviour of political actors, actions of foreign investing companies, sudden collapse of currency, increased food scarcity or natural disasters. A series of triggers and escalating factors over time may indicate a structural cause.

The causes and dynamics of conflict can evolve over time. In protracted conflicts, the original root causes may diminish in importance as a result of changes wrought by the war itself, generational shifts or developments in the geo-political environment. This emphasises the central importance of monitoring and updating the conflict analysis throughout the project lifecycle, thereby ensuring that understanding of the two-way project impacts and resulting mitigation measures remain up to date and relevant.

Issues identified in the Screening Tool and through the profile analysis, as well as other issues that may arise, need now to be explored in sufficient depth to provide an understanding of each issue's complexity. For example, 'corruption' may have been identified during the CSBP screening as an issue for the country in question. The task now is to understand the full complexity of corruption in that country. In which departments or ministries are people engaged in corrupt activities located? What explains their presence in particular departments? Did they 'purchase' their positions? Who from? What specifically about their behaviour leads them to be labelled as corrupt? What explains this behaviour (e.g. low wages compared to the funds for which they are responsible, debts owed for the purchase of position, pressure for kickbacks from others within government or outside?) Are individuals or organisations working within or outside government to reduce corruption? How effective are they? What opportunities exist to support their work?

The skill-set of the M-CRIA team is critical to ensuring that a full grasp of the issues and conflict dynamic is achieved through the assessment. This type of issue exploration is also likely to identify new issues and stakeholders for consideration.

The analysis uses the same four spheres of the Screening Tool – political/governance; economics; socio-cultural; security; plus a regional/international dimension – as a way of categorising the key tensions which have led, or might lead to violent conflict, while recognising at all times the linkages between the different spheres. Box 4 gives some insights into the kind of issues that might arise under the various spheres, and the kind of detail into which M-CRIA should go.

As issues are identified, there will be overlap between the different spheres, and between the issues and stakeholders involved. These overlaps are an important part of the analysis process. Issues do not exist in isolation, so an understanding of their inter-relations is critical to gaining a robust analysis.

Box 4: Sample questions to guide M-CRIA conflict issues analysis

For each section, list and analyse all the pertinent issues, being sure to collect possible 'trigger or escalating factors', as well as issues that are positive indicators, where appropriate. For the regional/international section, also use the political, economic, socio-cultural and security headings, but viewed from the regional/international perspective. The questions shown below are indicative only and are not comprehensive or exhaustive. Sensitivity must be applied in the gathering of the information.

Political/governance. If the country is governed by a multi-party democracy, how strong is the system? Are the political parties themselves democratic? Are there functioning regulatory and legal frameworks? What role does the international community play in the governance of the country? Does the government provide basic services (health, education, infrastructure)? Is corruption an issue? Is there an independent judiciary? How does political participation work (or not) in the country? What is the human rights situation?

Economic. Can the country be considered developed, developing or is it underdeveloped? Are some regions or social groups substantially more or less well developed than others? What is the distribution of wealth? Is there competition between social groups over use and ownership of land? Is the economy relatively diversified, or heavily reliant on one or two primary commodities? Is there a hereditary labour situation (e.g. caste system)? Do some social groups enjoy better access to employment than others as a result of their educational background or linguistic abilities? What are the migration patterns?

Socio-cultural. Are there identifiable disparities between different ethnic groups? Is political ideology associated with any particular ethnic groups? Are women systematically excluded from political decision-making or economic power? Do large groups of unemployed young men present a social challenge for the country? Are people discriminated against because of their religious beliefs? Does the state officially subscribe to a particular religion? Are people forced to change their traditional religious practices as a result of state policy or social pressure? What role does the media play?

Security. Are there problems with violent crime, banditry or kidnapping? Do the perpetrators of these crimes operate with impunity? Are particular social groups particularly involved (either as perpetrators or victims)? Does the state ensure physical security equitably? Are small arms and light weapons readily available? Has there been a violent conflict within the past 10 years? Have the armed forces that were involved in the conflict found alternative employment? Is society militarised?

Regional/international. Do the political interests of the country conflict with those of major international powers? Does the country have a colonial history? What is its current relationship with the former colonial power? What economic influence do other actors have? Do any neighbouring countries have an economic interest? Is the ethnic majority of a neighbouring country present as an ethnic minority? Is a neighbouring country affected by a violent conflict? Do any international powers have a security interest in the country? Is the country on a trade route for illicit goods (e.g. drugs, weapons)?

2.3 Stakeholders

The stakeholder analysis is an integral part of M-CRIA. Since it involves mapping the role, power, capacity and agendas of relevant individuals, groups and institutions, it has many benefits for the company. Clearly there is likely to be some overlap between this section of the analysis and the conflict issues section (where, for instance, military actors have interests in economic issues), but a purposeful focus on actors enables the company to:

- Inform and deepen the overall conflict analysis
- Understand and manage its relations with key individuals and groups more effectively
- Begin building relationships with a cross-section of society, itself a means of avoiding conflict
- Identify potential partners for conflict-risk mitigation strategies as well as possible spoilers.

As with the issues analysis, the focus is on the national rather than the project level. A key objective is to understand the perspectives of a wide spectrum of stakeholders in order to gain a better understanding of the context. This will also help the process of identifying those with whom relations will need to be nurtured and those with the greatest interest in (or most likely to take an interest in) the project.

It is important to understand intra-group dynamics. Splits, fault-lines and alliances within and between stakeholder groups, such as governing political parties, ethnic groups, rebel groups, security forces and others, have a very influential impact on the course of the conflict. The M-CRIA team should not approach the stakeholder analysis solely as an information-gathering exercise on behalf of the company. It is a two-way process designed to initiate a dialogue between the company and stakeholders, ideally at an early stage. In this sense, the information provided by the company in these consultations is as important as its own learning. Such a process, if undertaken seriously, helps forge relationships from the very beginning of the project's lifecycle. This has clear advantages in terms of creating trust, promoting transparency, laying the foundations for partnerships, as well as establishing sources of information to support the ongoing conflict analysis. It is also important in understanding and managing expectations, particularly among civil society groups and local entrepreneurs.

Box 5: Examples of relevant stakeholders

CSBP takes an inclusive and iterative approach to defining and mapping stakeholders. The key priority at this initial stage is to identify representative and respected individuals with the knowledge to inform the analysis (and capacity to absorb information about the project) and the influence to help convey information to their own constituencies. Thus, the potential impact of the project on these individuals is not the prime criterion for their engagement.

1. **Political/governance.** Government representatives, officials, policy-makers, parliamentarians, opposition political parties, judiciary, armed groups.

2. **Economics.** Contractors, suppliers, business associations, chambers of commerce, SMEs.

3. **Socio-cultural.** NGOs (environmental, development/ humanitarian, human rights), women's organisations, religious groups, refugee groups, traditional leaders, media, trade unions/workers' associations.

4. **Security.** Representatives from the army, police, other law and order institutions, rebel group military wing.

5. **Regional/international.** Neighbouring governments, donor governments, international peacekeeping command, UN, EU, World Bank Group, international NGOs, multinational companies.

Broadly speaking, many stakeholder groups will view the development of the project (and by extension the company itself) either as a potential source of improved livelihood, or as a threat, given its relationship to a government that may be unpopular. The extent to which the company addresses these perceptions at an early stage carries implications for its reputation within the country and more widely. Allowing expectations to rise to unrealistic levels can have short-term attractions, but can be a source of resentment and grievance in the long term. Equally, a failure to engage with those sceptical of the project can foster greater opposition at later stages of the project's development (see box 6 and Flashpoint Issue 1: Stakeholder Engagement).

Box 6: Consulting with 'controversial' stakeholders

Given the inherently polarised nature of societies affected or threatened by conflict, it is inevitable that companies find themselves under pressure from host governments not to consult or cooperate with particular stakeholders. Examples might include armed groups, human rights NGOs, opposition political parties and newspapers or trade unions. The dilemma for companies is whether to risk the anger of the government and engage, or whether to avoid these more controversial stakeholders and risk generating resentment among significant (and often influential) sections of society.

Understandably, most choose the latter, seemingly safer option from the investment perspective. While there are real risks posed by engaging in particular with armed groups (see Flashpoint Issue 7: Dealing with Armed Groups), not engaging with other stakeholders can however create problems for a company. Firstly, it limits the company's understanding of the conflict context by blocking dialogue with affected groups. Secondly, non-engagement is likely to exacerbate perceptions that the company is not to be trusted.

In situations where direct consultation is politically impossible, other avenues need to be explored. Third parties (e.g. INGOs) can be employed as go-betweens; embassies have both the contacts and capacity to organise and convene sensitive meetings; and consultations can be arranged during trips abroad. Choosing not to engage for whatever reason means storing up problems for later.

In undertaking a stakeholder analysis, a number of key questions need to be considered for each stakeholder:

- **Interests.** What interests does each stakeholder group have with regard to the conflict and how do these interests manifest themselves in practice?
- **Relations.** What are the relations among and between them (consider factions within groups and the impact of this, power dynamics, conflicting interests, etc)?
- **Capacities.** What capacity does each group have to influence the conflict (positively or negatively)?
- **Peace agendas.** What visions of peace do the stakeholders have? What kind of peace do they want? What are the main elements of their peace agendas (e.g. political/social reform, national autonomy, economic change)?
- **Conclusions.** What implications does this analysis have for the likely direction of the conflict/instability? What implications does it have for the company, both in terms of managing potentially difficult relationships and developing strategic partnerships with key groups.

The perceptions that stakeholders hold about the environments in which they operate are as important as the 'reality' of a situation. For example, different groups may cite 'unfair tax burden' or 'military threat' as sources of grievance. Even when there is no independent evidence to indicate these factors are present, they still play a role in conflict dynamics so long as important stakeholders perceive them to be true. It is also unwise to assume that all acts committed by stakeholders within a conflict are either rationally directed towards a defined goal, or irrational acts of senseless violence. Most people's behaviour combines a complex mix of the rational and irrational.

Stakeholders identified through the Screening Tool will provide an initial indication of key stakeholder groups requiring further exploration through the M-CRIA analysis. As with the issues, these parties should now be analysed in more depth. The key to a successful stakeholder analysis is to avoid generalities, focusing instead on the underlying subtleties and realities. Box 7 provides some insights into the kind of questions the M-CRIA team should ask to develop the stakeholder analysis component for each sphere.

Box 7: Sample questions to guide M-CRIA stakeholder analysis

For each section, list and analyse all the relevant actors, including their needs, goals, intents, preferences and inter-relations, and draw conclusions as to likely future scenarios. For the regional/international section, use the same political, economic, socio-cultural and security headings, but viewed from a regional/ international perspective. The questions shown below are indicative only and are not comprehensive or exhaustive. Sensitivity must be applied in the gathering of the information.

Political/governance. Which government departments, ministries or sections appear most influential? Which among them exert the most influence, or appears most interested in affecting positive change? Who advises the leader? What are their different goals? Is there an organised opposition or rebel movement? What motivates them? Do formal or informal communication channels exist between the government and opposition or rebel movements? Is the opposition cohesive or do factions exist? From where do opposition groups get their support?

Is there an active judiciary? Who are the most influential judges? What impact might power struggles in the ruling party have for future policy or strategy decisions?

Economic. What are the largest companies in the country? Who owns or manages them? Which elements of the business sector are prospering and which are struggling? Are there other influential economic actors? Which actors are engaged in 'illegal' economic activity? What motivates them? Who has influence over government decision-making and how great is it? What elements of the business sector would benefit from the resolution of conflict or tensions? Which elements would lose from such a resolution? Which politicians are involved in economic activity and what are their business ties? How do various segments of society maintain their economic livelihoods? What is the role of unions?

Socio-cultural. What is the role of religious or ethnic leaders? What major environmental, development, humanitarian assistance and human rights NGOs are there? Who leads them? Other community groups? Are their leaders influential with politicians? How representative, legitimate and independent is civil society considered to be? Are some civil society organisations seen to be corrupt? Does the government limit the ability of civil society organisations to operate? Which media organisations or personalities are perceived as independent? What interests or influence do refugees and internally displaced people have? What is the role of women in society? Are there key fault-lines or splits within civil society? Does the political leadership's characterisation of social issues reflect the views of the general public?

Security. Does the national military operate under a unified command? How is its human rights record? Are there reformists? Is there competition between leaders in the national military structure? What is the relationship between the military and the national police force? What agency is responsible for domestic security? What agency is responsible for international security? Do organised rebel groups exist? Do they operate in cells or under a clear command-and-control structure? Do former senior military or rebel officers have influence? How does the general public view the different actors? If there is a change in political leadership, how is the military likely to react? What obstacles need to be surmounted for the government and rebels to enter negotiations? Are there social activities that should begin now to ensure a lasting end to violent conflict?

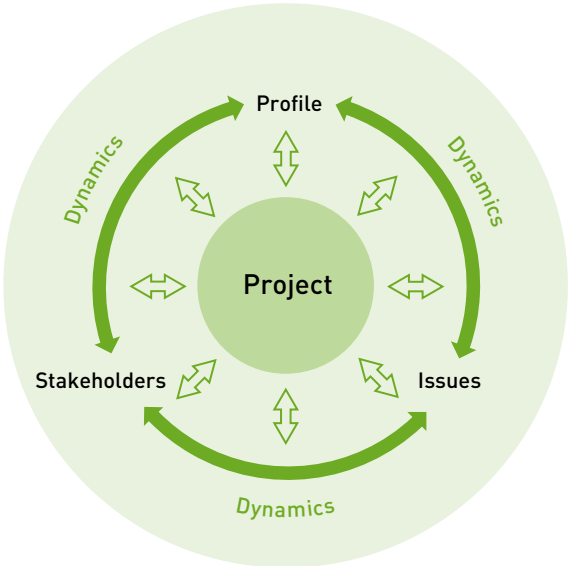
Regional/international. Is the region governed by a regional political body and if so how does it operate? Which influential foreign bilateral governments operate in the country and what are their stakes? Which multilateral organisations are present? Do inconsistent or contradictory messages from the international community allow the government to avoid some of its commitments? Does the region have a common economic body and how does it function? Do regional business associations or chambers of commerce exist? Which regional or international businesses are based in, or have major operations in the country? Is there an economically powerful Diaspora? Are there religious or cultural leaders in the region with cross-border influence? What regional civil society organisations are present in the country? Which major international civil society organisations operate in the country? Do social tensions exist across international borders? Does cultural influence from foreign governments serve to divide the country from its neighbours? Are regional security organisations in operation? Are neighbouring countries at war, either domestically or internationally? Do armed militias or other groups cross into the country (e.g. cattle rustlers, drug smugglers)?

3. Impact identification

The impact identification stage is designed to make an early assessment of potential company project impacts on the conflict context at the macro level, and vice versa, enabling the company to:

- Understand how its investment is likely to influence the conflict dynamics
- Understand how the conflict context might affect the company.

Figure 2: Two-way interaction between project and context



Given that M-CRIA is ideally undertaken at an early stage in the project cycle, there may be much that is unknown about the detail of project design. It is at any rate focused on understanding macro-level impacts, although some project-level issues may be flagged for further inquiry during P-CRIA. From the macro perspective, certain impacts can be predicted based on what has been learned through the analysis thus far, and experience from other companies investing in the country or indeed elsewhere. Some common problems associated with extractive industry investment in conflict-risk states have been well documented: the M-CRIA impact identification offers a current assessment of how these and other dynamics may, or may not, play out in the country in question:

- **'Dutch Disease'.** The impact on an economy of huge and sudden increases in revenue from extractive industry production, causing exports to become uncompetitive, and sectors like manufacturing and agriculture to decline.
- **Corruption.** Large revenues often encourage greater levels of rent-seeking and competition for control.
- **Support to undemocratic regimes.** Revenue from natural resources can act to protect governments from popular demands as other forms of tax collection become less necessary. Decision-making processes become removed from the needs and interests of local groups, leading to neglect and the breakdown of a just and fair social contract between government and the governed.

- **Security arrangements.** Operating in unstable areas obliges companies to prioritise security arrangements that will protect their staff and installations, but experience shows that these can often create tension and further militarisation around a project, involving the company in human rights complaints.

Civil society is increasingly highlighting these types of issues by acting as a 'watchdog' on corporate impacts on host societies, including through trying to define and lobby on 'no-go' or 'showstopper' standards. Prominent examples include the work of Global Witness, the Open Society Institute and the Publish What You Pay campaign. Another example is the European Coalition on Oil in Sudan – a network of NGOs seeking to support peace in Sudan that has developed 'benchmarks' for oil exploitation in Sudan after the recent peace agreement (see box 8). The benchmarks try to articulate the appropriate conditions for ensuring that the impact of investment on the conflict in Sudan is benevolent and are included here as a useful guide to the issues in a specific conflict context and as indication of the increasing sophistication of civil society engagement.

Box 8: European Coalition on Oil in Sudan (ECOS): benchmarks for oil exploitation in Sudan during the interim period

The 15 benchmarks below have been developed by the ECOS, and are based on three sources: international law, the provisions and purpose of the peace agreement, and authoritative voluntary standards for business behaviour. They are designed to provide companies with a framework with which they can maximise both their own and society's benefits from Sudan's oil wealth. At the same time, they can serve as a measurement of oil companies' commitment to peaceful and equitable development.

Oil companies have a chance to play a positive role in post-peace Sudan, provided the following benchmarks are met:

Circumstances and commitments

1. A comprehensive peace agreement effectively ends all targeting of the civilian population and installations in and around the company's operating environment.

2. A formal and effective agreement is reached with all armed sides and factions in the company's operating environment on how the civilian population and installations in the concession area are to be secured.

3. There is unconditional, safe access and freedom of movement in the entire concession area and the company spares no effort to maintain this situation.

4. Support, within the company's ability, to the peace process and mitigation of any potential for conflict where possible. The company will monitor and document all breaches of the purpose and provisions of the peace agreement that occur within its operating environment, report the findings to the international agency that will monitor compliance with the peace agreement, and actively engage with high-level government officials to end breaches; if this fails to resolve any issue, it will inform international governmental and/or non-governmental human rights bodies.

Box 8 (continued)

5. A binding timeframe to shape the company's security set-up along the lines of the Voluntary Principles on Security and Human Rights, and the seeking of support from its home government in this endeavour.

6. Full disclosure of all the company's provisions in cash or in-kind equipment or services for military, security, or dual use purposes.

7. No discrimination on the basis of religion, ethnicity, gender or political beliefs, and active promotion of a workforce, at all levels, that reflects the make up of the local population in an equitable manner.

8. Establishment of mechanisms for dialogue and partnership-building with all stakeholders on all aspects of the operation that have an impact on the community, resulting in an economic, social and peace action programme for the concession area that conforms with nationally agreed principles and policies, and supports the purpose and provisions of the Peace Agreement.

9. Use of all leverage and influence with the government and at other venues to encourage the adoption of a transparent and comprehensive revenue management regime; and alertness to those circumstances in which revenue allocation is a potential conflict risk, while promoting that agreed rules and transparent procedures for allocation are in place.

10. Insistence on full disclosure of all net payments, including taxes, royalties, fees and other transactions with the government and/or public sector entities.

11. Insistence on full disclosure of all Product Sharing Agreements (PSAs) and other agreements with state parties; renegotiations of existing PSAs to include social, environmental and human rights standards; and insistence on these standards for newly negotiated PSAs and all other agreements.

12. Support, in words and deeds, for the voluntary return of all refugees and IDPs who so wish, to their places of origin in and around the concession area, in consultation with international and civil society organisations.

13. Companies that have stakes in concession areas that have seen violent displacement post-1997 publicly commit themselves to initiate or support the implementation of a comprehensive and sufficiently funded plan for compensating victims of violent displacement in their concession area, in agreement with local leaders and civil society.

Assessments and reporting

14. Prior to any investment decision and at regular intervals, the company will assess its impact on and contribution to the communities that surround its operations and the wider society, with regards to development, peace, security, human rights – including social, economic and cultural rights – and the environment, taking into account its impact on the physical and economic security of the population, on local and national strife and rivalries, and on the realisation of the provisions and purpose of the peace agreement. The assessment will draw upon external experts

and local communities, and involve government and civil society organisations. It will contain recommendations for action, consultation, and dispute settlement. The company commits itself to share the assessment with its stakeholders, to implement its recommendations, and to evaluate and update it on a regular basis.

15. The company will publicly report on a yearly basis its own and/or its consortium's impact on, and contribution to, development, peace, security, human rights and the environment, covering all the above mentioned benchmarks, including its success in implementing the Voluntary Principles, an evaluation of the economic, social and peace action programme, and the status of the recommendations of the impact assessment.

To obtain the M-CRIA impact identification, the findings of the research into profile, issues and stakeholders should first be written up in a draft conflict analysis report. The draft report will serve as the basis for internal discussion with company staff (Step 4). It is important that a cross-section of company staff engages in this process since a wide range of business activities is likely to have impacts on the context. Geologists, political risk and security managers, staff from external relations, procurement and human resources departments, and management should all be represented in the discussions, which should be interactive and facilitated. Cross-departmental consultation of this type can help lay the foundations for mainstreaming a CSBP approach within the company.

While the focus of the profile, issues and stakeholder analyses has been to look for positive dynamics as well as problems, the focus in the impact identification should be to understand the negative impacts that the company could have on conflict, and vice versa. As indicated in the CSBP Introduction, the range of direct and indirect company/conflict impacts is large. Consultations with staff should focus on developing a consensus on the priority issues that emerge from the longer issues analysis report and background material, as well as the priority direct impacts. This information will be critical to helping the project team define some of the parameters so that the company is able to minimise its negative impacts and promote positive ones. Understanding the impact of investment on existing or potential conflict is the crux of conflict sensitive business practice.

Findings from the impact identification should be added into the report and at this point it may be useful to synthesise the findings into a table format, as shown in table 1 which gives indicative samples based on a fictional country context under the different social sphere categories.

Table 1: Summary of M-CRIA analysis

SPHERES	SUB-CATEGORIES	CONFLICT ISSUE
POLITICAL/ GOVERNANCE	Geographic distribution of power	Competition between provinces and capital for political power. History of injustice in access to resources and opportunities.
	Political participation	Political participation aggressively mobilised along ethnic and sub-ethnic 'clan lines'.
	Corruption	Government corruption hinders development and creates grievance in society.
	Human rights	Abuses perpetrated by all sides – more pronounced in recent years.
ECONOMICS	Natural resources	Natural resource exploitation shows signs of leading to 'Dutch Disease', as rest of economy suffers. Inequitable distribution of benefits a source of grievance.
	Unemployment	Large number of unemployed urban and rural youth.
SOCIO-CULTURAL	Ethnicity	Intra-ethnic tension.

TRIGGERS/ ESCALATING FACTORS	COMPANY IMPACT ON CONFLICT	CONFLICT IMPACT ON COMPANY	RISK LEVEL
Provincial tax collection.	Investment could exacerbate problem through reinforcing regime.	Identification of company with government a potential threat. Location of operation in provinces a particular issue for concern to be explored further in P-CRIA.	Red
Elections.	Recruitment and other benefits could favour elite group, contributing to further tension.	Volatility in political system could threaten investment.	Red
Pending elections increases internal competition within government for positions of power.	Inflows of revenue exacerbates corrupt practices.	Increased transaction costs and reputational threat.	Red
High-profile detentions.	Investment reinforces government control. Use of state security forces despite their history of abuses.	Legal risks posed by operating in joint venture with state oil company. Security arrangements run risk of contributing to escalation of violence. Security arrangements a particular issue of concern to be explored further in P-CRIA.	Red
Collapse of surviving manufacturing. Any challenge to status quo met with repressive response.	Investment further strengthens oil sector and reinforces government control despite inequitable policies.	Identification of company with government a potential threat – above all given nature of business. Weak economy imposes higher transaction costs.	Red
Further rise in unemployment.	Stronger oil sector further damages other sectors.	Ability to absorb only a minority of local unemployed people will be a source of grievance. A particular issue of concern to be explored further in P-CRIA.	Red
Elections.	Recruitment and other benefits could favour elite group, contributing to further tension.	Excluded group targets company with attacks.	Amber

Table 1 (continued)

SPHERES	SUB-CATEGORIES	CONFLICT ISSUE
SECURITY	Insecurity level	Varying levels of personal and community security in different provinces a source of grievance.
	Weaponry	Increased small arms availability and use.
	Urban crime	On the increase, and organised along ethnic lines.
REGIONAL/ INTERNATIONAL	Governance	Corrupt and ineffective regional body fuels mutual suspicion across borders.
	Economic	Some neighbouring local elites benefit significantly from illicit trade in natural resources.
	Socio-cultural	International religious links with domestic constituencies aligning government with 'war on terror'.

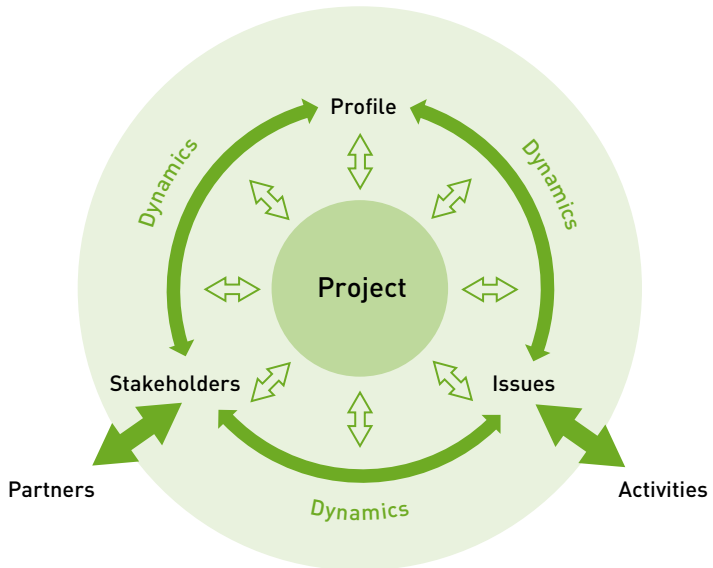
TRIGGERS/ ESCALATING FACTORS	COMPANY IMPACT ON CONFLICT	CONFLICT IMPACT ON COMPANY	RISK LEVEL
Police force aggression.	Use of state security apparatus contributes to further tensions between civilians and army/police.	Violence poses threats to company infrastructure. Security arrangements a particular issue of concern to be explored further in P-CRIA.	Red
Inflow from border region.	n/a	Greater levels of violent crime pose risks to staff.	Amber
Elections.	Recruitment and other benefits could favour elite group, contributing to further expression of ethnically based urban crime.	Insecure living quarters and offices in capital.	Amber
Peace talks concerning neighbouring country.	Investment fuels jealousy and competition among neighbouring countries.	Regional insecurity increases conflict risk for company.	Amber
Attempts to regulate cross-border trade.	Investment threatens this trade, pushing stakes to control it higher in the short term.	Likely increased security costs and possible threat to price margin implied. Illegal commodity trade particular issue of concern to be explored further in P-CRIA.	Amber
New restrictions on freedom of worship and other civil rights.	Investment reinforces government control despite inequitable policies.	International attention raises reputational stakes for company.	Amber

4. Mitigation strategy

The final stage of M-CRIA is the design of an initial mitigation strategy and plan for engaging stakeholders. The M-CRIA team should develop ideas for addressing some of the issues and relationships identified thus far by brainstorming proposed actions. It will then be in a position to develop a strategy to identify the steps that can be taken at the macro level even at this early stage, in anticipation of likely future impacts. The strategy will probably be a combination of externally oriented activities (e.g. measures to promote economic diversification; support to local and international NGOs; implementation of transparency frameworks); and internally oriented activities (e.g. information management, overview of relationships to be developed, etc).

The design of some aspects of the mitigation strategy may require the gathering of further information on the particular issues and stakeholders identified by M-CRIA. For example, if the potential for militarised ethnicity has been identified as a potential conflict issue, and the assessment indicates that addressing this may be worthwhile, further research into relevant organisations and key players may be necessary. 'Further research' is therefore a legitimate proposed mitigation action, as a step towards more concrete proposals that will emerge through subsequent stages.

Figure 3: Conflict-risk mitigation strategy



Companies tend to be reluctant to 'front-load' social investment and other non-business contributions, with financial and human resources often made available only as the project development proceeds. CSBP requires companies to design and implement conflict-risk mitigation strategies much earlier however, although these initially may be quite 'light'. There are four advantages to this:

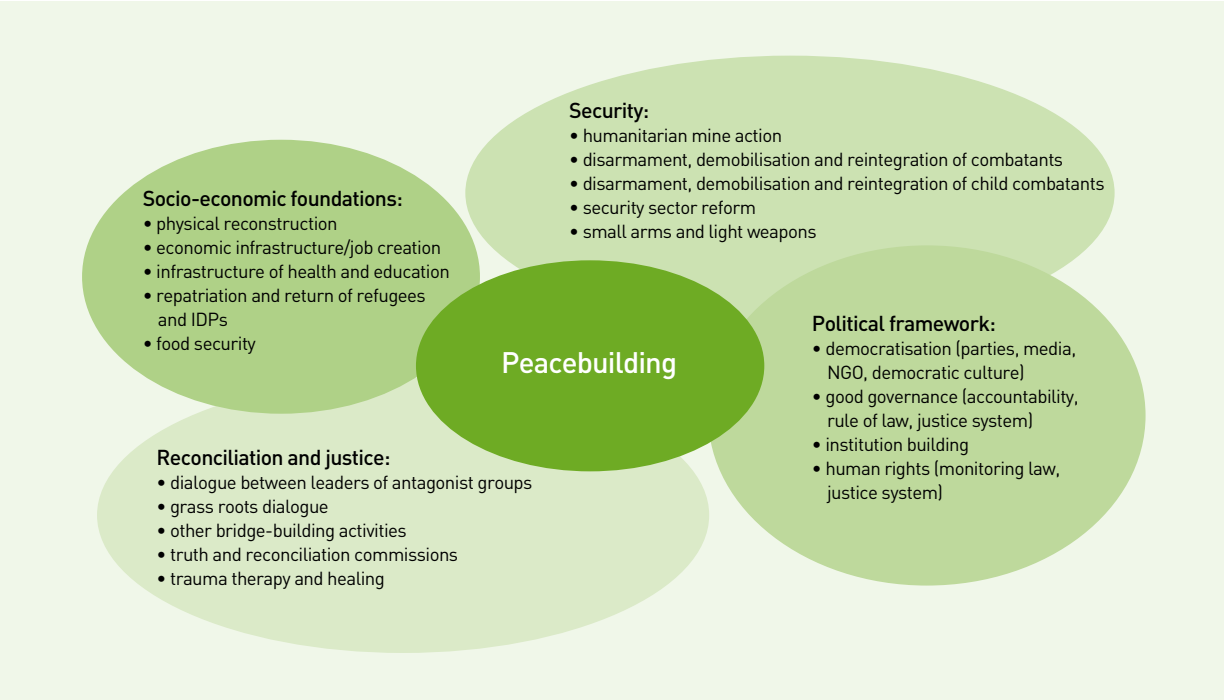
- Planning ahead in this way will enable companies to identify better local partners
- Many of the initiatives identified will be long-term in that they seek to transform structural conflict issues, such as underdevelopment or unemployment. Starting to alleviate these conditions as early as possible is more likely to have benefits for the company

- There are reputational gains at the local and international levels from implementing strategies early, and pre-empting negative impacts
- It helps to manage expectations if companies communicate with stakeholders about their plans as early as possible.

4.1 Core business, social investment and policy dialogue

Companies interact with host societies through three basic categories of business activity: core business, social investment and policy dialogue, and it is useful to understand mitigation measures as expressing themselves accordingly. Clearly a comprehensive strategy covering all areas of business will only emerge over time, but ultimately companies should be aiming to maximise their positive impact in each area. Core business relates to activities in the immediate sphere of a company's operations (location of investment, employment of staff, security arrangements, production activities); social investment captures the wider projects and stakeholder relationships that companies invariably engage in as one means of managing their operating environment; and policy dialogue refers to the engagement that companies are likely to have with national and local governments, industry associations, international agencies and other companies in their sector. Through each of these areas, companies can seek to address company/conflict impact issues where they have a direct responsibility and interest, such as the priority issues identified in Step 4; and wider conflict issues that may have come up in the analysis. Through early and careful strategising, they can have both a 'do-no-harm' and a peacebuilding impact by addressing such dynamics. M-CRIA is a macro-level tool and so identifies mitigation steps that play out at the national level or that address macro issues at the project level. P-CRIA enables companies to develop similar strategies for the local level.

Figure 4: The 'peacebuilding palette'[4]



4. Source: Smith, D. et. al. (2004) **Towards a Strategic Framework for Peacebuilding: Getting their Act Together** (Oslo: Norwegian Ministry of Foreign Affairs).

Peacebuilding, as illustrated in figure 4 above, requires a spectrum of conditions and activities across the different social spheres. Clearly, no company is single-handedly going to solve or transform this typical breadth of conflict issues or dynamics. Figure 5 provides a useful way of conceptualising the kind of positive influence companies can have on certain issues when informed by the right analysis. Partnership with other actors is an essential feature of any conflict-risk mitigation strategy, as presented in box 9.

Box 9: Partners for conflict-risk mitigation and peacebuilding

Government. States (and/or state-owned enterprises) are the primary partners in most extractive industry projects. Entering into agreements with governments means that a company's reputation is inextricably bound up with the actions of its partner. In other words, abuse, corruption and repression on the part of the government will rebound on the company by virtue of its partnership. This emphasises the importance of writing key agreements into contracts (e.g. transparency in revenue payments, Voluntary Principles on Human Rights and Security, percentage of revenue accruing to project region). In itself this will go some way towards avoiding some of the main sources of grievance and conflict precipitated by extractive industry investments. Beyond contracts, companies should lobby and dialogue with governments to use revenues equitably, working with them to promote an enabling environment for business and exerting pressure to reduce corruption and hold to account those responsible for human rights abuses. In terms of state-owned enterprises, capacity-building should go beyond technical and financial expertise, and include the incorporation and mainstreaming of sound ethical principles. Companies should also work to build the capacity of local government to deliver essential services to communities, through designing social investment projects that complement and strengthen government, rather than eclipse it as often happens (see Flashpoint Issue 5: Social Investment).

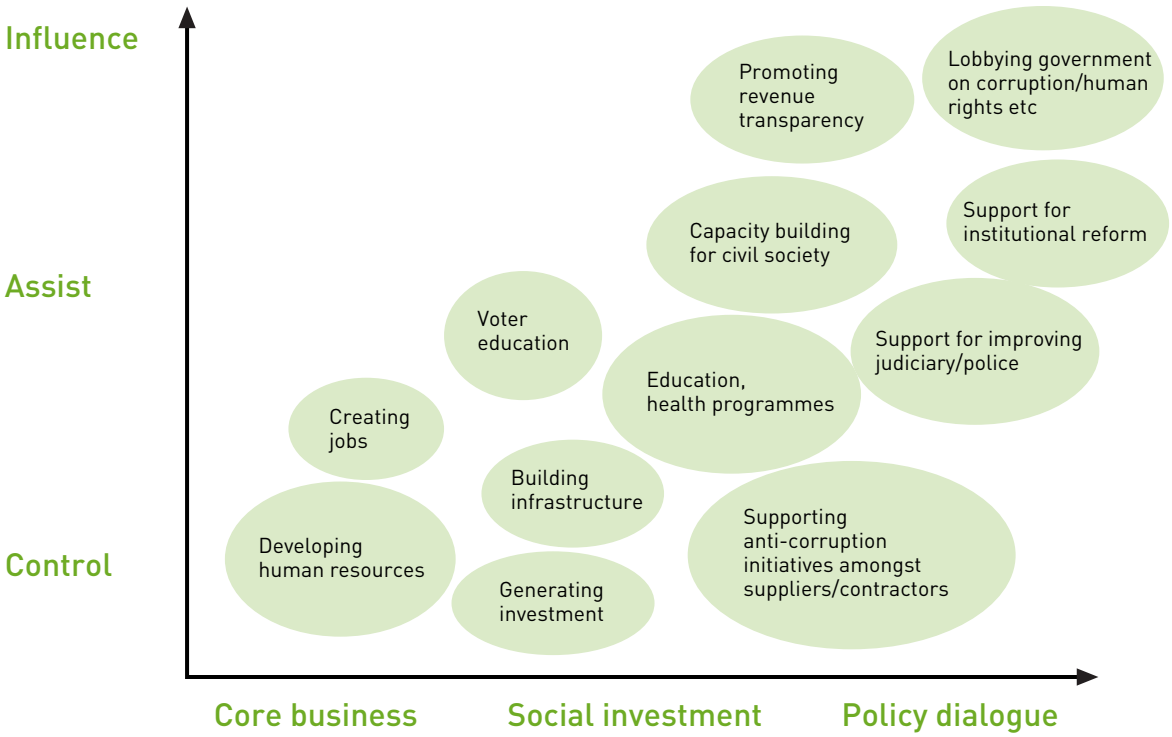
Companies. Collective action by multinational companies is critical to exerting a positive influence. Acting alone is both risky and less likely to prove successful. However, while companies often need to work together to develop natural resources, they are more reluctant to collaborate on development projects or lobbying government (except where they feel their common interests are directly threatened – e.g. tax issues). This is partly because the extractive industry is far from homogenous in its approaches, but largely it is down to individual companies' effort to create brand identity. This use of ethical and social policies as part of a marketing strategy has little or no relevance in countries threatened by conflict. Worse, it actively obstructs important initiatives from being pursued and leads to duplication and reduced impact. Harnessing the collective influence, financial resources and expertise of companies could make a significant contribution towards promoting equitable political and socio-economic development.

International community. These are useful partners for companies in that they bring different skills and competencies to addressing shared issues of concern. Companies can pool their skills and activities with donor governments on addressing human rights and corruption; with development agencies and INGOs on service provision and capacity building projects; and with IFIs on promoting good practice in transparency and revenue management.

Local NGOs. Credible NGOs working on issues relevant to the M-CRIA analysis will have emerged through the stakeholder analysis. Partnering with local NGOs will enable companies to develop relevant and targeted projects, and will have the added benefit of supporting the capacity of local civil society, itself an important intervention.

National business. Strengthening national business capacity and productivity through skills transfer and partnership can strengthen initiatives to promote peace and help to address risks of 'Dutch Disease'. Companies will also have a shared interest in lobbying for stable and enabling operating environments with their national counterparts.

Figure 5: Spectrum of influence



The 'control' part of the axis indicates those issues closest to a company's core sphere of activity; 'assist and influence' shows where companies, in collaboration with other companies or NGOs, can hope to have some positive impact in the long term.

Table 2 gives some examples of elements of a conflict-risk mitigation strategy according to this framework, based on a fictional country context. Strategy development is enhanced by referring back to the stakeholder analysis to identify potential 'partners', or 'spoilers', of proposed actions.

Table 2: Conflict-risk mitigation strategy – example

	CORE BUSINESS	SOCIAL INVESTMENT	POLICY DIALOGUE	PARTNERS /SPOILERS
POLITICAL/ GOVERNANCE Government corruption	Promote own business principles internally and to contractors/ suppliers, including state partners.	Support local and international NGOs working on anti-corruption initiatives.	Lay groundwork for cross-industry 'club' to strengthen lobbying of government for political reforms; support the Extractive Industry Transparency Initiative at international and national levels.	
ECONOMY 'Dutch Disease'	Ensure a maximum of 'local content' in hiring contractors across all areas of requirement, including catering, construction, etc.	Prioritise economic diversification schemes in social investment, for instance vocational training courses, business skills transfer, capacity building of chambers of commerce, including in partnership with development agencies and government.	Negotiate with government to encourage diversification schemes, an enabling environment for business and ensure revenue will be distributed fairly, as part of contract and other agreements.	
SOCIO-CULTURAL Inter-ethnic tension	Begin researching options for promoting inter-ethnic tolerance and diversity in the work place.	Seek out NGO and IGO partners working on tolerance and reconciliation at the national level.	Engage with other companies on replicating these good practices across the industry.	
SECURITY Insecurity level	Begin researching security arrangements that will not fuel insecurity levels at either local or national levels, including through adhering to international law and standards.	Develop plans for training modules in human rights for local police and state security forces, in partnership with credible (I)NGOs.	Engage with government on reform of the state security apparatus.	
REGIONAL Regional government body	Dialogue with other branches of company active in the region to develop shared strategy of engagement.	Support initiatives to build capacity of the regional body.	Engage with other companies on working together to strengthen the regional body in the interests of long-term peace and security in the region.	

5. Step 7 – transparency and implementation

Having progressed the M-CRIA tool this far, a good exercise in relationship building and transparency is to reconvene a group of the individuals consulted as part of Step 2 in order to share the findings of the overall analysis, and the initial conflict-risk mitigation strategy matrix. This provides an opportunity to gather further insights into how to progress some of the steps proposed. It also makes sense at this point to reconvene the inter-departmental group that assisted with the impact identification in order to create buy-in for the proposed macro-level mitigation strategy, and assign responsibility for implementing the proposed actions. Too many social impact and other company assessments are shelved after completion: M-CRIA is designed to stay 'live'. By ensuring the assessment attains this degree of institutional take-up, the company is taking a step in the direction of managing conflict risk effectively and promoting peacebuilding through its operations as they get underway. Sustaining it by regularly updating and monitoring progress is a key part of fulfilling its objective.

Box 10: Institutional learning and knowledge management

Companies undertake multiple types of assessments throughout a project's lifecycle. Inevitably, many different individuals and teams from separate departments conduct them over an extended span of time. This makes it difficult to develop a consistent, comprehensive and regularly updated company-wide analysis of the context, both at national and project levels. The result can be duplication of research, confused relationships with stakeholders, poor coordination between departments, inconsistent analysis and, ultimately, an incoherent strategy. Effective CSBP requires the establishment of systems and processes within the company that ensure consistency in undertaking and updating analysis and coordination across departments in developing and acting on it. Appropriate knowledge management in this regard needs to be valued and rewarded.

Resources

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Clingendael Institute **Conflict and Policy Assessment Framework**. www.clingendael.nl/cru/

European Union **Checklist for Root Causes of Conflict**. www.europa.eu.int/comm/external_relations/cpcm/cp/list.htm

Forum on Early Warning and Early Response, West Africa Network for Peacebuilding, Centre for Conflict Research **Conflict Analysis and Response Definition**. www.reliefweb.int/rw/lib.nsf/db900SID/LGEL-5DVE4E/$FILE/fewer-meth-apr01.pdf?openelement

Fund for Peace **Conflict Assessment System Tool**. www.fundforpeace.org/programmes/cpr/cpr.php

GTZ **Conflict Analysis for Project Planning and Implementation**. www.gtz.de/crisisprevention/download/conflictanalysis.pdf

International Alert, Africa Peace Forum, Cecore, CHA, Fewer, Saferworld (2002) **Conflict-Sensitive Approaches to Development, Humanitarian Assistance and Peacebuilding: A Resource Pack** www.international-alert.org/publications.htm

Paffenholz, T. and L. Reychler (2005) **Aid For Peace: A Guide To Planning And Assessment For Conflict Zones**, (Boulder: Lynne Rienner Publisher). www.swisspeace.org/koff/uploads/website/WorkingInConflictZones.pdf

Responding to Conflict **Working with Conflict: Skills and Strategies for Action**. www.respond.org/learning_resources.asp

Swisspeace **FAST Early Warning System**. www.swisspeace.org/fast/

UK Department for International Development (DFID) **Strategic Conflict Assessment**. www.dfid.gov.uk/pubs/files/conflictassessmentguidance.pdf

UN System Staff College **Early Warning and Preventive Measures**. www.unssc.org

USAID **Conflict Assessment Framework**. www.usaid.gov

World Bank **Conflict Analysis Framework** www.inweb18.worldbank.org/ESSD/sdvext.nsf/67bydocname/conflictpreventionandreconstruction

World Vision **Making Sense of Turbulent Contexts: Analysis Tools for Humanitarian Actors**. www.wvi.org

Examples of completed conflict analyses[5]

Goodhand, J. (2001) **Conflict Assessments: A Synthesis Report: Kyrgyzstan, Moldova, Nepal And Sri Lanka** (London: DFID). www.dfid.gov.uk/pubs/files/conflictassessmentsynthesis.pdf

Institute for Peace and Conflict Resolution (2003) **Strategic Conflict Assessment: Consolidated Zonal Reports Nigeria**, (Abuja: Federal Government of Nigeria, the Presidency). www.igbostudies.com/Nigeria%20conflict%20assessment%20may%202003.pdf

Mercy Corps (2003) **Western Nepal Conflict Assessment**. www.mercycorps.org/pdfs/nepal_report.pdf

World Bank (2005) **Conflict in Somalia: Drivers and Dynamics** lnweb18.worldbank.org/ESSD/sdvext.nsf/67ByDocName/ConflictPreventionandReconstruction

Training courses and materials on conflict analysis and conflict transformation

African Centre for the Constructive Resolution of Disputes (ACCORD) **Introduction to Conflict Management, Mediation Training** 3-day courses, based in South Africa. www.accord.org.za/web/home.htm

Centre for Peacebuilding and Conflict Management **Basic Conflict Management Skills** 3-5 day courses. www.ccm.no/

Creative Associates International **A Toolbox to Respond to Conflicts and Build Peace**. www.caii.com/

Eastern Mennonite University **Summer Peacebuilding Institute** 4-week training. www.emu.edu/ctp/spi.html

International Alert **Resource Pack for Conflict Transformation**. www.international-alert.org/publications.htm

Network University **Transforming Civil Conflict** 4-week online certificate course. www.netuni.nl

Responding to Conflict **Strengthening Policy and Practice** 1-week training course. www.respond.org/

Transcend **Peacebuilding, Conflict Transformation and Post-War Rebuilding, Reconciliation and Resolution** 5-day training course. www.transcend.org/

5. These are listed as illustrations of conflict analysis. International Alert does not endorse their interpretation of any particular conflict.

UN **Developing Capacity for Conflict Analysis and Early Response: a Training Manual**. unpan1.un.org/intradoc/groups/public/documents/un/unpan011117.pdf

University of Waterloo **Certificate Programme in Conflict Management**. www.grebel.uwaterloo.ca/

International sources of information and data[6]
Economist Intelligence country reports. www.economist.com

Freedom House **Annual Freedom Report**. www.freedomhouse.org/ratings/

Heidelberg institute on International Conflict Research **Annual Conflict Barometers**. www.hiik.de/en/index_e.htm

Human Security Network **Human Security Report 2005**. www.humansecurityreport.info/

International Crisis Group **Country and Regional Reports**. www.crisisgroup.org/home/index.cfm

International Institute for Strategic Studies (IISS) **Armed Conflict Database**. www.iiss.org/showpage.php?pageID=25

IISS **The Military Balance**. www.iiss.org/conferencepage.php?confID=61

IISS **The Strategic Survey**. www.iiss.org/showpage.php?pageID=24

Small Arms Survey **Annual Surveys and Online Databases**. www.smallarmssurvey.org/

Stockholm International Peace Research Institute **Yearbooks: Armament, Disarmament and International Security,** 1993 to present. www.sipri.org/contents/webmaster/publications

Swisspeace 'FAST' **Early Warning Reports**. www.swisspeace.org/fast/default.htm

University of Maryland, Centre for International Development and Conflict Management **Conflict Research Datasets**. www.cidcm.umd.edu/

Human rights situation
Amnesty International annual reports and country reports. www.amnesty.org/

Business and Human Rights Resource Centre. www.business-humanrights.org/Home

Human Rights Watch annual reports and country reports. www.hrw.org/

UK Foreign and Commonwealth Office annual human rights reports. www.fco.gov.uk

US Department of State Human Rights annual reports and country reports. www.state.gov/g/drl/rls/hrrpt/

Economic and social situation
World Bank **World Development Report** (global, regional and country versions) www.worldbank.org

Transparency International country-specific information on corruption. www.transparency.org

UNDP **Human Development Report** (global, regional and country versions). www.undp.org

Local sources
Newspapers
Civil society reports and studies
Academic papers
Local think-tank and research institute papers
Interviews

6. No source of information is entirely impartial. M-CRIA teams should ensure that a good mix of international and national sources are used.

Section 3

Project-level Conflict Risk and Impact Assessment tool (P-CRIA)

Project-level Conflict Risk and Impact Assessment tool (P-CRIA)

Purpose

M-CRIA notes that traditional political and financial risk assessment and management processes are inadequate in analysing and assessing the full range of issues that might cause, trigger or exacerbate violent conflict. A similar critique can be made of environmental and social impact assessments (ESIAs). These limitations are particularly problematic at the project level where a restricted understanding of the context - and the full range of the company's impacts on the context - could lead to difficult relationships, and even conflict.

P-CRIA is designed to address these gaps. It fulfils the same function at a local level that M-CRIA does at a national level, though its specificity adds new dimensions and emphases to its method. Inasmuch as it provides a way of understanding and managing company/context interactions at the local level, it can be seen as a mechanism for generating a 'social licence to operate'. P-CRIA helps a company promote transparent and trusting relationships with relevant communities and stakeholders as a means of minimising tensions, avoiding conflict and encouraging (within the limits of a company's capacity and legitimate competence) peace through equitable social, economic and political development.

It does this by:

- Providing a comprehensive analysis of the context around project sites, including any existing or potential conflict
- Predicting, monitoring and mitigating the two-way project/context impacts
- Generating appropriate management and mitigation strategies that respond to the needs and priorities of local communities, as well as the company itself
- Identifying stakeholders and informing engagement strategies
- Developing buy-in to, and ownership of, the project among stakeholder groups.

Method

P-CRIA uses a combination of desk research, targeted individual consultations, community-wide and group-specific consultations, problem-solving workshops, collaborative activities and internal company brainstorming. Although it generates a lot of information, P-CRIA is not a prolonged data-gathering exercise, but a mechanism for ensuring company and communities work together towards understanding company/context interaction, and the development and realisation of mutual objectives in terms of project design, operation and closure. As such, the process used for implementation is as significant as its outputs.

Project investment stage

For greenfield sites, P-CRIA commences during initial exploration or pre-feasibility and continues throughout the project lifecycle. Initial engagement is directed at understanding the context in order to enable improved assessment of the two-way impacts and, ultimately, identification of management, mitigation and monitoring strategies. The process is gradual and iterative, deepening and evolving in tandem with advancements in project development.

For existing sites at a more advanced stage of development, a preliminary review should be carried out to assess the level of the company's understanding of existing or potential conflict risks, the state of relationships with stakeholders and the effectiveness of social investment projects. The findings of the preliminary review should point the P-CRIA team in the direction of problems that need priority attention before implementing the P-CRIA tool in full.

CSBP synergies

P-CRIA follows on from, and builds on, the Screening Tool and M-CRIA. Given the nature of extractive industry projects, however, the tools do not necessarily work as a simple chronological sequence. Exploration activities are more than likely to be underway before final investment decisions have been taken, with the inevitable consequence that company/community interactions and expectations at the local level will occur even as the company is still coming to grips with the national situation. These interactions will, according to CSBP principles, require careful management if they are not inadvertently to cause or exacerbate tensions. P-CRIA, therefore, ideally commences soon after M-CRIA (see Operational Guidance Charts).

Non-CSBP synergies

To some extent, P-CRIA complements existing company ESIA processes. However, it is more comprehensive and integral to business management than these assessments, and should be seen as a longer and broader process running throughout the project cycle.

Timeframe

The initial core assessment process of P-CRIA takes between 12-24 months, depending on a project's scale and complexity. However, it is designed to guide business management throughout the project cycle and in this sense has an open-ended timeframe.

Resources

As with M-CRIA, the critical first resource requirement for conducting P-CRIA is a small team with the right mix of skills (including conflict analysis expertise, knowledge of and sensitivity to the local context and history, fluency in local languages, facilitation and interviewing skills), and including representatives from across the company's range of operations. Ideally, some of the individuals involved in M-CRIA will form part of the P-CRIA team. As the process develops, the analysis and contacts built up during the initial phases of P-CRIA need to be transferred gradually as different company departments (e.g. geologists, political risk and security managers, staff from external relations, procurement and human resources departments, and management) become increasingly involved. High and poorly planned staff turnover, and limited mainstreaming and inter-departmental coherence represent the biggest threats to effective implementation of CSBP as a whole.

The other critical resource factor is time, which can have significant financial implications. But experience shows that short-cuts in the crucial process of context analysis and relationship building at early stages can result in higher financial, security and reputation costs later on.

Outputs

1. Comprehensive and regularly updated analysis of the project context, including existing or potential conflict issues, and stakeholders
2. Regularly monitored and reviewed understanding of two-way project/conflict impacts
3. Evolving management and mitigation strategies that address key conflict issues and real needs
4. Transparent and mutually trusting relationships with stakeholder groups
5. Support for the project amongst stakeholder groups.

1. Introduction

Experience indicates that existing ESIAs have not been effective in anticipating and mitigating negative company/context impacts, and hence have not succeeded in ensuring that the full range of potential benefits derived from large extractive projects accrue to affected communities.[1] This is particularly true in areas characterised by latent or open social tensions or conflict, reflecting both the difficult operating environments themselves, but also limitations in the design and practice of ESIAs. These can be summarised as follows:

Purpose. ESIAs are flawed from the outset in that they are driven primarily by legal and financial requirements rather than their own intrinsic added value. While some genuine issues of concern may well be captured through an ESIA, its essential purpose is for the company and/or its financial backer to acquire data, rather than for the company to begin generating a social licence to operate. This misses opportunities inherent in the assessment process to begin building strong relationships and ensure positive outcomes.

Timing. Full ESIAs are triggered by investment decisions often taken years after a company has begun initial exploration and long after company/community interactions have begun. They are time-bound in nature, and rarely monitored and updated over the project cycle. This means they are at best 'snapshots' of a given context, rather than the live analysis tool required in volatile operating environments.

Analysis. As with political risk assessments, ESIAs are inadequate for analysing and assessing the full range of issues that might cause, trigger or exacerbate tensions or violent conflict.

Process. The limitations in analysis are partly a result of the process used. ESIAs are managed and financed by the company to tight deadlines. Thus, process is often sacrificed to efficiency and any consultation that does occur is likely to be one-way and extractive. This limits the quality of the analysis as it precludes genuine understanding of stakeholder perspectives.

Decision-making. Even where the findings of ESIAs are shared with communities and other stakeholders, this is often in an 'off-the-shelf' and technical format that may not be fully accessible to all. Communication of findings often takes place after key decisions have been made, indicating that control over those decisions remains firmly with the company. This can confirm perceptions of the company as an outsider with little interest in the voices of affected communities, a perspective that is likely to have negative repercussions over time.

2. Approach

P-CRIA complements current ESIA practice by addressing these gaps in content and process. In addition, it extends through its analysis and relationship-building process into the design of ongoing management and mitigation strategies that accompany the lifecycle of the project. It is therefore useful to understand it as circular (see figure 1 below) and constituting an ongoing mechanism for conflict-sensitive management of a business.

1. Goldwyn, R. and J. Switzer (2004) 'Assessments, Communities and Peace: A Critique of Extractive Sector Assessment Tools from a Conflict-Sensitive Perspective', in **Oil, Gas and Energy Law Intelligence (OGEL)**, vol.2 issue 4. www.gasandoil.com/ogel/

The methodology is guided by four key principles:

Participatory analysis. A richer analysis of context, including any existing or potential conflict, and a better understanding of potential project/conflict interactions can be achieved by drawing more creatively on the perspectives of those living in affected areas. Participatory analysis is a key ingredient of the overall assessment process.

Good communication. Avoidance of challenging issues allows them to ferment and come up in aggravated scenarios at later stages. Open channels of communication and dialogue where relationships break down can help tackle contentious issues constructively. Improved communication processes are a key component of CSBP as a whole.

Strong local relationships. Stakeholders have a legitimate interest in significant changes that a major investment will make to their livelihoods and landscape. Open and transparent discussion and revision of a project in light of stakeholder concerns accords value to others' perspectives. An inclusive approach can make change more palatable to stakeholders and also builds local capacity.

Shared decision-making. The decision-making process in business activities becomes more open in P-CRIA. Shared decision-making invites transparency and trust, fosters legitimacy and relieves tensions. This has significant bottom-line benefits for companies, but may require more flexible approaches to timeframes.

Bearing its circular approach and underlying principles in mind, the process of undertaking the P-CRIA tool can be synthesised into four basic steps:

Step 1
Start with a project-level context and stakeholder analysis that aims to identify important issues at the local level, and those stakeholders likely to be impacted by the project (insofar as this is possible at this stage). As with M-CRIA, use a combination of desk research, targeted consultations and internal company brainstorming. The resulting information should be written up into a 20-30 page report.

Step 2
Engage stakeholder groups identified in Step 1 in a participatory research process that enables a deeper analysis and clarifies the likely impacts of the project. This process also helps identify other impacted stakeholders who need to be engaged and lays the foundations for a sense of shared ownership over project development.

Step 3
Drawing on the findings of Steps 1 and 2, begin to design management and mitigation measures with three targets in mind: (i) responding to the needs of the local population; (ii) ensuring negative impacts are minimised; and (iii) addressing some of the conflict or potential conflict issues highlighted during the analysis. Continue to use participatory processes: the more stakeholder groups are involved in identifying responses, the more effective those responses are likely to prove.

Step 4
Continue to update and expand the context analysis, impact identification and mitigation design as the project develops, ensuring that significant findings on impact are absorbed into project re-designs where necessary. Identification of the nature and scope of project/context impacts (and therefore impacted stakeholders) needs to accompany progress in identifying precise project parameters, including infrastructure, construction, personnel and transportation needs which, in turn, should accommodate the analysis. This can be a process which evolves over years, and which will require institutional mainstreaming across business areas.

Figure 1: The P-CRIA methodology

3. Step 1: Project-level context and stakeholder analysis

The project-level analysis is constructed along the same lines as M-CRIA, but with a focus on the local level. It is a systematic study of the context that explores the background profile, issues and stakeholders, and makes a preliminary assessment of likely project impacts. Fundamental to any analysis of this type is an understanding of the dynamics within and between the different components. This is particularly critical at the project level where relations between different groups or between communities and local government can be transformed, for better or worse, simply by the presence of a multinational company.

Failure to take the time to understand the pre-existing context has caused companies significant problems in the past. Without understanding the context fully, it is impossible to gain a proper appreciation of the potential project impacts. To keep ahead of developments, P-CRIA needs to begin as soon as possible after the company begins its exploration process.

Box 1: 'No conflict here'

Relatively few major greenfield projects are developed in areas of actual violent conflict, precisely because of the risks entailed. More commonly, violence at the local level will follow the start of operations.

Major investments inevitably alter traditional systems and, even in relatively peaceful environments, can easily lead to a heightening of tensions and possibly violence. In areas of pre-existing social tension, the odds on such an outcome increase.

The absence of violence in a project area is no guarantee of what might happen in the future. Understanding the tensions that already existed prior to the arrival of the company, and anticipating how the project might impact on these tensions (and indeed on the wider socio-economic context), is fundamental to CSBP.

3.1 Linking analysis across scales

Although the project-level analysis seeks to capture the actors, issues and accompanying dynamics relevant to the immediate operating environment, it needs to be contextualised within the findings of the Screening Tool and M-CRIA. Together, they will have highlighted key issues of concern at the national and international levels which may have important implications for what is happening at the local level. For example, an armed struggle in a neighbouring country may involve an ethnic or other group with strong ties to individuals or groups in the project area. Conversely, the project-level analysis may reveal issues that could be relevant at the national level, and these should be factored into subsequent reviews of M-CRIA. For example, tensions over compensation for land acquired for the project may have arisen as a result of recent legislative reform, suggesting a possible source of conflict with the national government. Ensuring that some team members double up on M-CRIA and P-CRIA is one way of ensuring such linkages are captured.

3.2 Defining the geographical scope

The linkages between issues and actors at different scales are important in helping define the geographical frame of reference for the project-level analysis. While the concession block provides an appropriate departure point, using below-ground characteristics or arbitrary parameters (e.g. 5km on either side of a pipeline) to determine what is relevant above ground will generate a fragmented and flawed analysis. The geographical or administrative region(s) in which the project is situated may be a better starting point, but understanding of these boundaries will evolve as the analysis deepens and the project takes form. The Screening Tool and M-CRIA will have proved useful in highlighting neighbouring areas of conflict or high levels of tension, as well as groups nursing particular grievances. The extent to which these might be connected to issues prevalent in the concession area and/or groups living there should be one factor in dictating the scope of the project-level analysis. Equally, the evolving analysis may well throw up important connections to others living outside the concession area, who will need to be factored into subsequent steps of P-CRIA.

3.3 Communication

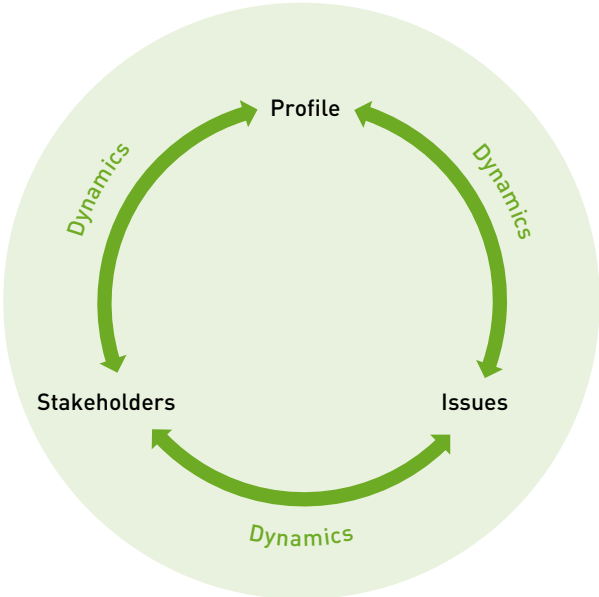
Although the project-level analysis is undertaken at a relatively early stage in the project lifecycle, it is nevertheless a priority that communicating information about the project begins as soon as possible. The uncertainty that is often generated by the early exploration process has in the past been a source of tension between companies and communities. Building a social licence to operate needs to begin at the earliest possible opportunity and starts by ensuring communities and other stakeholder groups feel they have some understanding and control of project design. Establishing information points in places and in ways that are accessible (and which don't exclude particular groups or communities) is one step towards doing this. Working closely with stakeholders identified in M-CRIA, or early on in P-CRIA, to convey information in a non-threatening way is another. Some companies have found it useful to take community representatives to visit similar sites as a way of illustrating what the project might look like (and the time, cost and process involved in its development).

Uncertainty over the nature of the project and unfamiliarity with industry practice and timeframes may engender unrealistic hopes of an immediate windfall. The information provided needs to address these expectations head-on. The short-term attractions of promising 'jobs and schools' can quickly become a problem for a company if those things fail to materialise (or themselves become sources of resentment). It may be useful to draw up a 'promise register' to record the various commitments made by project staff throughout the early exploration stages (see Flashpoint Issue 1: Stakeholder Engagement).

3.4 Process

The process and framework used for the first stage of the analysis are similar to the step-wise M-CRIA analysis, and require a combination of desk research, targeted consultations with key respondents and internal company brainstorming across relevant departments.

Figure 2: Framework for analysis[2]



(i) Building on the findings of the Screening Tool and M-CRIA, use secondary sources to develop a more detailed understanding of the concession area's history and background, as well as the broader regional social, political, security and economic context, the key actors/stakeholders, and how these elements relate to each other. The findings of this first analysis will provide a basis for subsequent consultations.

(ii) Conduct one-on-one consultations on the same themes with approximately 20-30 key respondents. These will include some of the individuals consulted during M-CRIA, as well as local politicians, branches of opposition parties, local media and NGOs, community-based organisations, respected community leaders and international development agencies or NGOs at the project level.

(iii) Categorise key issues and concerns under the headings, political/governance; economics; socio-cultural; security; adding in a 'national' section. Write up the findings into a detailed draft 20-30 page report. This should highlight both conflict risk and positive factors that may help mitigate conflict (e.g. traditional conflict-resolution mechanisms).

(iv) Conduct cross-department brainstorming in order to agree on the most critical issues. This can lead to a discussion to assess likely project impacts on those issues (and vice versa). Impact identification will be developed further through participatory research processes in Step 2.

(v) Consider options for mitigation measures to address negative impacts. With the exception of immediate priorities such as an effective communications programme, however, full development of mitigation strategies at the local level comes later once participatory research processes are underway.

2. Figures 2, 3 and 5 are adapted versions of diagrams for conflict analysis in International Alert, Africa Peace Forum, Cecore, CHA, Fewer, Saferworld (2004) **Conflict-Sensitive Approaches to Development, Humanitarian Assistance and Peacebuilding: A Resource Pack**. www.international-alert.org/publications.htm

3.4.1 Profile

The profile is designed to provide a background narrative to the more detailed analysis of current issues and stakeholders. It gives a brief characterisation of the local context, enabling a preliminary identification of key stakeholder groups as a more informed basis for subsequent consultations. The profile should cover the geographic or administrative region(s) in which the project is situated and should include reflection on any history of previous investment in the locality.

Box 2 suggests an outline for the profile. The lists of issues are indicative rather than exhaustive and should be adapted according to the specific context.

Box 2: Features of the project-level profile

1. Key facts
Physical geography, population size and make-up, numbers and size of towns, nature and size of self-distinguishing groups (ethnic, tribal, etc), sites of special significance (environmental, religious, etc), mined areas, climate, social indicators (poverty, literacy, health, etc), religion(s), language(s).

2. History
Distinguishing historical background, political status of the region within the country, political evolution, past conflicts, disputes with central government, background to any previous industry investment, inward/outward migration, relations with neighbouring regions.

3. Political/social profile
Local governance structures, local elections, village/community structures, presence of armed forces, security situation, human rights situation, status of local media/judiciary/civil society, existence and status of minorities, status of women, importance of religion, presence of IDPs, return of refugees.

4. Economic profile
Industries, agricultural base, natural resources, (un)employment, rural/urban mix, development projects, SMEs, business associations, trade with other regions.

5. Conflict (if relevant)
Location/stage, critical events, peace processes, primary actors and stated agendas, number of deaths, infrastructure damage, importance of natural resources/economic inequality, other causes.

3.4.2 Issues

In undertaking the issues analysis, identify the most important factors underpinning or threatening to lead to conflict if not properly addressed. As box 1 suggests, the absence of violent conflict in the project area is no guarantee of a peaceful future. The issues analysis should explore the factors that contribute to grievances, even when these grievances have not yet resulted in violence. At this stage, the focus should be on the operating environment, as distinct from the project. Potential risks associated with the interaction between the operating environment and the planned project will surface in the brainstorming around impact and subsequent steps of P-CRIA.

Structuring the issues analysis

Start with the background information provided by the preliminary profiling, and develop and enhance it through targeted consultations and further research. Categorise the key findings under five clusters: governance, economics, socio-cultural, security and national. Each cluster can then be further broken down into a series of sub-headings appropriate to the specific context.

The analysis will throw up a large number of factors, many inter-related. In thinking about these, it is useful to understand them as:

Structural or root causes. Pervasive factors that have become built into the policies, structures and fabric of a society. Examples could include the lack of political participation (or specific exclusion) of particular groups, systemic corruption, absence of (or inequality in) distribution of economic benefits and marginalisation of women. Structural causes of conflict are inevitably the most complex and long-term but constitute an ever-present threat.

Proximate causes. Factors that are symptomatic of the root causes and may heighten the risk of violent conflict, or exacerbate and perpetuate existing conflict (e.g. availability of light weapons, widespread human rights abuses, the objectives of political actors). Proximate causes take on a particular importance at the local level. For example, even when easy access to weapons does not lead to conflict, it increases the threat of violent crime directed against the company or those working for it. Likewise, the risk of the company becoming associated with human rights abuses is greater if they take place in areas where the company is operating.

Triggers. Single acts, events or their anticipation that may set off or escalate violent conflict. Examples could include elections, the behaviour of political actors, increased food scarcity and environmental disasters. Many project impacts (e.g. security arrangements, resettlement and compensation policies) are potential triggers of violence.

Box 3: Sample questions to guide P-CRIA conflict issues analysis

For each section, list and analyse all the pertinent issues, making sure to collect possible 'trigger or escalating factors', as well as issues that are positive indicators, where appropriate. The questions shown below are indicative only and are not comprehensive or exhaustive. Sensitivity must be applied in the gathering of information.

Political/governance. What is the form of local-level governance? How democratic, representative and legitimate is it? How effective is local government in providing basic public services? How are competing local interests managed? Have there been local elections and what was the turn-out? Have local authorities been accused of violating human rights?[3] Against specific groups? Is there any accountability for abuses? How independent is the judiciary? What is the level of corruption within the local public sector? What types of corrupt activities occur? What effects do these have? How does the local population view corruption?

Economic. What are the principal sources of income in the locality? How reliant is the local economy on primary commodities? What is the economic wealth of the locality vis-à-vis the rest of the country? Are there any identifiable socio-cultural groups that are economically better or worse

3. If human rights abuse is identified as a particular issue of concern at the project level, additional specialist assessments may be warranted, for instance the Danish Centre for Human Rights' **Human Rights Compliance Assessment Tool for Companies**. www.humanrightsbusiness.org/compliance_assessment.htm

Box 3 (continued)

off than the general population in the locality? Is competition for control of resources a source of tension? What is the extent of the public sector's role in the local economy? To what extent is local-level public sector employment awarded on merit? Are certain groups excluded or favoured with regard to public sector employment? What is the level of unemployment in the locality, particularly among youth? Who locally make up skilled labour? Is this across or within socio-cultural identity groups? What is the history of labour relations in the locality?

Socio-cultural. What are the major socio-cultural groups located in the area and what defines them as identifiable 'groups'? What are the prominent minorities in the locality? How are minorities viewed and treated by the majority? What different languages are used, how are they used and who uses them? What is the role of women? Are there any differences between the local and national levels in the way women are treated? What is the traditional role of men? Is masculinity, when expressed through violence, culturally acceptable/expected? What religion is practised locally, and how does this relate to religion in the country as a whole? Are differing socio-cultural symbols and places of worship respected by all communities? How balanced and pluralistic are local media? How important are they? Whose opinions do they represent? Do certain local politicians and businessmen have undue influence over the local media?

Security. How safe is the locality for the general population? What are the perceptions of security? Are certain members of the population and neighbourhoods safer than others? What in the locality are seen as 'legitimate targets' for rebel groups (e.g. security forces only, businesses, specific groups)? What is the level of crime, particularly violent and economic crime? Who perpetrates crime and for what reasons? Is the trafficking of people for labour or prostitution an important issue? Is security provided by police, private security companies and/or criminal elements? How are these private security services viewed by the general population and local authorities? What is the nature and availability of weapons (e.g. small arms, explosives, etc)? Who has access to weapons? How are they used (e.g. bombing campaigns, forced conscription, sexual violence)? Where do they come from (e.g. cross-border)?

National. How do the dominant political, economic and social issues inter-relate or differ at the local and national levels? Has the discovery of natural resources changed the national government's approach? How is revenue to local government allocated? How is the national government viewed locally? Are there tensions around autonomy/self-determination?

3.4.3 Stakeholders

The stakeholder analysis is a preliminary assessment designed to:

- Inform and deepen the overall analysis
- Enable the company to understand and manage its relations with key individuals and groups more effectively
- Provide an opportunity to begin developing relationships with those individuals and groups
- Identify those with whom the company might wish to develop closer working relationships.

Understanding relations within and between stakeholder groups is as important as understanding group perspectives.

Box 4: 'Expert' stakeholders

CSBP takes an inclusive and iterative approach to defining and mapping stakeholders. The key priority at this stage of P-CRIA is to understand 'who is who' in the locality. The potential impact of the project on these individuals becomes a criterion guiding engagement in the next step.

1. **Political/governance.** Local politicians and officials (pro-government and opposition), local judiciary, armed groups (see Flashpoint Issue 7: Dealing with Armed Groups).

2. **Economics.** SMEs, local chambers/business associations, other multinational companies, farmers' associations.

3. **Socio-cultural.** NGOs, women's and religious organisations, community leaders, local media.

4. **Security.** Local police, army officers stationed locally.

5. **National.** As with M-CRIA, including also local offices of international and capital-city based organisations.

Structuring the stakeholder analysis

In undertaking a stakeholder analysis, there are a number of key questions which need to be considered for each stakeholder:

- **Interests.** What interests does each stakeholder group have, including towards the conflict and how do these interests manifest themselves in practice?
- **Relations.** What are the relations among and between them (consider factions within groups and the impact of these, power dynamics, conflicting interests etc)?
- **Capacities**. What capacities does each group have to influence conflict (positively or negatively)?
- **Peace agendas.** What visions of peace do the stakeholders have? What kind of peace do they want? What are the main elements of their peace agendas (e.g. political/social reform, national autonomy, economic change)?
- **Conclusions**. What implications does this analysis have for the likely direction of conflict/instability? What implications does it have for the company, both in terms of managing potentially difficult relationships and developing strategic partnerships with key groups?

As with the issues analysis, this section is more than a simple statement of facts. The stakeholder analysis should avoid generalities and aim to pick up the underlying subtleties of inter-group relationships and different perspectives. For example, the perceptions that stakeholders hold about their situation are as important as 'the reality'. The analysis should aim to capture these perceptions, noting particularly how they differ within and between stakeholder groups. Box 5 gives examples of indicative questions to guide the research under the same headings.

Box 5: Sample questions to guide P-CRIA stakeholder analysis

For each section, list and analyse all the relevant actors, including their needs, goals, intents and preferences, and their inter-relations, and draw some conclusions as to likely scenarios in the future. As with the issues analysis, the questions shown below are indicative not exhaustive, and sensitivity should be applied in the gathering of information.

Political/governance. Who holds *de facto* political power in the locality (regional governor, local elected political leader, armed groups)? Are local political parties controlled from the capital or relatively autonomous? Which individuals and small groups of individuals dominate local politics, and which spheres of political life do they control (e.g. planning permission, local taxes, local security forces, public sector jobs, etc)? How much power does central government have to impose its will locally (e.g. collect taxes, provide security)? Which local civil or community leaders are respected, and why? Do opposition parties have branches in the locality? How well supported are they?

Economic. Are socio-cultural groups associated with particular economic livelihoods? How do they 'protect' such economic livelihoods? In the locality, how important are publicly owned enterprises? Are the heads of these enterprises political appointees? Are certain groups excluded from public enterprises? Do certain private businesses get preferential treatment from public sector enterprises? How significant are SMEs? Are they obliged to pay bribes? Do they have to pay unofficial taxes to any state or non-state armed groups? What are the multinational companies in the area, and how are they viewed in the locality by armed groups, government forces, local political leaders, local business and the population at large? What trade unions are locally present and how are they organised? How powerful or marginalised are business associations and trade unions?

Socio-cultural. Which are the major socio-cultural identity groups in the locality? Do they have identifiable and respected leaders? What are the relations between them? How important are traditional or religious leaders in mobilising public support or hostility to any initiative locally? What particular interest do these local socio-cultural groups have in national politics? What are the major forms of obtaining and sharing information (local newspapers, local radio, word of mouth), and have these media been connected to rising tensions? Are certain local civil society organisations or NGOs associated with particular groups? Which civil society organisations enjoy wide support and are seen as legitimate and representative? Does civil society influence local policy and politics in any way? How has migration (forced or unforced) affected the demographics of the area over the last 20 years? What groups are migrating and why (forced migration, economic migration)? How are local groups of migrants, refugees and IDPs organised, and what are their primary political and economic interests?

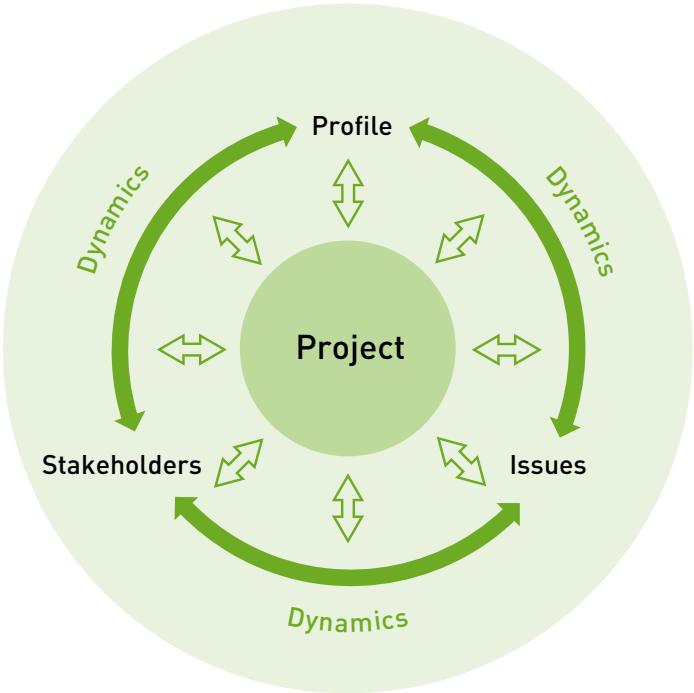
Security. Who provides security? How are security forces viewed? Are they implicated in abuses, extortion or corruption? What is the relationship between local and national security forces? Are local non-state armed groups significant political and economic players? Who controls criminal activities? Do the authorities deal with these individuals or do they operate with impunity? Is there an international security presence? How does the general population view it?

National. What is the relationship between local and national political elites? What presence and role do national stakeholders have in the locality (opposition political parties, media civil society organisations, etc)? Are there tensions between national and local stakeholders? How do these manifest themselves?

3.5 Initial impact identification

The final piece of Step 1 helps to make a preliminary assessment of the likely project impacts on the context and vice versa, based on internal company brainstorming over the findings of the project-level analysis so far. In the early stages of the exploration process, a significant degree of uncertainty remains as to the specific project parameters (or indeed whether the project will proceed at all). As with the equivalent stage in M- CRIA, however, certain impacts on the project area can be predicted based on the analysis already undertaken and previous experience.

Figure 3: Two-way interactions between project and context



Impacts occur at the project level that can have implications for conflict as a result of decisions around the following issues (many of which are detailed further in Section 4: Flashpoint Issues):

- **Location of a project installation.** This may affect access to key sites such as wells, forests or other places with cultural value; it may also lead to resettlement of people and consequent compensation claims, etc.
- **Environmental impacts.** These range from the use and pollution of local river or sea waters to spillages and emissions.
- **Recruitment of staff.** Projects may create inward migration of other communities in search of jobs; recruitment can favour different groups as companies seek the right skills; wages will change the local distribution of wealth and power.
- **Community relations.** Interaction with communities may influence people's perceptions of the project; social investment projects also feed into local tensions and dynamics, and become a source of conflict.
- **Relations with local government.** Companies can become involved in the rent-seeking behaviour of local authorities, exacerbating poor governance tendencies; they can inadvertently undermine state capacity by becoming the major provider of services to communities as a result of social investment programmes.
- **Security arrangements.** The conduct of security forces will influence people's perceptions of companies and, in certain situations, the local conflict or human rights situation.

To begin the initial impact identification, the findings of the research into profile, issues and stakeholders should first be written up into a 20-30 page draft report, including best, most likely and worst-case scenarios for the future of the locality with regard to conflict. The draft report will then serve as the basis for internal discussion with company staff in order to develop ideas on different issues and stakeholders likely to be impacted by different dimensions of the project. It is critical that a cross-section of company staff engage in this process given that a range of business activities is likely to have impacts. They should include geologists, political risk and security managers, and staff from the external relations, procurement, human resources and management departments. Brainstorming with these internal stakeholders is a crucial step towards mainstreaming a conflict-sensitive approach to the operation across staff, through sensitising them to the impacts of their individual areas of responsibility. It helps to develop the required communications mechanisms and procedures for implementing and monitoring P-CRIA – and CSBP as a whole – as it moves into deeper stages. These internal discussions also help identify any necessary project redesign by throwing up serious risk factors.

P-CRIA accompanies the entire lifecycle of a project, shifting and accumulating new strands as design of the project progresses and relationships deepen. It enables understanding of impacts to develop in tandem with the project itself. Separating the project stages into component parts (e.g. geological surveys, exploration and drilling, production, closure), and repeating and deepening the analysis and impact identification process accordingly raises the likelihood of ensuring that all impacts and all impacted groups are identified in time to design appropriate consultation and mitigation strategies at each stage of project development. Particular events, both internal (new developments of the project) and external (changes to the political landscape) should prompt additional updates.

Findings of the internal discussions should be added into the conflict analysis report, which becomes a tool that is regularly updated during the lifecycle of the project, including the findings of deeper participatory research into context and impact with stakeholders (see Step 2).

4. Step 2: Participatory analysis and impact identification

Although an important component of Step 1, engagement with stakeholders has so far been relatively limited. With a better understanding of the context and the project parameters, however, it should now be possible to move to a more systematic dialogue with those initially identified as likely to be directly impacted.

4.1 Process

Engaging in the kinds of participatory processes envisaged by P-CRIA is a huge step forward in terms of level of community involvement and needs to be approached cautiously. Contracting a team of independent facilitators is an essential part of the process, which should consist of an ongoing programme of participatory sessions reaching out to a wide range of different stakeholder representatives, sometimes together, sometimes in smaller groups. The purpose is to understand the context better through eliciting the perspectives of different parts of local society, and to understand likely project impacts, again as viewed by different parts of society.

The following four key questions should guide design of the process (also see Flashpoint Issue 1: Stakeholder Engagement):

4.1.1 Who needs to be engaged?

The term 'stakeholder' needs to be understood as broadly as possible. The main criteria for identifying and engaging with these individuals so far in both M-CRIA and the project-level analysis has been their expertise and/or importance as representatives of particular perspectives or constituencies (see box 5 above). As the project develops however, it is useful to distinguish between various categories of stakeholders on the basis of impacts, as the company will need to develop different levels of engagement with each.[4]

Primary. Those who will find their lives and livelihoods directly changed through the development of the project are primary stakeholders. ESIAs generally identify most of these groups since they are likely to be those impacted by relocation and resettlement, transport and infrastructure requirements, destruction of farm land, pollution, the arrival of an external workforce, etc. An important added value of P-CRIA here is that standard ESIA procedure is to identify such groups on the basis of geographical distance from the project, transport corridors (e.g. pipelines, roads) or security and construction camp emplacements. This is rarely likely to prove adequate given that it is fixed, arbitrary and not based on the specific context. Also, ESIAs tend to be undertaken at one particular moment early on in the project history. As such, they can miss those who may be impacted by major developments later on. The P-CRIA analysis will enable a more nuanced and iterative identification of primary groups.

Secondary. Those impacted by changes to the condition of the primary stakeholders are secondary stakeholders. Most obviously this includes communities into which - or close to where - primary stakeholders are resettled. However, secondary stakeholders can be impacted in a variety of different and complex ways (e.g. disruption to a fishing community may have implications for market traders some distance away).

4. The categorisation of primary, secondary and indirect is repeated for impact identification (see below), and is adapted from Shell International Exploration & Production B.V (2003) **Impact Assessment Guidelines – Social Impact Assessment Module**.

Indirect. Those impacted by changes in the overall political, socio-economic and security context are indirect stakeholders. For example, corruption may increase at the local level involving or impacting certain stakeholders; or the presence of more security forces may precipitate a clampdown on dissent or greater levels of human rights abuses. M-CRIA is designed to anticipate these impacts at a national level but corresponding impacts of this nature at the project or regional level need to be included and, where possible, addressed in the P-CRIA process.

Although there is an inherent prioritisation implicit in this categorisation, from both conflict-sensitive and good community relations perspectives, it is important to understand the full spectrum of impacted groups. Only basing the identification of these groups on anticipated impacts, rather than geography, can do this.

Engagement in extensive participatory processes that are designed to reach all levels of impacted stakeholders on an ongoing basis throughout the project history might be considered problematic from a company perspective. Budget and time demands mean that companies feel they have little leeway in terms of initiating protracted consultations. However, the benefits of including stakeholders in developing a common analysis of their situation from the earliest possible moment, identifying potential impacts and generating ideas for mitigation strategies, are considerable. In terms of timing, the process should be upfront as a second step to P-CRIA, but will also continue unfolding throughout the lifecycle of the project.

4.1.2 What will be the impact of the engagement process?

The first priority is security. Will participation put anyone at risk? There are a number of ways in which this might happen:

- In certain contexts, informers have been known to infiltrate community meetings, putting those who speak out at risk
- Public airing of grievances or problems (or indeed support) can invite accusations of endangering the project (or collaborating with the company), possibly precipitating reprisals or ostracism
- There may also be real security risks associated with engaging with armed groups or their affiliates.

Even in less extreme cases, governments or local authorities may be reluctant for companies to engage in dialogue with certain stakeholders. This can pose a political and legal dilemma, but can often be addressed through lobbying the government or through the strategic use of third parties. It is important to remember that a path of non-engagement with certain key groups - including the most 'difficult' – can itself create risks, ranging from breeding resentment to making the company a target for sabotage or kidnapping (see Flashpoint Issue 1: Stakeholder Engagement; Flashpoint Issue 4: Indigenous Peoples; and Flashpoint Issue 6: Dealing with Armed Groups). An inability to engage in proper consultations, for whatever reason, should trigger a review of how, and if, to proceed (see box 11).

The engagement process can affect power structures. Engaging through existing representative structures might serve to consolidate an unjust status quo. The use of middlemen or elders to liaise between companies and communities is a common company practice, though it can generate competition and patronage. Not all cultures embrace participatory processes and, even when they do, particular sub-groups may be excluded (for instance, women or lower castes). Such cases

demand a creative approach by the company, one that achieves the same objectives but using a different (perhaps more informal) process. The alternatives need to be sensitive to the fact that undermining traditional structures by, for example, ignoring a community's caste dynamics in the consultation process, can be just as damaging.

Tensions may exist prior to the company's arrival, making difficult the types of encounters envisaged by P-CRIA. Equally, the prospect of the project may awaken dormant divisions that only become apparent during the consultation process. The opposite may also be true: the prospect of the project may introduce greater common interest than was evident before. The earlier that tensions are identified and measures taken to address them, the less likely they are to escalate.

Lastly, but of key concern to the company, these types of intensive discussions are more likely to raise future expectations among different stakeholders, and may become a forum for the expression of grievances, needs and aspirations. Managing this dynamic sensitively can best be done through absolute transparency from the outset as to the intended purpose of the meetings, and the long-term goals, intentions and likely trajectory of the project itself.

These are immensely difficult challenges for which there are no easy answers. Company fears that communities will use consultation to vent demands and grievances is not a sound reason for not engaging. The reality is that a company investment is a part of the local context from the moment the first geologist steps into the area. Acknowledging this fully, and taking the steps offered through P-CRIA towards understanding its significance, including through creating safe spaces for dialogue and maintaining an open approach to social complexities, is an essential means towards winning a social licence to operate and a fundamental component of the CSBP approach.

4.1.3 How much preparation is required?

Consultation processes need to recognise and address the likely power and capacity imbalances between company and stakeholder groups. As far as possible, the objective is to discuss on an equal basis rather than negotiate from a position of strength.

The information and resource gaps that exist among stakeholders may inhibit their ability to make an informed analysis of the context and the consequent project/context impacts. These gaps could include information about the company, the proposed project or even negotiation skills. They emphasise the need for an effective information-sharing strategy from the earliest possible stage. Stakeholders should be informed about the project's constituent phases (geological surveys, exploration, construction, production, closure, etc); contingent requirements (land, infrastructure, workforce, etc); and accompanying processes (resettlement, road-building, recruitment, etc) as far as possible. Other mechanisms may also be needed. Independent third parties (e.g. NGOs) can provide valuable support and advice to communities. Training in negotiation or facilitation skills for community representatives is another valuable initiative.

The dialogues should take place at times and in places convenient to those involved. This means not only choosing suitable venues (company property may be inappropriate), but scheduling meetings around people's everyday activities. Those who live a subsistence existence cannot necessarily afford to take time out during the day to meet company representatives. All these considerations need to be factored into company planning well in advance if the consultation process is to realise its objectives.

Box 6: Tripartite dialogues in the Amazon region

A series of tripartite dialogues on the hydrocarbon sector were initiated in the Amazon regions of Bolivia, Colombia, Ecuador, Peru and Venezuela in 2000, lasting for two-and-a-half years. Their purpose was to improve the channels of communication between government, oil companies and indigenous groups because interaction historically had occurred only in reaction to conflict. Participants were selected on the basis of an expressed interest in promoting mutual understanding between sectors, using a narrow definition of stakeholder to focus on those judged to have a 'real' stake. The point of departure in the dialogues was not whether oil development should occur *per se*, but under what conditions, constraints and responsibilities. The dialogues did not relate to any specific project development.

A series of ground rules underpinned the dialogues and encouraged a free and frank exchange. These were:

- Confidentiality of the names of the participants and non-attribution of content
- Open and non-adversarial discussions and analysis to seek mutual understanding
- Equality of participants in addressing concerns (recognising the asymmetries in power in the external reality)
- Dialogue not negotiation
- Strictly facilitative role of third party.

The process went through a series of stages:

Initial meetings in each country with 2–3 representatives from each sector to design the process. A cycle of three workshops was agreed in each country, with space for adaptive management of the process.

Workshop 1. Scene-setting bringing together 25-40 participants from the state, national and international companies, and indigenous organisations using participatory workshops, role play, 'ice breakers' and informal discussions. The objective of the 'playful' approach was to promote mutual identification, framing the dialogues as between individuals rather than sectors. Each sector was asked to identify 'hot issues' though these were not discussed in detail. Two key questions were articulated by the participants, for which they would prepare 'orientations' for the second round of workshops, these were:

- What do you want to know about the other sectors?
- What do you want the other sectors to know about you?

Workshop 2. Mutual knowledge using presentations based on the 'orientations'. This mutual exchange of information was broad-ranging, including long-term visions of development, experiences of other extractive industries, detail on the oil industry (including contracts, relations with governments and between companies, national policy) and perspectives on 'outsiders'. Some role-playing techniques were practised on prior consultation, and the 'hot issues' were advanced a little.

Workshop 3. Constructive relationships delivered training on dialogue methodologies, so that participants could both be better participants and convene dialogues themselves.

Tripartite regional dialogues were then convened with selected participants from five countries and three sectors. Discussions were first held among each sector, so they could propose what could be done as a sector. The participants then reconvened by country to plan what they could do in each. Different proposals emanated from each country.

Specialist training on participatory dialogue was delivered to a handful of the participants to groom them as future facilitators.

A series of key lessons can be drawn from the process:

- The escalation of conflict is worsened by a lack of information, and yet the sectors tend not to talk to one another. The more one sector knows about the other, outside a conflict situation, the better they are able to cope with a conflict situation when it arises.
- Many conflicts arise where the state is weak; strong states can dramatically reduce conflict between indigenous peoples and oil companies. Institutional strengthening, for example through cooperation with the state to deliver health services, will help build a more pacific environment. The creation of parallel structures, or the direct provision of funds for health facilities, does not help achieve this.
- There is a significant lack in institutional capacity when it comes to accountable facilitators who are both impartial and capable.
- Sectors are not homogenous; there is a tremendous diversity within each. Processes such as the tripartite dialogue are more effective when continuous.

The partner organisations organising and facilitating the process were Fundación Futuro Latinoamericano (FFLA), Carl Duisberg Gesellschaft and the Program on Non-Violent Sanctions and Cultural Survival at Harvard University. FFLA (www.ffla.net) – is a private, not-for-profit organisation committed to fostering change toward sustainable development in Latin America. FFLA uses consensus-based public policy dialogues and conflict resolution methodologies as its main strategies. FFLA's methodology typically generates consensus-based outcomes supported by a full range of stakeholders, increasing the chances for successful implementation. FFLA focuses in five key areas: energy and sustainable development; trade and sustainable development; sustainable forest management; local governance; and freshwater management.

4.1.4 If things go wrong?

Given the complexities of project development and its interaction with host societies, it is inevitable that problems in relationships with stakeholder groups will emerge. These may be manifested through a refusal to meet and talk, or the appearance of roadblocks or campaigns against the company. It is easy in such circumstances for company staff to adopt a defensive or embattled approach, branding those who criticise the company as ideologically opposed to investment, or as acting under the influence of 'external actors'. Though there may be some truth in this, adopting this attitude runs the risk of disregarding genuine grievances and may be ultimately self-defeating. Allowing a problem to fester does not help the company repair critical relationships.

Disputes often arise over specific environmental or technical issues. In such cases, commissioning independent research, coupled with a prior agreement to abide by its findings, may be all that is required. In other cases, targeted dialogue, underpinned by clear guidelines and principles, and initiated as early as possible, will probably be the best mechanism. Such guidelines can include:

- Use of a third-party facilitator, agreed to and invited by all parties
- Recognition of the legitimacy of other parties and their concerns
- Establishment of ground rules for the dialogue process (see box 7)
- Acceptance of an open agenda
- Time to see the process through
- Admission of past wrongs.

Box 7: Codes of conduct for dialogue

Exploration of three wells in the Amazon region in Ecuador resulted in a breakdown of relationships between an oil company and the indigenous peoples whose territory was affected. The dispute centred on the compensation agreements negotiated with other affected communities.

A third party, Fundaçion Futuro Latinoamericano, was called in by the company and invited by the parties in June 1999 to initiate a process of facilitated dialogue, broken down into two stages:

1. Negotiation of a code of conduct for dialogue
2. Dialogue on conditions and compensations for the company's exploration activities on indigenous territories.

The indigenous community refused to negotiate with the company until a code of conduct was agreed. There was no discussion of conditions or compensation in the first phase. Instead, the negotiations served to surface many conflict issues which were subsequently addressed through the process of drawing up the code of conduct, thus solving many tensions prior to the actual dialogue itself. In other words, broader relationship issues were de-linked from the specific concerns that triggered the dispute.

The role of the facilitators was to:

- Create trust in the process of dialogue
- Establish good communications between parties
- Structure discussions such that they could elicit clear expressions of willingness to negotiate, help articulate interests, and foster constructive conversations.

It took approximately five months to draw up the code of conduct setting out the principles, procedures, requirements, responsibilities and obligations governing the dialogue. The code of conduct also established the presence of the state as a third party in the negotiations. It took a further three months to produce an agreement on compensation.

The full code can be found at: isis.hampshire.edu/amazon/oil/code_eng.html

4.2 Structuring the participatory consultations

Where the basic framework of governance, economics, socio-cultural and security is a useful framework for organising information gathered through desk research and targeted consultations, a more open approach is likely to be necessary to guide the participatory analysis and impact identification. Step 2 is about developing a richer understanding of the communities themselves, their way of life and the challenges and difficulties they face. It is also about the company taking a more active involvement with the affected stakeholders, thereby becoming a participant in the process.

Box 8: Shared analysis process

In 2001 a company operating in Indonesia began a Participatory Rural Appraisal (PRA) process among several affected communities near their copper mine. A development NGO was bought in as the third-party facilitator, who identified the formal and informal community leaders and members to lead the process. These were then trained (alongside several company staff) for three days in conducting PRAs. Following the training, the villagers returned to their communities and conducted PRAs, supported by the NGO. A shared analysis was developed on:

- What resources the community has
- What the community wants to develop
- Internal obstacles
- Needs.

The process culminated with a plenary bringing all the findings together for discussion, including the local government and the company. This then helped inform social investment design.

4.2.1 Analysis

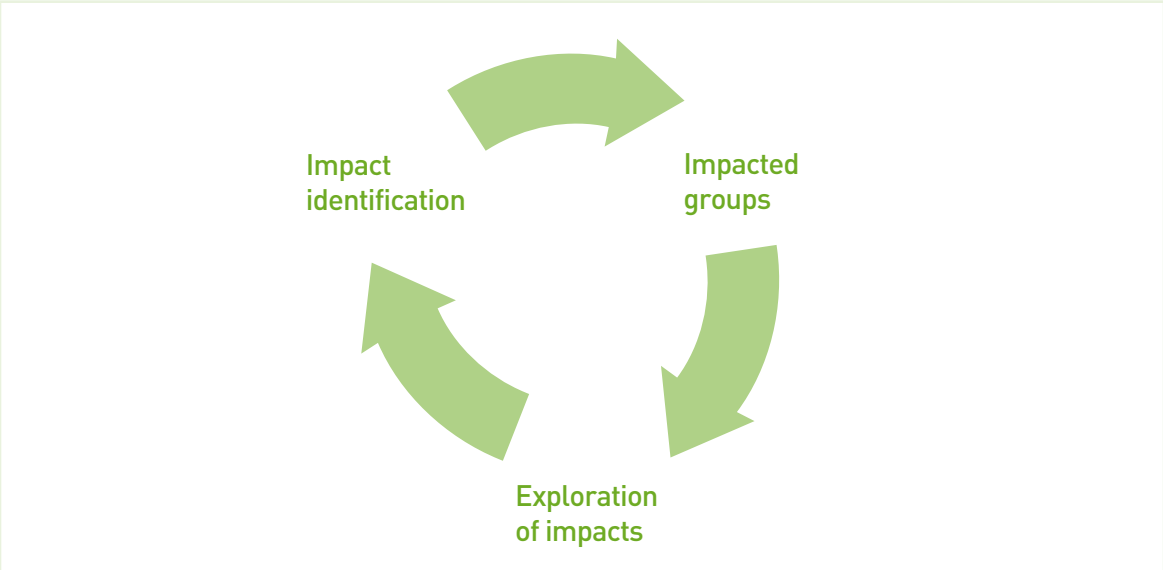
The literature on participatory processes is extensive (see Resources). Different tools and methodologies are appropriate at different phases of the consultation process and according to the desired outcome. The Annex to P-CRIA includes a selection that may be particularly useful from the perspective of analysing conflict or social tensions. Such tools, however, are only ever as useful as the skills of those using them. This again emphasises the importance of bringing in experienced facilitators.

The analysis generated through these dialogues should not be considered 'definitive'. Perceptions and understanding vary from one group and, indeed, one individual to the next, and each consultative process brings to the fore a variety of perspectives. Clearly, the greater the degree of convergence around particular issues, the more confident the project team can be in the analysis. Where significant disagreements occur, they should be noted since perceptions are potentially as important as any objective 'reality'. The findings from this process can be used to add to the basic issues and stakeholder analysis undertaken in the preceding stage, based on the P-CRIA team's synthesis of findings. As discussed on p.16, the conflict report of Step 1 should remain a live tool, regularly updated.

4.2.2 Impact identification

A full exploration of impacts is only possible through discussions with impacted stakeholders. The participatory element is important not only because those affected by the project need to be engaged in understanding and defining how the project will impact them, but because their knowledge will be key to identifying other groups who will subsequently need to be consulted. This kind of process clearly requires that the stakeholders are adequately informed about the project, as detailed above.

Figure 4: Iterative impact identification process



The process, as shown in figure 4, mirrors the overall circular P-CRIA framework. Initial assessment of impacts will lead to an identification of likely impacted groups. Working with those groups will enable a better understanding of the nature of the impacts and elicit other impacts which, in turn, will mean engaging with other stakeholders.

The cycle of consultation on context analysis and impact identification should be implemented in accordance with advances in the development of the project and greater clarity over the project parameters, responding to external shifts in the context at both national and project levels. In principle, the focus of the consultations (and indeed the identity of the impacted stakeholders) will reflect what is known about the project at the time. This will help minimise unduly raised expectations over a project that may never go ahead, and ensure the company does not find itself engaging too deeply until it is more certain of its own long-term presence. In practice, maintaining a balance between looking ahead to anticipate and plan properly, and not pushing forward with engagement with issues and groups while uncertainty remains, is a difficult one. The approach the company takes should be determined by the specific context.

Transferring some degree of decision-making to the stakeholders is critical to the success of this process. This does not relate simply to assessing the nature of the impacts, but also exploring project re-design options if stakeholders feel there are sufficiently strong arguments for doing so (see box 9). This does not preclude the company's perspective. The company should recognise

and communicate its role as an equal stakeholder in an analysis and consultation process with other stakeholders, rather than as a decision-maker to be lobbied and pressured. This results in a better process and enhances the chances of emerging with a consensus and sense of shared ownership.

Box 9: Decision-making and project re-design

At a zinc project in South Africa, one company undertook an extensive stakeholder engagement process, leading to informed/consultative decision-making on project components. The consultation began during feasibility studies involving meetings and one-to-one engagements with over 300 interested and affected parties, open days and visits to the mine site over a two-year span, and a dialogue process with environmentalists and other stakeholders. The dialogue process with the environmentalists was chaired and coordinated by World Wildlife Fund, and generated good working relations with many of the parties. One of the decisions reached through the dialogue was to resite the tailings dam to minimise the impact on rare succulents in the habitat.

There are three general types of impacts that reflect (and are closely bound up with) the categorisation of impacted stakeholders:

Primary. What happens as a direct result of a feature of the planned project. This would include employment generated by construction, rivers affected by pollution, disruption to traditional livelihoods through resettlement, etc.

Secondary. The knock-on impacts resulting from the above: e.g. tensions which arise between relocated and host communities, creation of new industries to service the project and decline of existing ones. Secondary impacts can also have follow-on effects (see box 10).

Indirect. Impacts on the overall political or socio-economic system. These include increased rates of detention, higher levels of corruption and restrictions on the freedom of the press. Equally, it might mean better provision of social services, lower taxes, etc.

Box 10: Causal chains

Primary impacts can trigger other changes or provoke reactions. Causal chains speculate a potential chain of events that may occur from a specific trigger event. In situations of conflict or tension, reactions often escalate, drawing in other actors and issues in complex interplays. As with another tool that is often used, 'scenario building', causal chains describe a hypothetical future.

For example, an accident at the project site causes the release of tailings into a river, reducing fish stocks. The fishermen react by protesting at the mine. The company increases its security, including bringing in a private security firm. The security firm uses force to break up the protests and several protestors are injured. An international advocacy organisation hears about the incident and publicises it on the internet. The fishermen take legal action against the company. The injured protestors sue for compensation.

Box 10 (continued)

This hypothetical situation shows how one event or impact can precipitate a series of actions and reactions which escalate and draw in other parties. Multiple different reactions may emerge from a trigger event or its reactions.

In understanding impacts, it is important to anticipate a range of potential knock-on events in order to avoid events sliding out of control. Clearly, any number of causal chains could be developed for each and every impact so a degree of prioritisation is required. The participatory process assists in identifying the most critical potential impacts.

Illustrating the relationship between impacts and impacted groups in this way emphasises that it is the impacts that constitute the main criteria for identifying stakeholders. Companies should bear in mind the distinction between impacts resulting from the project itself (primary and secondary), and impacts related more to the wider effects of natural resource extraction on the context (indirect).

The impact identification process should be used as a basis for informing the company's understanding of the likely impacts on itself, although this should be refined by the P-CRIA team in conjunction with relevant departments. These can range from the financial costs associated with resettlement and compensation, to the potential reputational risks of being closely associated with a repressive regime.

In addition to drawing up causal chains, there are a number of other tools available for generating an understanding of impacts:

- **Scenario planning.** Brainstorm the best, most likely and worst-case scenarios by considering the key predicted impacts in the context of the findings from the project-level analysis. Scenario planning is most valuable for exploring context (indirect) impacts, but can also be used for project (primary and secondary) impacts.

- **Mapping impacts across stakeholders.** Assess the cumulative impacts across the spectrum of stakeholder groups. This helps to understand whether one group benefits or suffers disproportionately from the project.

- **Specialist work teams.** Given the technical nature of certain project impacts, it may be impractical to explore them in large workshops. Establishing a team of technical experts and stakeholder representatives to work through the issue is a more appropriate mechanism.

The process of participatory analysis may unearth some critical likely impacts that cause a company to rethink its investment, even at this stage.

Box 11: Potential 'showstoppers' at the project level

Companies cannot always operate in a conflict-sensitive manner; in some circumstances they unavoidably contribute to insecurity and violence at the local, regional or national level. Potential showstoppers at the macro level were discussed in the Screening Tool. Potential showstoppers at the project level should emerge in the process of project-level analysis and are dependent on context, and the particular project within it. It is possible to point to three ubiquitous factors alerting a company to an impossible situation from the perspective of conflict-sensitivity, however:

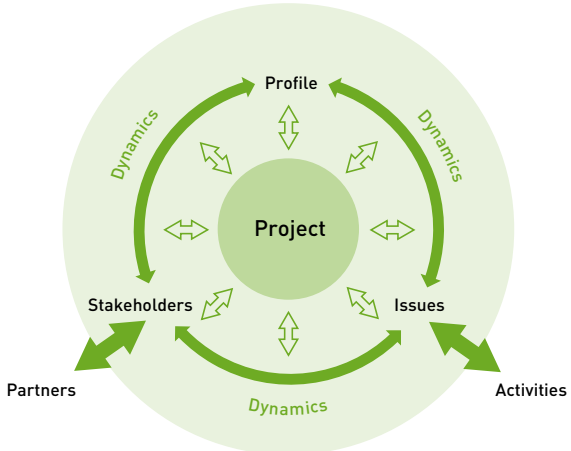
1. If there is no possibility of creating any form of safe space for shared analysis, this should signify a 'no go'. A company cannot be conflict-sensitive if the political space for stakeholders to engage in discussions about the investment is so limited due to the restrictions imposed by a repressive regime.

2. If it emerges that security payments will be demanded from staff or the project, this should signify a 'no go', unless the company feels confident it will be able to overcome demands through alternative means such as developing relationships with all local communities in such a way as to achieve a *cordon sanitaire* around the operations. Security payments to armed groups unavoidably prolong and potentially escalate violence (see Flashpoint Issue 6: Dealing with Armed Groups).

3. If it emerges that the company cannot operate in the area in accordance with international law and its own business principles (see Screening Tool).

5. Step 3: Participatory mitigation design and implementation

Figure 5: Conflict-risk mitigation strategy



The preceding steps will have identified critical issues existing prior to the company's arrival (e.g. systemic problems within the local society, open or latent tension between communities) and assessed the likely impacts of the development of the project on stakeholders and on the overall political and socio-economic context itself. The next step is to design management and mitigation strategies to address both the underlying issues and the likely impacts of the project across all areas of the business.

5.1 Approach

A common mistake is to assume that by providing jobs and paying taxes the company is fulfilling its responsibilities to the society in which it is operating, or that any additional contribution through social investment is of itself 'good'. Neither assumption is true. Institutional and governance failings in many conflict-risk countries mean that revenue is not used for the benefit of the population as a whole. At the same time, failure to understand and address real needs through social projects has resulted in many flawed interventions whose effect is at best negligible and, at worst, divisive. Experience over the past decade, both from extractive industry projects and from the development and humanitarian aid sector, suggest that development itself can create conflict at a community level (for example, over access to the 'benefit') or at a national level (by allowing the government to neglect its responsibilities to its people).

Company mitigation strategies must therefore accomplish several things:

- Address all aspects of business impact
- Address real needs at the local level
- Be sustainable
- Avoid creating a dependency culture by simply providing services
- Take into account and address the wider structural issues underpinning the conflict or under-development within the society.

These strategies must also be developed in the context of enormous expectations, both from those who live in the region where the resource is located and in the country at large. P-CRIA emphasises the need to address these expectations from the earliest possible stage through transparency, open communication and participatory consultations.

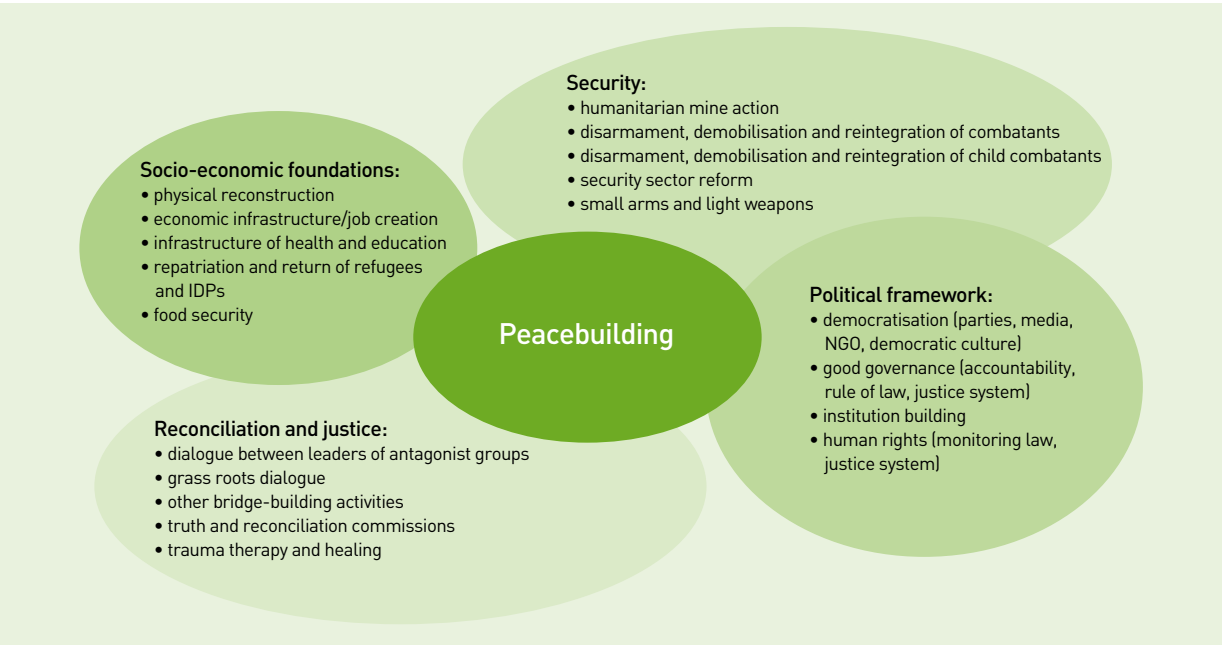
Inevitably, discussions around mitigation strategies – especially as they relate to social investment projects – will be heavily influenced by the needs, aspirations and grievances of individual stakeholders or communities. Often, these might be presented as 'demands'. The challenges of dealing with the separate and, perhaps, contradictory and competing calls for infrastructure, service provision or other development projects by different stakeholders have resulted in flawed approaches on the part of companies by:

- Insisting on complete control over the design of mitigation strategies in order to avoid the problem of juggling competing demands. This risks inappropriate initiatives which have little popular support and therefore prove unsustainable.
- 'Buying off' individual communities one by one. This establishes a pattern in which social projects become a way of fire-fighting grievances rather than addressing long-term needs (see Flashpoint Issue 1: Stakeholder Engagement).

The strategy design, therefore, needs to be participatory, using the methodolgies described above, with a strong component of shared decision-making. It also must be comprehensive, encompassing long-term needs across a broad spectrum of stakeholders, and taking into account a thorough understanding of the context in order to ensure proposed social investment projects or other mitigation measures do not feed or create divisions. It requires strong partnerships with other companies, local and national government, NGOs and the wider international community (see below). Designing mitigation and management strategies needs to evolve iteratively and be informed by the ongoing analysis elements of P-CRIA.

As presented in the Introduction and in M-CRIA, CSBP requires 'mitigation' of conflict risk through compliance with national and international laws and standards; adopting a 'do no harm' approach to company/conflict impact; and going beyond this to contribute to 'peacebuilding'. Peacebuilding encompasses a range of initiatives (see figure 6) many of which fall within a company's mandate and areas of expertise, others (particularly the more political dimensions) that fall outside them.[5] Assisting a society to move from violence towards peace requires a variety of interventions by a number of different local and international actors.

Figure 6: The 'peacebuilding palette'[6]



At first sight, the concept of peacebuilding can appear to be beyond companies' legitimate activities as private-sector entities and, as a result, companies to date have not fully acknowledged that they have an important role to play beyond the provision of revenue and jobs. To play this role means taking a comprehensive and holistic approach to the short and long-term challenges facing societies engaged in, emerging from or threatened by conflict, and contributing their competencies toward their alleviation. To maximise the contribution requires working in partnership with others as presented in box 12:

Box 12: Partners for conflict-risk mitigation and peacebuilding

Government. States (or state-owned enterprises) are the primary partners in most extractive industry projects. Entering into agreements with governments means that a company's reputation is inextricably bound up with the actions of its partner. In other words, abuse, corruption and repression by government inevitably rebounds on the company by virtue of its partnership. This emphasises the importance of writing key agreements into contracts (e.g. transparency in revenue payments, Voluntary Principles on Human Rights and Security, percentage of revenue accruing

5. Banfield, J. et al. (2003) **Transnational Corporations in Conflict Prone Zones: Public Policy Responses and a Framework for Action** (London: International Alert); Nelson, J. (2000) **The Business of Peace: The Private Sector as a Partner in Conflict Prevention and Resolution** (London: International Alert, International Business Leaders Forum and Council on Economic Priorities); Wenger, A. and D. Möckli, **Conflict Prevention: The Untapped Potential of the Business Sector** (Boulder: Lynne Rienner).
6. Smith, D. et. al. (2004) **Towards a Strategic Framework for Peacebuilding: Getting their Act Together** (Oslo: Norwegian Ministry of Foreign Affairs).

Box 12 (continued)

to project region). In itself this will go some way towards avoiding the main sources of grievance and conflict precipitated by extractive industry investments. Beyond contracts, companies should lobby and dialogue with governments to use revenues equitably, working with them to promote an enabling environment for business and exerting pressure to reduce corruption and hold to account those responsible for human rights abuses. In terms of state-owned enterprises, capacity building should go beyond technical and financial expertise to include the incorporation and mainstreaming of sound ethical principles. Companies should also work to build the capacity of local government to deliver services to communities by designing social investment projects that complement and strengthen government, rather than eclipse it (see Flashpoint Issue 5: Social Investment).

Companies. Collective action by multinationals is critical to exerting a positive influence. Acting alone is both risky and less likely to prove successful. However, while companies often need to work together to develop natural resources, they are more reluctant to collaborate on development projects or lobbying government. This is partly because the extractive industry is far from homogenous in its approaches, but is also due to individual companies' efforts to create brand identity. The use of ethical and social policies as part of a marketing strategy has little or no relevance in countries threatened by conflict. Worse, it actively obstructs important initiatives from being pursued and leads to duplication and reduced impact. Harnessing the collective influence, financial resources and expertise of companies could make a significant contribution towards promoting equitable political and socio-economic development.

International community. Different international actors are useful partners for companies in that they bring different skills and competencies to addressing shared issues of concern. Companies can pool their skills and activities with donor governments to address human rights and corruption; with development agencies and INGOs on service provision and capacity building projects; and with IFIs to promote good practice in transparency and revenue management.

Local NGOs. Credible NGOs working on issues relevant to the P-CRIA analysis will have already emerged through the process. Partnering with local NGOs enables companies to develop relevant and targeted projects and has the added benefit of supporting the capacity of local civil society.

Local business. Strengthening the capacity and productivity of local entrepreneurs through skills transfer and partnership can also reinforce initiatives to promote peace, helping to reduce the risks of 'Dutch Disease'. Companies will have a shared interest in lobbying for stable and enabling operating environments with their local counterparts.

5.2 Structuring participatory mitigation design

As discussed in the Introduction and M-CRIA, mitigation measures can be divided into three categories of business activity: core business, social investment and policy dialogue. Core business relates to activities that are in the immediate sphere of a company's operations, including location of investment, employment of staff, security arrangements, production activities, etc. There are many ways a company can contribute positively through the management of its own operations both to minimise negative impacts, but also to address broader structural issues and contribute to peace. Social investment captures the wider projects and stakeholder relationships that companies

engage in as one means of managing the local environment. Companies conventionally use social investment as a tool to build relationships with stakeholders. However, care has to be taken to ensure that social investment projects do not create parallel structures of service provision that undermine the accountability of governments to their electorate. Institutional strengthening of legitimate government structures should be considered as a key component of mitigation strategies (see box 13). Policy dialogue refers to the engagement that companies have, and the influence they can exert, over or in tandem with national and local governments, industry associations and international agencies. These interventions are usefully understood using the 'control'/'assist and influence' framework presented in M-CRIA.

Box 13: Institution building

Corrupt or weak local government poses problems for companies wanting to channel social investment through the state. Developing direct funding relations with civil society or development agencies may present short-term efficiency gains, but in the long run it creates a situation in which communities will look to the company to provide for social development, rather than the government.

Institutional strengthening of legitimate state structures can take different forms:

- Local government partnerships to build revenue management capacity, for instance, through work-exchange programmes between finance staff
- Transparency in payments and revenue-sharing arrangements to enable watchdog organisations to track financial flows
- Engaging government in participatory planning processes and ensuring that social investment programmes fit within the state's regional development plans.

Ideas about the kinds of mitigating initiatives and steps that could be taken across the three areas of business to address stakeholder concerns relating to the context itself and the project impacts will already have been gleaned during the participatory research process of Step 2. Building on these, the P-CRIA team should now make an initial chart of conflict-risk issues, project impacts and proposed mitigation actions across the different business areas. Table 1 gives a partial sample of what this chart could look like, based on a fictional country context. The document should then be brought back to key stakeholders in small focus groups to further develop ideas and create support and buy-in for the emergent strategy.

Table 1: P-CRIA summary table – example

IMPACT CATEGORY	ACTION	IMPACT	IMPACTED STAKEHOLDERS
PRIMARY AND SECONDARY (PROJECT)	Project land-use.	Resettlement of communities.	Those living on land required for project. Armed groups.
	Pollution/environmental damage.	Destruction of farmland. Water in rivers/lakes made unfit for use.	Those living on or from polluted land/rivers.
	Security arrangements for project.	Recruitment of locals. Influx of state security forces.	Those living around/near project. Armed groups.
INDIRECT (CONTEXT)	Revenue to government.	Perceived inadequate share of revenue to the locality increases alienation.	Potentially all within locality. Local government.

CB: core business
SI: social investment
PD: policy dialogue

POSSIBLE SECONDARY IMPACTS	ADDITONAL IMPACTED STAKEHOLDERS	RISK LEVEL/IMPACT ON COMPANY	MITIGATION MEASURE
Relations between relocated and host communities. Influx of cash into subsistence economy. Compensated individuals become target for extortion.	Those affected by relocated communities.	Red. Potential for tension between company and resettled communities, and within local communities.	CB: Good practice in resettlement/compensation processes (see Flashpoint Issues 1 and 2). SI: Appropriate development projects to provide alternative livelihoods for relocated and host communities. PD: Engage with local government to provide basic services.
Oil spills. Air pollution. River life affected downstream from project.	Potentially all communities within locality (and beyond).	Red. Failure to mitigate and manage environmental impacts can lead to conflict.	CB: Stringent environmental standards. SI: Alternative livelihood projects/health projects. PD: Lobby local government on its own environmental standards and for provision of health clinics, hospitals.
Fences and walls alienate local communities. Abuse by security personnel. Employment of state security forces increases fear within community. Availability of weapons.	Towns/villages frequented by security personnel.	Red. Disproportionate responses to demonstrations etc can trigger and inflame violence.	CB: Appropriate training for security personnel – adherence to Voluntary Principles and IHL. SI: Support for community initiatives which address prevalence of weapons/crime/ feelings of insecurity. PD: Lobby local government to train and manage state security forces/tackle crime.
Corruption increases. Gap in living standards increases. Government neglect exacerbates under-development.	Indirect impacts can be felt more widely than any geographic boundary.	Red. Company blamed for the lack of benefits accruing to local communities.	CB: Transparency on revenue payments/anti-corruption. SI: Support to civil society to monitor government expenditure. PD: Lobby government to ensure equitable distribution of revenue/include revenue share for locality in contracts.

Table 1 (continued)

IMPACT CATEGORY	ACTION	IMPACT	IMPACTED STAKEHOLDERS
INDIRECT (CONTEXT)	Project dominates local economy.	Distortion of traditional economic structure. Neglect of existing industries/livelihoods.	All within locality.
	Government dependency on project.	Increased security presence. Clampdown on dissent. Greater incentive for government to remain in power.	All within locality.

POSSIBLE SECONDARY IMPACTS	ADDITONAL IMPACTED STAKEHOLDERS	RISK LEVEL/IMPACT ON COMPANY	MITIGATION MEASURE
Unemployment. Competition for employment with company. Inflation. Project becomes a magnet for people from other regions.	Neighbouring localities drained of productive labour.	Red. Intensified demand for jobs.	CB: Transparency in recruitment policies/ processes and procurement from local suppliers. Contractors follow company guidelines/ principles. SI: Micro-finance projects/ skills training and education. Support for economic diversification. PD: Lobby government to: support existing industries and livelihoods/create appropriate business climate/tackle corruption/ invest in education.
Higher levels of human rights abuses. Restrictions on freedom of speech. Increase in detentions. Electoral fraud.	Country-wide.	Red. Company associated with increasingly repressive regime.	CB: Promote own business principles internally and to contractors/ suppliers, including state partners. Encourage company staff to monitor elections. SI: Support local and international NGOs working on civil rights and human rights monitoring. Promote democratisation initiatives PD: Send clear signal to the local authorities on human rights standards. Work with international community.

6. Step 4: Mainstreaming throughout the project cycle

P-CRIA is composed of a number of steps a company can take to ensure it operates in a conflict-sensitive manner. As this document has emphasised throughout, P-CRIA is an iterative process that, in addition to providing a regularly updated assessment of company/context interactions and impact, is designed to become a *modus operandi* for companies investing in countries at risk of conflict. The key to the approach is the recognition of the value of full stakeholder engagement. Since the project itself will change over time, either in terms of its parameters or in respect of its phases of development, the process used by the company must be flexible enough to accommodate accompanying changes in its interactions with stakeholders. This flexibility means working at a pace with which stakeholders are comfortable. It also means openness to project re-design, acceptance and understanding of stakeholder perspectives, and recognition of the need to be constantly engaged in participatory and validating research and dialogue about project impacts throughout the project lifecycle. It is this kind of approach to doing business in conflict-risk countries which will ultimately generate a social licence to operate and ensure positive outcomes.

Given its ambitious goals and method, spanning the range of business activities and impacts, P-CRIA will not fulfil its objectives if it is sourced to external relations or community liaison staff. As discussed above, the P-CRIA team should be in constant dialogue with, and ultimately consist of, representatives from all key areas of business: geologists, political risk and security managers, staff from external relations, procurement and human resources departments, and management. P-CRIA is at the crux of operationalising CSBP as a whole and requires constant leadership. Staff turnover and limited inter-departmental coherence represent some of the biggest threats to effective implementation of CSBP as a whole and P-CRIA in particular.

6.1 Indicators

An important aspect of the mainstreaming required for successful implementation of P-CRIA is the development of indicators to monitor progress and to ensure that the mitigation strategy does not have unintended harmful impact. Indicators can be used at three different levels:

Context. P-CRIA is designed for assessing changes and shifts in the context, with particular emphasis on conflict risk, throughout the project cycle. Developing and using 'context indicators' through the project-level analysis can alert the company to significant changes in the context. Context indicators should reflect the key issues identified in the context analysis and should use a mixture of perception-based (qualitative information based on beliefs, views and feelings) and objective (quantitative information based on more 'factual' data). Indicators are inevitably specific to the situation but examples might include: poverty levels, instances of violence, increased inflow of weapons, numbers imprisoned, perceptions of security, etc.

Project. Companies conventionally use project indicators to measure the progress of the project development. The emphasis tends to be on quantitative rather than qualitative indicators. The participatory research process of P-CRIA enables the team to discern and develop project indicators related to stakeholders' perceptions of the project's development, which will serve as an important evaluation tool for the project's success from the CSBP perspective.

Impact. These should be designed to monitor the impacts related to the two-way interactions between context and company that have been identified through the participatory research. They can be developed together with stakeholders during the participatory processes and are particularly useful for monitoring the efficacy of the mitigation strategy as it unfolds.

Annex

Peacebuilding practitioners use a variety of tools to map out and visualise conflict issues in an accessible way. Below are examples of some that may be useful for the steps carried out in P-CRIA. Others are listed in the training and resource manuals cited in Resources.

Dividers and connectors[7]

The dividers and connectors tool explores factors that divide (maintain the polarisation of the population, such as unequal access to power, language barriers) and factors which connect (maintain bonds between sections of society such as shared harvest, common memories of former peaceful coexistence) across groups. These are structured into different categories:

- Systems and institutions (e.g. infrastructure and markets)
- Attitudes and actions (e.g. adoption of war orphans from other side)
- Past and current experiences (e.g. colonial history)
- Values and interests (e.g. common religion)
- Symbols and festivals (e.g. national commemorative events).

A company's project can be reviewed by the P-CRIA team, with other staff, or collectively with stakeholders in order to establish whether it will increase or decrease the dividers and connectors in society.

7. Anderson, M. (1999) **Do No Harm: How Aid Can Support Peace – or War** (Colorado: Lynne Rienner Publishers)

Timelines[8]

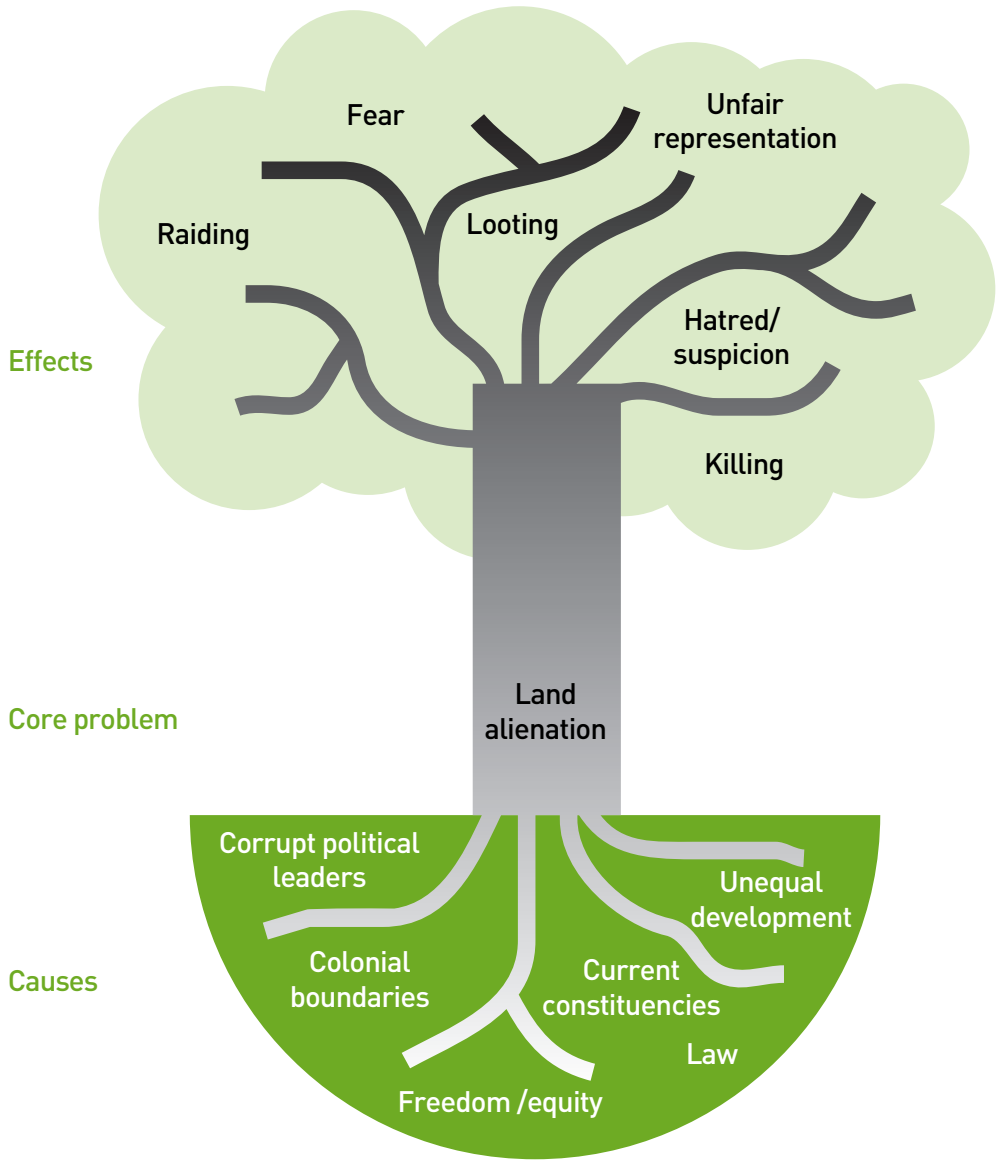
Timelines help clarify local conflict history, highlighting different perceptions or understandings of events. The tool invites the user to show significant historical events in chronological order. By keeping the timeline down the centre of the page or flipchart they enable different perceptions of history to be shown side-by-side. Shared analysis of these different perceptions can help users to understand the significance of key points in history and facilitated discussion of timelines can help build consensus and solidarity. One variation of the timeline is used in the Northern Ireland museum where a shared timeline splits at a significant point in the conflict, with two separate versions of history subsequently shown on facing walls. The timeline tool can be used by companies as context analysis, or to help resolve community/company conflict.

Events as viewed by local community		Events as viewed by company
Government forces evictlocal communities from concession area	1995	Beginning of negotiations with the government, successful bidding for concessions
In-migration by jobless hoping to get employment at company. Tensions between community 'insiders' and 'outsiders'	1996	Exploration begins. Problems with international media also begin
Community feels marginalised in process of construction, mistrust rises against company and 'foreign' workers		Successful establishment of workers' camps and bringing in of workers for construction
Communities see trade opportunities at construction site, become frustrated		Company obtains catering and services from 'safe' sources abroad
Tensions arise between different factions in the local community to control social investment resources	1998	Production begins and together with it social investment. International advocacy campaign launched against company
Local communities negatively affected by attacks, increasing opposition to the investment	1999	Rebels begin to target company infrastructure
Military begins to indiscriminately target local communities in an effort to uproot rebellion	2000	Military moves in to provide security around the company site
Violent protests around the company site against indiscriminate attacks		Shareholder meeting hi-jacked by lobbyists
		Company has to shut down operations

8. Adapted from Responding to Conflict (2000) **Working with Conflict: Skills and Strategies for Action** (London Zed Books).

The problem tree[9]

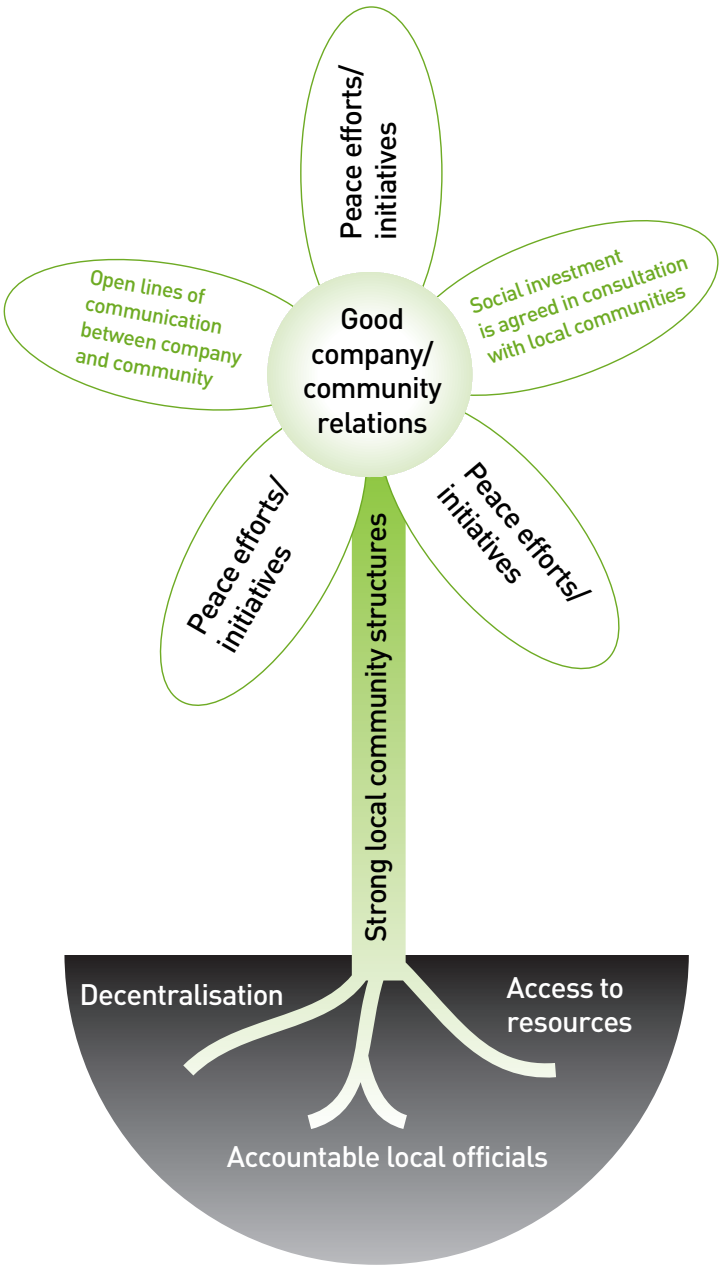
Problem trees seek to unravel cause and effect relationships of multiple factors in a complex situation. People draw a tree, where the roots represent the root causes/structural factors of the problem (e.g. poverty, ethnic prejudice, corruption). The trunk represents the name and nature of the problem (this may be the converged expression of many different roots, e.g. tensions between fishing community and pastoralists) and the leaves or branches are manifestations/effects of problems (e.g. conflicts between ex-combatants and host communities, land disputes of returning refugees). This joint conflict analysis helps to clarify the difference between manifestations of a conflict(s) and their root causes. Again this tool can help the company understand issues and stakeholders in the context or could be used to address company/community conflict.



9. Adapted from Responding to Conflict (2000) **Working with Conflict: Skills and Strategies for Action** (London Zed Books).

The peace flower[10]

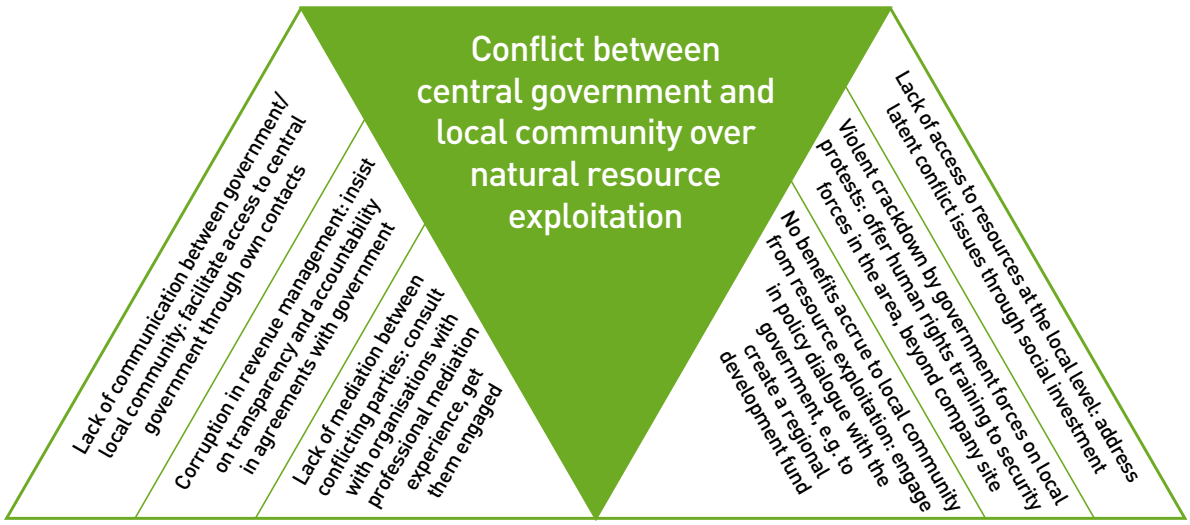
The peace flower, representing the inverse of the problem tree, can be used to understand what factors contribute to peace or conflict prevention in a particular society. The components of the flower include its name (peace issue, e.g. good company/community relations), its roots (systemic support, e.g. access to resources), its stem (processes in place, e.g. strong community structures) and petals (on-going peace efforts). Again this tool can help the company to understand issues and stakeholders in the context or could be used to address company/community conflict.



10. Adapted from WANEP/FEWER.

The pillars tool[11]

The pillars tool can help to focus users, including the P-CRIA team, on the factors or forces that sustain violence or tensions. Having identified these 'pillars', users consider how to weaken or remove them, and replace them with pillars that strengthen stability.



11. Adapted from Responding to Conflict (2000) **Working with Conflict: Skills and Strategies for Action** (London Zed Books).

Resources

Environmental and Social Impact Assessments

Goldwyn, R. and J. Switzer (2004) 'Assessments, Communities and Peace: A Critique of Extractive Sector Assessment Tools from a Conflict-Sensitive Perspective', in **Oil, Gas and Energy Law Intelligence** (OGEL), vol.2 issue 4. www.gasandoil.com/ogel/

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Jones, M. G., J. J.Hartog, R. M.Sykes (1996) **Social Impact Assessment – New Dimensions in Project Planning** (Society for Petroleum Engineers, Inc.).

International Association for Impact Assessment (2002) 'Impact Assessment, Sound Business Operation, and Corporate Responsibility for Sustainable Development', in **Impact Assessment in the Corporate Context,** Business and Industry Series no.1. www.iaia.org

International Association for Impact Assessment (2003) 'International Principles for Social Impact Assessment' in **Special Publications Series** no.2. www.iaia.org

UNEP (2002) **Environmental Impact Assessment Training Resource Manual**, second edition (UNEP), including sections on social impact assessment. www.unep.ch/etu/publications/EIAMan_2edition_toc.htm

Petts, J. (ed.) (1999) **Handbook of Environmental Impact Assessment** (London: Blackwell Science).

Vanclay, F. (2002) 'Conceptualising Social Impacts' in **Environmental Impact Assessment Review**, 22.

World Bank and IFC, **Environmental and Social Safeguard Procedures.** www.worldbank.org, www.ifc.org

Conflict analysis and impact assessment tools from the development and humanitarian aid sectors

African Peace Forum, Consortium of Humanitarian Agencies, FEWER, International Alert and Saferworld (2004). **Conflict Sensitive Approaches to Development, Humanitarian Assistance and Peacebuilding – a Resource Pack**. www.conflictsensitivity.org/

Bush, K. (2003) **Hands-On Peace and Conflict Impact Assessment Handbook.** www.swisspeace.org/koff/uploads/nl/tools/HandsOnPCIA-Handbook0X-Part-I.pdf" \t "_blank Vol I and www.swisspeace.org/koff/uploads/nl/tools/HandsOnPCIA-Handbook0X-Part-II.pdf" \t "_blank Vol II, available from www.swisspeace.org/koff/t_tools_pcia.htm

CARE International **Benefits/Harms Handbook**. www.careusa.org/getinvolved/advocacy/policypapers/handbook.pdf

Collaborative for Development Action Inc. **Do No Harm/ Local Capacities for Peace Project**. www.cdainc.com/dnh/

Paffenholz, T. and L. Reychler (2005) **Aid For Peace: A Guide to Planning and Assessment for Conflict Zones**, (Boulder: Lynne Rienner). www.swisspeace.org/koff/uploads/website/WorkingIn ConflictZones.pdf

Specialist assessment tools

Confederation of Danish Industries, Danish Institute for Human Rights, and Industrialization Fund for Developing Countries, Human Rights and Business Project **Human Rights Compliance Assessment.** www.humanrightsbusiness.org/compliance_assessment.htm

Schmeidl, S. and E. Piza-Lopez (2002) **Gender and Conflict Early Warning: A Framework for Action** (London, UK: International Alert and Swisspeace). www.internationalalert.org/women/publications/EWGEN.PDF

Training and resources on conflict analysis and conflict transformation

African Centre for the Constructive Resolution of Disputes (ACCORD) **Introduction to Conflict Management**, Mediation Training 3-day courses, based in South Africa. www.accord.org.za/web/home.htm

Centre for Peacebuilding and Conflict Management **Basic Conflict Management Skills**, 3-5 day courses. www.ccm.no/

Creative Associates International **A Toolbox to Respond to Conflicts and Build Peace.** www.caii.com/

Eastern Mennonite University **Summer Peacebuilding Institute** 4-week training. www.emu.edu/ctp/spi.html

International Alert **Resource Pack for Conflict Transformation**. www.international-alert.org/publications.htm

Network University **Transforming Civil Conflict**, 4-week online certificate course. www.netuni.nl

Responding to Conflict (RTC) **Strengthening Policy and Practice**, 1-week training course; **Working with Conflict**, 10-week training course; **Confict Resolution Skills**, 2-week post-graduate certificate. www.respond.org/

Transcend **Peacebuilding, Conflict Transformation and Post-War Rebuilding, Reconciliation and Resolution**, 5-day training course. www.transcend.org/

UN **Developing Capacity for Conflict Analysis and Early Response**, training manual. www.unpan1.un.org/intradoc/groups/public/documents/un/unpan011117.pdf

University of Waterloo **Certificate Programme in Conflict Management**, courses of varying length and topics. www.grebel.uwaterloo.ca/

Local sources
Newspapers
Civil society reports and studies
Academic papers
Local think tanks and research-institute papers
Interviews

Section 4

Flashpoint Issue 1
Stakeholder Engagement

Flashpoint Issue 1
Stakeholder Engagement

The issue

Companies have experienced a steep – and shifting - learning curve in their approach to stakeholder engagement. Many recognise that obtaining a 'social licence to operate' is essential to successful business operations from the outset. Without a direct, continuing relationship, communities in underdeveloped countries view companies as foreign, wealthy entities that are ready targets for the extraction of financial benefits, or venting grievances, sometimes through violence.

Most companies channel their interactions with host communities through social investment or community relations programmes despite the reality that all other areas of business activity (compensation policies, hiring policies, construction) are equally, if not more important in establishing the terms in which communities view a company's impact on their lives. The distribution of employment opportunities and other benefits from a project, and decisions about other major impacts, particularly on the environment, require community support in order to avoid conflict. Stakeholder engagement is a vital tool through which informed strategies can be developed. To understand potential or existing conflicts, and design effective risk mitigation across the range of a company's activities, effective, respectful, regular and transparent engagement processes are essential.

Companies most frequently use two processes in working with stakeholders: consultation and negotiation. Negotiation is a process of meetings deliberately convened to reach agreement on a particular issue. A consultation process is a more open-ended set of conversations or meetings, with the objective of exchanging ideas and opinions (without necessarily coming to a formal agreement). Consultations precede formal, issue-focused negotiations and the same individuals usually participate. The degree of credibility, transparency and trust established during the consultation directly impacts the effectiveness of negotiations with stakeholders. Both processes need to be considered in light of their potential to fuel or mitigate tensions, misunderstandings and conflict.

The business case

Companies have long sought good relations with national and local governments. Increasingly they have discovered that harmonious relations with a range of other stakeholders, such as communities affected by the project, local, national and international advocacy NGOs, and development actors, also pay dividends. Such relationships can help provide companies with accurate information and context analysis, as well as professional and experienced partners for social investment and development projects. In the absence of such relationships, mistrust can grow, increasing the likelihood that conflict will arise between companies and communities. This, in turn, can impose both direct operational costs and indirect reputational costs, as advocacy networks turn hostile to a project or investment as a result of community grievances. Work stoppages, local violence, widespread political unrest and the potential for legal or reputational damage can result from poor stakeholder-engagement practice. As companies begin to recognise this, competitive bidding gains can be won from tackling stakeholder engagement pro-actively and building good relationships across the spectrum of social actors from an early stage.

Standard assumptions and responses

Some companies have managed to establish excellent relationships with the stakeholders with whom they work, but others - the majority – have been less successful. This is because of underlying incorrect assumptions:

1. This paper is an adapted version of work published by the Collaborative for Development Action, Corporate Engagement Project. It focuses on project-level stakeholders. **Collaborative for Development Action,** 130 Prospect Street, Suite 202, Cambridge, MA 02139, USA. Tel: 1 617 661 6310, Fax: 1 617 661 3805. www.cdainc.com/cep

Negotiation or consultation results in having to pay more cash or other monetary rewards. This assumption leads to negotiation avoidance, which can result in escalated frustration among communities, acts of violence, lawsuits, work stoppages or increased demands, all of which are more costly and time-consuming than the consultation and negotiation procedures.

Companies postpone consultations because they want first to come up with answers to the questions they expect will be raised. The experience of others suggests that consultation processes often generate creative ideas for dealing with issues for which management has not yet found solutions.

Negotiation or consultation delays implementation. On the contrary, a well-designed and ongoing consultation process increases public ownership, reducing the risk of delays from complaints, obstruction or sabotage.

Engagement, specifically in negotiation, should be limited to a small number of groups or representatives. This assumption prioritises negotiations with the most powerful in the community, those who are potentially most obstructive of company operations, or others whose influence can be used to convince community members to support a positive outcome. In reality, working with a small group of people can mean that other groups feel left out and do not respect the outcome of the negotiation. It can also exacerbate existing power imbalances unduly.

Engagement is a means of achieving a specific position or outcome, rather than an open process aimed at meeting stakeholders' needs, as well as a company's own. But communities say that they value discussions around non-monetary intangibles such as 'trust' or 'empowerment', rather than a focus on financial compensation or tangible settlements.

Control of the interaction with stakeholders is more important than the process. The idea that engagement should be approached with a fixed agenda and a strategy for achieving set goals limits the space available to make engagement a two-way process that is mutually satisfactory.

By focusing on 'winning' and 'outcomes', companies can overlook the importance of the process of interaction, and fail to identify and subsequently address the root causes that created the need for engagement in the first place. Where root causes are not addressed, communities will continue to bring them to the company's attention.

Key conflict issues

Flawed engagement processes directly increase the likelihood of conflict in the following ways:

Negative reinforcement. When companies respond only to acts of obstruction, work shutdowns, vandalism or violence, stakeholders experience 'negative reinforcement' which encourages them to engage in negative activities they might otherwise not have chosen. If a company responds only to negative or obstructive triggers, those triggers are certain to occur. Communities consulted over this issue say they wish to engage with the company on a regular and constructive basis, but that this non-obstructive approach tends to yield less results.[2]

2. CDA research, op. cit.

Responding to those who display negative authority. Responding or consulting only with armed groups, or those who articulate threats of violence, kidnap staff or destroy company property, empowers and legitimises such actions. It also overlooks the potential of positive actors who represent broader interests and can bring together community members, such as women's groups, religious circles, community organisations and educational institutions. Beyond the company's immediate relations, such a response reinforces the conflict drivers in society at large, increasing the risk of long-term instability and its associated costs to the operating environment.

Partner selection reinforces local tensions. Companies naturally find it easier to interact with someone who comes to their office, speaks their language, knows the local laws and customs, and is formally educated. However, individuals who most readily present themselves, and look and sound most like company staff, can be 'elites', who may or may not represent the wider community. By supporting elites as negotiators, the company risks a dynamic in which the elite positions him or herself between the company and the community for personal gain, to the detriment of both. By supporting individuals over groups, companies undermine cohesion in the greater community.

Reactive engagement. Many companies wait to engage with communities until they are compelled to respond to a problem, or until specific issues arise that affect their ability to operate. They are reactive to problems, rather than pro-active in establishing effective relationships with communities. Allowing problems to grow in this way has knock-on effects: as companies become tainted by their negative impacts on communities, the reputational risk of working with them becomes too great for NGOs, for instance, and companies, as a result, forfeit the expertise and knowledge they can bring as intermediaries or partners.

Options and alternatives

There is a body of good practice and innovative approaches that seeks to promote more even and predictable relationships between companies and stakeholders. Identifying and working with different primary, secondary and indirect stakeholders is at the core of conflict-sensitive business practice (CSBP) and plays an important function in understanding and mitigating conflict risk at both national and local levels (see M-CRIA and P-CRIA). Following are some basic recommended steps:

1. Pro-active approach. Reversing the pattern of reactive engagement, companies should begin engaging early with communities and other stakeholders, even before exploratory operations commence. Some begin the process as early as one-and-a-half to two years prior to exploration. By recognising a community's right to be concerned about the changes a large-scale project will inevitably bring to their lives and landscape, companies send an implicit message that they consider it a partner, rather than that the community will have to fight for a stake in the relationship.

2. Commitment to the process. Companies are beginning to take commitment to the process more seriously once it has begun. Engagement with stakeholders should not be undertaken merely to meet external requirements (as part of an environmental and social impact analysis, for example). Under pressure to show tangible results some companies focus on achieving specific outcomes in an interaction, rather than giving attention to the process of building a mutually beneficial relationship which should take precedence over the actual contents of the consultation. Many communities express the view that they find companies 'unpredictable'. This is mainly due to their

limited access to information, with the effect that company decisions seem to have been made suddenly even when they have been planned for a long time. To avoid this, one method is to clarify precisely what the next steps will be at the end of any negotiation or dialogue, and who is responsible for the plan. When communities gain the impression that companies follow through consistently on what they have promised, the predictability enhances the sense of trust even when the action itself may be viewed negatively. Full documentation of occasions when the company 'kept its promises', or when 'high expectations led to disappointing results' can be a useful tool in correcting 'selective' memories.

A promise register
Communities will seek to understand the impact and significance, as well as the potential risks and benefits associated with an investment in their local area from the very first encounter with exploration geologists. Exaggerated or unfounded promises of 'jobs for everyone' and other riches by different company staff will fuel speculation, and are likely to lead to disappointment and grievance. Companies should seek to control such interactions by creating formal mechanisms for monitoring them and requiring staff to be accountable. Promises should not be made unless as part of the community relations strategy – and even then should be posted in one place that is transparently available. If early promises of jobs are likely not to be met, this should be communicated and discussed with affected communities.

3. Interaction must be carried out with an understanding of why it is being done and how it is likely to affect the project. Consultations can be informal (through discussions in the local tea shop or with local elders), formal (through workshops, public hearings, negotiations), or a combination of the two. Different strategies must be developed for different stakeholders. For the most directly affected stakeholders, face-to-face meetings are most appropriate, while open houses, public forums and documentation suits the needs of those less directly impacted. Companies and communities have implicit expectations of each other. Making expectations explicit allows each to hold the other accountable and keeps expectations realistic. A formal communication protocol can help when conflict issues arise. This should include a list of who to contact, when, through whom, by whom and so on.

4. Inclusive approach. In many countries, engagement with certain groups is politically or culturally sensitive. It is important to avoid reinforcing local tensions and to reach out as widely as possible to target affected stakeholders. In cases where the authorities do not allow communities to organise, companies have found ways to engage by:

- Negotiating with the government for the establishment of an elected village communication committee. The purpose of the committee is to discuss company/community affairs, such as social programmes. The condition is that the committee should not be involved in politics.
- Suggestion boxes. These work in some contexts, but not in others. The company must ensure that villagers know who empties the boxes and reads the messages.
- Hiring (preferably female) staff to conduct regular home visits to consult with women, collect statistics and disseminate information.
- Working through independent NGOs or foundations. They usually have more space to engage informally with stakeholders in areas where group gatherings are difficult.
- Follow-through on written and verbal commitments.

5. Reward peace rather than violence. Some companies accept violence and disturbance as part of their operating environment, but it is easier (and cheaper) to work in an atmosphere of trust than one of violence. Strategies that 'reward peace' include investing in communities that are peaceful, rather than focusing on more disruptive ones; celebrating success when milestones are achieved; and inviting stakeholders to share in building a sense of ownership over a project. In the interests of longer-term contributions to peace and stability, companies could think creatively about using their convening power and the engagement process to foster peaceful relations between different stakeholders in the region, rather than contributing to increased competition. Building on the elements in society that connect individuals across their differences, rather than reinforcing them, is more effective for companies in the long term.

6. Transparency. Transparency about the most basic details of company policies, decisions, plans and schedules demonstrates a willingness to share. Companies can supply information about hiring practices, the selection process for community relations projects, progress on company operations and long-term strategies. Transparency dispels misperception and rumour, and helps to identify issues that may be of concern to community members before they grow into grievances. Companies can use the following approaches:

- Booklets, video and audio that explain in simple language and colourful pictures the operational process
- Bulletin boards that explain hiring and tender procedures
- A public information office in a nearby village where anybody can make enquiries about company operations
- Visits to each community in the operating area, and use of video and other media to demonstrate what operations will look like when complete
- A to-scale model of what the site will look like after closure and environmental repair.

It is important that a company presents stakeholders with consistent arguments. Different departments have different mandates, objectives and timelines which can be challenging when trying to interact with communities as a team. Without a unified vision based on stakeholder input and company interest, these internal differences may work against each another, leading to frustrated staff and dissatisfied communities.

7. Get the right person for the right job. Ensuring that the staff responsible for stakeholder engagement have a willingness to listen, good understanding of the local context and a long-term commitment to the job is vital, as communities often complain that interlocutors come and go, or they do not find staff accessible or trustworthy. Companies are increasingly working with trusted third parties, such as NGOs or development agencies, to perform their communications or consultation work. In addition, international companies should realise that stakeholders also exist inside the front gate, as well as beyond it. There are opportunities to improve communication with local staff that can also serve to improve relations between the company and the larger community.

Resources

Voluntary standards

AA1000 Voluntary Process Standard for Stakeholder Engagement. www.accountability.org.uk/

Websites

Collaborative for Development Action, Corporate Engagement Project. www.cdainc.com/cep/

Institute of Development Studies, participation home page. www.ids.ac.uk/ids/particip/

Mining, Minerals and Sustainable Development (MMSD), stakeholder engagement. www.iied.org/mmsd/global_act/stakeh.html

UN Global Compact. www.unglobalcompact.org

Other resources

Accountability, Stakeholder Research Associates Canada and UNEP (2005) **Manual for Effective Building Stakeholder Engagement** (Paris: UNEP).

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Section 4

Flashpoint Issue 2
Resettlement

Flashpoint Issue 2
Resettlement

The issue

Acquisition of land, or rights to land, is a precursor to nearly all extractive industry operations. Where such land is occupied or used by people, or where it forms part of a community's customary or traditional resources, acquisition may involve resettlement. Under World Bank criteria, a project involves resettlement where acquisition of land for project purposes, whether temporary or permanent, results in one or more of the following:

- Relocation of people, or their loss of shelter
- People or businesses experience loss of assets (including buildings, land and crops) or loss of access to assets or resources
- People or businesses experience loss or restrictions over income sources or means of livelihood, whether or not the affected people must move to another location.

A distinction is commonly made between 'voluntary' and 'involuntary' resettlement. Resettlement is involuntary when it occurs without the informed consent of the displaced persons, or if they give their consent without having the power to refuse resettlement. The latter occurs when a state uses powers of eminent domain to acquire land, as is sometimes the case.

The resettlement of people can have far-reaching and serious impacts. As a result of displacement, systems of livelihood are disrupted, and productive assets and income sources lost. Community structures and social safety nets are weakened, human security diminished, and there are reductions in cultural identity, traditional authority and the potential for self-help. Poorly managed resettlement can cause severe, long-term social degradation, impoverishment and increased vulnerability. Wherever resettlement occurs, there is increased potential for conflict arising from many causes including: disputes over ownership, rights to land or resources; inadequacy of compensation; conflicts between resettled people and their host populations; or as a result of corrupt behaviour by implementing officials. In some cases, resettlement can exacerbate or rekindle longstanding conflicts at regional, tribal, village or neighbourhood level. Clear and publicised mechanisms for addressing grievances and resolving disputes are a critical part of any resettlement programme. Pro-active approaches that involve early assessment of conflict risks, close consultation and engagement with affected people and thorough resettlement planning can greatly reduce the potential for conflict.

The business case

Ideally, a business wants to operate with the goodwill and trust of the communities that surround it, or are affected by its operations. In many cases, projects are in remote or isolated locations where they are dependent on the goodwill of local communities for access to local roads, labour and the provision of support goods or services. Projects with linear components (e.g. pipelines, transmission lines, materials handling systems) are particularly reliant on good relations with their host communities. Conversely, their operations can be vulnerable to disruption should goodwill break down.

Inadequate attention to the impacts of land acquisition and resettlement can cause enduring hardship, resentment and opposition towards a project and its operators. This can contribute to delays in land being vacated for project construction, subsequent construction delays as a result of protests or ongoing disruptions to operations from blockages or sabotage. It can lead disaffected communities and civil society groups to lobby governments and stymie approvals for operations

expansion or new licences. Such actions are not only harmful to a company's bottom-line, they also increase its exposure to security risks and reputational harm. Under some circumstances, failure to follow good international resettlement practice may be interpreted as 'forced eviction' and leave a company vulnerable to prosecution under international human rights law.

A clearly defined and documented strategy for resettlement, developed in partnership with affected people, can assist a project to obtain political backing and faster statutory approvals. A comprehensive resettlement plan is often a pre-requisite for project financing and obtaining political risk guarantees. Other benefits include:

- Fewer delays in acquiring land through avoidance of disputes, litigation or time-consuming eminent domain procedures
- Reduced risk of confrontation with local communities or downtime as a result of community actions against construction or operations
- Reduced risk of human rights actions against the company
- Improved transparency in dealings with affected communities and governments on land acquisition and compensation matters
- Development of host community support and trust ('social licence to operate').

Standard assumptions and responses

While a few enlightened companies are beginning to adopt more sophisticated strategies for land acquisition and resettlement, many persist in acquiring land in developing countries as though they were undertaking a similar transaction in their country of origin; that is, through the payment of cash compensation to legally recognised landowners, users or affected third parties. In many developing countries, unfortunately, poorly developed legislative frameworks, lack of administrative capacity and the absence of developed land markets or regularised systems of land tenure mean that many displaced people or communities do not receive adequate compensation to cover their losses or, in the case of informal dwellers, receive no compensation at all.[1] Cash compensation alone is seldom adequate to enable people to restore their standard of living and livelihoods once they have been displaced.

Following are some of the common assumptions that companies mistakenly make in contemplating resettlement of people from project-affected lands. They are assumptions that are contrary to accepted international standards governing resettlement, and could leave a company open to human rights charges or other costs:

- Resettlement occurs only where there is physical displacement of people
- Temporary use of land by a company does not constitute grounds for resettlement
- If land is state land, or has been cleared of people by the government prior to handover to the company, the company has no resettlement obligations
- Only people or parties with legally recognised rights to land need be compensated
- Cash compensation is usually adequate to cover resettlement impacts
- If problems occur, additional compensation payments will usually resolve them
- Disclosure of information about how land and assets will be valued will lead to escalating demands from affected people
- Provided a company complies with national laws regarding resettlement, it has met international standards

1. Informal dwellers are people who may use or occupy land, but who do not have any legally recognised rights to do so. Informal dwellers can include so-called 'squatters', traditional or customary users of land such as indigenous people, seasonal fishermen or pastoralists, people who use land on the basis of verbal or informal agreements, people who have land certificates but who have failed to register their rights, or who have not paid land taxes, and so on.

- A company only needs to comply with national statutory requirements for notification of affected people about resettlement
- Once compensation has been paid, a company's resettlement responsibilities are over
- Project-affected people who are unhappy with their resettlement arrangements can always seek recourse through the courts.

Key conflict issues

This section briefly outlines some of the principal sources of conflict that can result from involuntary resettlement.

Not adequately recognising customary or traditional rights to land, particularly those of indigenous people. Failure to address traditional or customary rights to land, and to reach a full accommodation with its owners can lead to persistent land claims, or claims that re-emerge many years after the original acquisition. This is particularly, but not exclusively, true of indigenous peoples, whose customary rules governing ownership, use and transfer can be extremely complex, involve long time-frames and be difficult for outsiders to understand (see Flashpoint Issue 4: Indigenous Peoples). Whether they involve indigenous peoples or other communities, such claims can be protracted, involve significant legal and other costs, attract adverse national or international publicity and, in some cases, result in substantial settlements or the curtailment of a company's operations. Communities experiencing loss of land may also suffer from deteriorating health, loss of access to common resources and hunting domain, food insecurity, breakdown of traditional social organisation and belief systems, as well as social marginalisation.

Not recognising the losses of informal land users. In many developing countries, a high proportion of people are informal land users without legally recognised rights to the land they occupy. While informal users may not have legal entitlement to compensation, they experience losses of housing, assets, income and livelihood when displaced by a project. They may feel aggrieved where their losses are not recognised or compensated. Where people do not have recourse to legal remedies, they may be forced to explore alternative ways of drawing attention to their circumstances. These can include resisting resettlement, so that they have to be forcibly removed. National and international NGOs are increasingly supportive of the rights of informal dwellers and can assist them with legal actions, or by running international campaigns.

Failing adequately to address grievances and complaints. Where individuals feel that their complaints or grievances are not being addressed, they not uncommonly initiate escalating measures to get attention. These can include protests or invasions of a company's offices, blockading work areas or access roads, or other measures to delay construction or halt operations. Aggrieved individuals can also lobby local politicians or take their cause to NGOs, causing adverse publicity and local opposition towards the company.

Envy of compensation or benefits by those who miss out. Overly generous compensation in the form of high-quality replacement housing or large cash payments can lead to tensions and envy among those who miss out. Tensions are likely to be directed at the company responsible for the relocation and may take the form of escalating demands from surrounding communities, seeking to receive similar benefits. This is one reason why land-for-land solutions are preferable to large cash payments. Compensation should be fair, with perhaps a small premium to encourage willing sellers. Excessive compensation can also distort market prices for land.

Competition for diminished resources. Where resettlers are relocated within the area of a host community, they increase competition for communal resources such as grazing, forest, hunting and fishing grounds. This can lead to resource depletion and conflict between the resettlers and their new hosts. Resettlers may also have received improved housing or benefits that are not accessible to their hosts, creating envy. A well-conceived resettlement programme would recognise that host communities have to make accommodations for the resettlers and may also experience some losses. Offsetting benefits or resources may need to be provided.

Exacerbate existing community differences or disputes. The prospect of compensation or other benefits going to some but not all can reignite pre-existing tensions within or between neighbouring villages, tribes, ethnic groups or long-time residents and newcomers. In some cases, it can cause disputes between older members of a community and its youth who may have differing aspirations and attachments to a place and its land. A project may become a pretext for the use of military force ostensibly to secure a strategic facility, but more likely serving local political ends. In these environments, there is a high likelihood of human rights violations and the appearance of collusion between the company and state security forces.

Lack of transparency in compensation basis and entitlements. Where the basis for compensation and resettlement entitlements is not explicitly defined and disclosed, there is high potential for suspicions of favouritism or cronyism to arise between neighbours, villages or tribes. Such allegations are difficult for a company to counter when no systematic or uniform basis for payments has been disclosed.

Residents of a village in Thailand whose land was acquired for a privately funded and operated power station had suspicions that there had been irregularities in the way their land was acquired. When they were unable to get satisfactory responses from the project proponents, they lit a large fire and blocked traffic on a national highway. The blockade made headline news. Subsequently, the government called a halt to the project while land transactions related to the project were the subject of a ministerial inquiry. The project is yet to be realised, after six years delay.

Corruption and extortion. Where government officials perpetrate acts of corruption or extortion, it can cause extreme frustration for genuine compensation recipients whose receipts may be diminished. In such cases, official channels may not be a feasible avenue for lodging a complaint. Sometimes resettlers will resort to alternatives such as talking to international journalists or seeking the assistance of advocacy NGOs. In some regimes, individuals may have no other option but to succumb to extortionate practices and accept partial compensation.

Options and alternatives

The following principles are based on current international good practice for projects that involve involuntary resettlement. Reference should also be made to International Finance Corporation (IFC) Operational Directive 4.30 Involuntary Resettlement which has been widely adopted as the good practice benchmark for private sector resettlement operations.[2] The overriding goal for any resettlement programme should be that displaced people are assisted to enhance, or at least to restore, their pre-project living standards, income-earning capacity and production levels. The risk of conflict is much reduced if displaced people experience sensible improvements in their quality of lives and incomes.

1. Avoid resettlement wherever possible. Because of the inherent risks (to both resettlers and the company concerned) and the complexities involved in resettlement, it is preferable to avoid resettlement wherever possible through careful site selection, routing studies, consultation and by exploration of the alternative technical and design options.

2. Where unavoidable, minimise resettlement impacts. Every effort should be made to minimise the footprint of the project to avoid impacts on the houses, productive land, assets and resources used by communities. This should include consideration of measures to minimise safety and protection zones around pipelines and facilities that may restrict landowner's and users' activities and affect livelihoods.

3. Undertake a thorough socio-economic assessment and social risk analysis to identify and anticipate areas of potential conflict (see M-CRIA and P-CRIA**).** The assessments identify the types of impact a project will have on peoples' land, assets and livelihoods, and provides the basis for designing compensation and assistance packages. Assessment should include an analysis of potential conflict risks, and identification of primary, secondary and any indirect stakeholders so that appropriate management approaches and resources can be allocated.

4. Ensure that agreements with the host government specify that land acquisition and resettlement be conducted in accordance with international standards. Concession and related land agreements for major extractive industry projects place the responsibility for land acquisition and resettlement on the host government. The government is responsible for handing over a cleared site to the project proponent within an agreed timeframe. While ostensibly this alleviates a company from responsibility for resettlement issues, it may leave a legacy of resentful displaced people, and vocal criticism from civil society organisations and others. In order that the company has some leverage to ensure that resettlement is conducted well, the project proponent should build international standards into any contractual agreement it signs with the government.

5. Allow sufficient time for land acquisition, resettlement and related consultative processes. A common mistake is to allow insufficient time for undertaking land acquisition and resettlement. A process that involves socio-economic assessment, thorough consultation and the participation of affected people can often take two to three years, particularly for corridor projects affecting large numbers of people.

2. At the time of going to print, all the IFC safeguard standards were under review. OP4.30 could be superceded from mid-2005.

6. Pay attention to informal land users: absence of legal title should not be a bar to compensation. Many categories of land user may not have legal title to the land that they use, but will still experience loss of assets or income as a result of the project. Such people should be compensated for their losses. Particular care should be taken to identify fully the land, assets and resources traditionally used by, or belonging to, indigenous people (see Flashpoint Issue 4: Indigenous People).

7. Consult thoroughly with displaced people and provide opportunities for them to participate and be involved in resettlement planning and implementation. This is an important conflict-avoidance activity and one that is most often overlooked when schedules are tight. People to be displaced should have opportunities to be directly involved in resettlement planning and in making decisions about their future. Wherever possible, they should be offered choices and alternatives on where they might resettle, the types of replacement housing provided, livelihood restoration options, and so on. Affected people have the most complete knowledge of what works best for them, and participation leads to a greater sense of ownership of the resettlement plan. Future host communities should also be consulted and participate in resettlement planning.

8. Prepare a resettlement plan. The resettlement plan is an important document for aligning all the parties involved in the resettlement process including company, contractors, government implementing agencies and the affected people. In jurisdictions where laws relating to resettlement are undeveloped, the resettlement plan is an important document for demonstrating that shortcomings in legislation and administrative systems have been addressed, and that affected people's rights have been fully protected. It should be developed in consultation with different stakeholders. It is also good practice that an easy-to-understand summary of the resettlement plan is made available to the affected people in their local languages. This ensures that affected people have clear information about their resettlement and entitlements, and gives them an opportunity to comment on any aspects they see as unfair or incomplete.

9. Resettlement programmes should be planned and executed as development programmes. These should be directed towards providing resettlers with sufficient resources and opportunities to improve their former living standards and livelihood levels. Cash compensation alone is seldom adequate to enable resettlers to restore their living standards or livelihoods. For rural communities, where suitable land is available, land-for-land compensation is preferable.

10. Provide opportunities for stakeholders to share in project benefits and develop an interest in the company's ongoing operation. There are many avenues through which the benefits of a company's operations can be extended to local communities, such as: training and employment opportunities; opportunities to supply goods and services; extension of company infrastructure to local villages (use of roads, water supply, transport or medical services); or through support for community development initiatives. Design of such interventions should itself be conflict-sensitive (see P-CRIA and Flashpoint Issue 5: Social Investment). Where there is mutual benefit for company and community, both parties have a vested interest in maintaining good relations and ensuring company operations continue unimpeded. Delivering benefits establishes the company as a good neighbour.

11. Maintain regular consultation and information dissemination throughout resettlement planning and implementation: keep peoples' expectations realistic. Misinformation, rumours, misunderstandings or unrealistic expectations arise from time to time during the progress of a resettlement programme. For example, there may be delays in providing income opportunities for resettlers. Without adequate information and reassurance, shared across a wide range of affected people, resettlers can be misled into believing a company is reneging on its promises.

12. Undertake regular monitoring of resettlement implementation and livelihood restoration. Even with the most carefully planned resettlement, unexpected issues and problems arise. Monitoring is one of the most important tools for ensuring that conflict issues are identified early and are promptly addressed. Monitoring should ensure that resettlement entitlements are delivered in full and on time; that livelihood restoration measures are effective; and grievances are addressed in an effective and timely manner. Corrective action or changes in the resettlement programme may be required where persistent problems are encountered.

13. Establish and publicise avenues for making a complaint or grievance. Stakeholders should have straightforward avenues for making a complaint related to land acquisition, resettlement, the project itself, or its personnel. It is critically important that complaints are recorded and acknowledged, and that appropriate corrective actions are agreed and taken in a timely manner. Failure to adequately acknowledge or address complaints can lead to escalating action and protests.

14. Anticipate corruption and take pro-active measures to minimise its impacts. Because resettlement can involve considerable cash compensation transactions, there is always a risk of corruption (see Flashpoint Issue 9: Corruption and Transparency). Measures to counter corruption can include: disclosing clear information to resettlers about their compensation entitlements and the basis used for calculating compensation; providing clear documentation of compensation calculations; making direct transfers to recipients by means of bank accounts to avoid third-party handling; widely publicising that compensation payments are to be free of any deductions or taxes; publicising avenues that can be used for making a complaint; providing confidential hotlines; or supporting a respected NGO's efforts to monitor payments and complaints.

Resources

International conventions and voluntary standards

Equator Principles. www.equator-principles.com

Geneva Conventions and Additional Protocols I and II. www.genevaconventions.org

International financial institutions, Operational Policies

Asian Development Bank Involuntary Resettlement Policy . www.adb.org

Inter-American Development Bank Operational Policy on Involuntary Resettlement. www.iadb.org

International Finance Corporation Operational Directive 4.30 Involuntary Resettlement. www.ifc.org

Japan Bank for International Cooperation (JBIC) Guidelines for Confirmation of Environmental and Social Considerations. www.jbic.go.jp/english/

OECD Development Assistance Committee (DAC) Guidelines on Aid and Environment, no. 3; and Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Developing Countries. www.oecd.org/home/

Websites

International Network on Displacement and Resettlement. www.displacement.net.

World Bank Involuntary Resettlement frequently asked questions page. lnweb18.worldbank.org/ESSD/sdvext.nsf /65ByDocName/FAQs.

Other resources

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Section 4

Flashpoint Issue 3 Compensation

Flashpoint Issue 3
Compensation

The issue

Companies become involved in compensation issues for a variety of reasons:

- To acquire land and assets
- To compensate for the impact or 'nuisance' their presence generates
- To compensate for accidents (trespass, spills, destruction, casualties).

This paper focuses on the first category.

For many communities, compensation is the only legitimate way to access company resources. In the process of land acquisition and compensation, the stakes are high for both company and community. Land acquisition and ownership have become important conflict factors for two further reasons:

- Land ownership determines if a company designates a community as a 'host' or gives it a related qualification that signals a 'special status'. The kind of qualification bestowed is directly linked to beneficiary entitlements, such as employment and contracting opportunities, or community projects.
- Being legitimised by companies as the landowner is important vis-à-vis other communities, especially in areas with a cultural attachment to land.

Companies use a variety of approaches to compensate for the land and assets they wish to acquire. Typically they follow national legislation. In some countries, like Nigeria, all land belongs to the state and the company is only obliged to compensate for pre-existing buildings and one yield of harvest. In others, land is privately owned (98 percent of land in Papua New Guinea is held privately). Companies operating there must reach an agreement with each group of owners according to well-specified procedures.

The business case

Company experience shows that the level (or lack) of protection that landowners or land users enjoy from government under existing legislation is unrelated to the level of protection they enjoy from the grievances (or satisfaction) of local stakeholders. Dealing with well-protected and compensated landowners is no guarantee of a problem-free relationship with land users. However, it is possible to deal with poorly protected land users in a cordial and constructive manner.

The manner in which compensation is made can help a company obtain a social licence to operate. If a company's compensation policies and practices are not locally perceived as fair, adequate and satisfactory, this can hinder the development of constructive relations with local stakeholders. This in turn can lead to project delays and the waste of significant management time. Associated threats of reputational and/or legal damage are high.

Standard assumptions and responses

Companies use a variety of policies and procedures to handle compensation. As noted above, they are based on government regulations, though regulations vary greatly in their specificity.

1. This paper is an adapted version of work published by the Collaborative for Development Action, Corporate Engagement Project. **Collaborative for Development Action,** 130 Prospect Street, Suite 202, Cambridge, MA 02139, USA. Tel: 1 617 661 6310, Fax: 1 617 661 3805. www.cdainc.com/cep

Company procedures stipulate:

- To whom compensation should be paid: landowner or land user?
- Which social unit is seen as owner: individual, family, community or clan?
- For what is compensation paid: land, non-productive assets (e.g. buildings), productive assets (e.g. crops, trees)?
- Level of compensation: is compensation based on one year's yield of the productive assets, lifetime economic value, government regulations or other regulations?
- Compensation currency: is compensation paid in cash, revenues, land/buildings, through a trust fund, through other in-kind 'currency' such as community projects, employment, contracts or a combination package?

Given the wide variety of terms under which compensation is paid, it is difficult to generalise but it is still possible to identify some basic assumptions underlying company practice that can become, or feed into, conflict issues:

Land and assets can be monetised. The assumption that land and assets can be directly compensated for in cash, given the right arrangement, does not acknowledge the cultural value of land in contexts that stress a critical relationship between people and the land on which they live.

Compensation is a finite process. A negative result of this can be demonstrated by company/community clashes that are based on divergent views about the value of land. The company claims it can do with the land whatever it wants, while local people perceive that they can never be alienated from it, and that the land always 'belongs' to them.

Compensation is a benefit to local people. This assumption leads to a company expectation that people who are compensated should show gratitude and not be too demanding in requests for employment, contracts or community services. This tends to be the case where communities have been compensated with new houses or other assets of better quality than the original ones. This expectation overlooks the reality that communities often do not associate compensation with a benefit but with loss of land, their previous community structure and other non-tangibles.

Negotiation should aim to pay the lowest compensation possible in persuading others to agree to a document. This approach, which companies sometimes bring to the negotiations during compensation claims – when their land departments are under pressure from the operations department 'to deliver' – has a negative impact on engagement. Communities may feel under pressure to sign an agreement. Companies may obtain a short-term, cost-effective legal solution but undermine their relationship with communities in the longer term.

Key conflict issues

There is considerable potential for conflict over compensation claims, usually in the form of ongoing disputes, but sometimes fuelling wider social instability and fragmentation.

Conflicts over ownership and who to compensate. There may be pre-existing conflicts over ownership of the land in which the company becomes entangled through its own designs. These can include conflicts between communities and/or local governments over boundaries; conflicts between landowners and land users; conflicts between 'real' and 'hoax' owners; and, after a company's arrival on the scene, conflicts between any of these groups and the company. Companies can fuel these tensions in a variety of ways, for example by recognising and compensating communities that host a company facility (such as a well head) to deter assaults on assets. But this community may be different from the one sitting on top of the resource, fuelling conflict over who is entitled to the compensation.

Compensation policies tend to focus on those directly impacted by company operations, such as landowners or the host village. Companies overlook those outside its operating area who may be no less impacted indirectly, due to increased costs of living, an influx of jobseekers or increases in alcohol consumption or prostitution. This can feed inter-group jealousy when groups that are or are not compensated overlap with groups who are already in conflict with one other. When land users are not the landowners (as occurs when groups have settled but never officially owned the area) owners can evict users from land they may have occupied for generations.

A village in Georgia received compensation for communal pastures and hayfields affected by the construction of a pipeline. The village leadership determined that the compensation should only be distributed among the original residents, but not more recent settlers who had relocated there after a landslide in their original village. The settlers opposed the village leaders' decision and took the matter to the district court, which found in their favour. The original residents subsequently challenged the decision in a higher court. The communal compensation created an acrimonious divide between old and new residents of the village that will take a long time to mend.

Conflict over how ownership is determined. If land ownership is based on official recognition of a community by the ministry of land, but the maps they use are old and obsolete, the company may fail to recognise new communities or settlements. This fuels a concern among communities that they are not being appropriately identified. Some companies require owners to be physically present on their land when an ownership survey takes place. Despite a company's best efforts to announce assessments widely, this allows false owners to claim land and be compensated, leading to conflict when the 'real' owners arrive. Some company policies assume individual land ownership in areas that traditionally have known only communal ownership. Acquiring land from individuals without going through traditional structures gives rise to community distrust and jealousy of the individuals who collect compensation. A non-inclusive approach to benefit distribution (individual land owners, host or spearhead communities only) means that groups and individuals have to compete to distinguish themselves. This creates conflict where it did not exist before. Rewarding groups based on narrow identities leads to social fragmentation and increases the number of stakeholders a company has to satisfy.

One company hired an anthropologist to help get its compensation policy 'right'. The anthropologist reported that there were seven major societal groupings and 23 smaller sub-groups with distinct identities in the area. To be as responsive as possible to local realities, the company launched compensation negotiations with all 23 sub-groups and soon found itself facing a growing number of sub-sub groupings with further special claims. More and more people demanded compensation payments and fights broke out between sub-groups. While trying to be as inclusive as possible, the company had focused on the differences between groups, rather than basing its policy on shared interests.

Conflict over the level of compensation. Companies may strictly follow government compensation standards but these may be outdated and not reflect current values, leading to owners feeling cheated. Companies may apply different standards to different people. For example, if a company first reaches agreement with the 'easy' landowners and, under pressure from colleagues in operations, settles a higher amount of compensation for the 'difficult' landowners, this can cause serious grievances among the former, however much they received. It also sets a precedent for company/community interaction across a range of associated areas. In other cases, ongoing negotiations over (relatively small) differences in compensation levels between what owners request and the company is prepared to pay can considerably delay the process of final purchase. Some companies reward their staff for making minimal compensation payments. Such a policy can result in staff 'cutting corners' or being non-transparent. Regardless of how reasonable the compensation, the process of negotiation can become a conflict issue if owners feel pressured into agreement. Lastly, compensation policies often only consider the immediate interests of those directly impacted by company operations (i.e. for loss of crops for one season only) and do not take into account future losses that a community might suffer. Faced with these losses, communities become hostile from the outset.

Lack of transparency about compensation policies. If there is insufficient transparency about the amount of compensation, who receives it and why, a climate is created in which rumour and jealousy flourish, and this can degenerate into violent inter-group conflict. In some cases, conflicts arise over the anticipated routes for a pipeline and their implications for land use. The transparency of compensation payments is a related issue. Paying compensation at company headquarters or in locations where the transactional details can be concealed can lead to allegations of mismanagement or abuse. Community leaders may face scrutiny on returning to their community. Similarly, if claims agents represent the landowners, a lack of transparency about payment details can lead to accusations of deal making and similarly backfire on the company.

Compensation currency. Cash impacts the social dynamics of resource-scarce communities and has implications for a region's long-term stability, a fact that companies often underestimate. When communities have little experience of dealing with cash, particularly large amounts, its presence can upset traditional power balances and relationships between groups. In many societies, hierarchy is still based on wisdom and age. When cash is introduced, it alters how prestige and political importance are attained. For example, a company's presence can change a society from a traditional system involving community responsibility to a cash-based system in which loyalty and, in some cases, security, can be bought and sold. Youth, who in traditional systems would not pass these social benchmarks, become empowered to exert their influence in a community based on wealth acquired by compensation payments.

Options and alternatives

Companies have at their disposal a number of methods to avoid doing unintended harm through their compensation policies. These include:

1. Conduct context analysis and impact assessment (see P-CRIA)**.** Context analysis and impact assessment is an essential tool in the design of a compensation policy, ensuring that it is based on accurate understanding of potential conflict issues, including land ownership history, the socio-economic context into which compensation will play, the most appropriate channels of communication and compensation, and so on. Such assessments are also essential in identifying the inter-group divisions that could become possible conflict pressure points during negotiations over compensation.

2. Explore 'yield-based' or direct revenue distribution approaches to compensation. Some companies have experimented with these approaches which can promote stronger buy-in to the project production by affected communities.

3. Consider payment above government standards. Where government and communities are at odds over land ownership, buying land from local owners in spite of legal arrangements with the government can reduce the risk of hindrance by people who may lose out from the company's presence. Some companies have lobbied governments to ensure their outdated compensation terms conform to current market rates.

4. Be consistent in paying compensation rates. Some companies have a clause in their contract with land owners that no compensation is paid until an agreement is reached with all landowners. This is to avoid causing later conflict by paying different rates to owners.

5. Validate non-monetary value of land. Through careful context analysis and an appreciation of land's non-monetary value, companies can endeavour to be sensitive to local cultural values in their project design and compensation policies.

6. Provide land-for-land compensation. This guarantees economic stability for villagers who have little hope of successfully investing their money in the long term.

7. Take steps to ensure that compensation is used effectively. Increasingly, companies take responsibility not only for compensation but also to ensure that the compensation is used effectively. Some provide beneficiaries with advice and assistance in selecting investment opportunities. Others help landowners set up scholarship or trust funds and even their own companies to invest the compensation wisely.

8. Compensate according to traditional ownership structures. A context analysis should inform the compensation policy so that traditional ownership structures are respected and reinforced. This requires a focus on shared interests rather than separate identities. Staff should enquire from communities in the immediate and broader impact areas what the affected communities identify as issues/ideas/histories/assets that connect, rather than divide them. For example, a company might construct a hospital serving several communities or an entire region, rather than making services available only to residents of the host community. This helps bring communities together through shared use of this resource, rather than fostering jealousy or frustration that they must compete for services provided to one community over another.

9. Be transparent about all aspects of the compensation policy. Compensation policies should be developed in consultation with a wide range of stakeholders and a copy of background work should be made available to the affected communities.

10. Respect the process as much as the result. The tone of negotiations is as important for longer-term outcomes as the result. Companies often rush this phase of a project, when allowing communities to develop a sense of ownership over outcomes is a critical conflict-avoidance factor. When discussing compensation policies, companies benefit from sitting down with communities to focus first on the relational aspects, before addressing the legal detail.

11. Emphasise long-term impacts over short-term payments. Community representatives feel that the company has a responsibility to thoroughly inform the population prior to negotiations about the social consequences of its impacts. People cannot realistically be expected to have a comprehensive overview of the impact of a mine or an oil installation and may be too easily impressed with the instant wealth they anticipate. Some communities say that the cash poured into their social structure as a result of compensation payments can have detrimental effects. Landowners could be compensated in cash, but in reasonable amounts and in phases, rather than as a one-time payment. Companies can invest from the outset in community development as part of the compensation package, depositing the remainder of any revenues or compensation into a trust fund for future generations. Developing such long-term approaches through dialogue and consultation with communities is an excellent way to insure an overall positive impact from investment.

Resources

International financial institutions, Operational Policies
Asian Development Bank Involuntary Resettlement Policy. www.adb.org

Inter-American Development Bank Operational Policy on Involuntary Resettlement. www.iadb.org

International Finance Corporation Operational Directive 4.30 Involuntary Resettlement. www.ifc.org

Japan Bank for International Cooperation (JBIC) Guidelines for Confirmation of Environmental and Social Considerations. www.jbic.go.jp/english/

OECD Development Assistance Committee (DAC) Guidelines on Aid and Environment, no. 3; and Guidelines for Aid Agencies on Involuntary Displacement and Resettlement in Developing Countries. www.oecd.org/home/

Websites
Collaborative for Development Action, Corporate Engagement Project. www.cdainc.com/cep/

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Oxfam Community Aid Abroad, Benchmarks for the Mining Industry. www.oxfam.org.au/campaigns/mining/ombudsman/2001/benchmarks.html

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World Bank, land policy and administration page. lnweb18.worldbank.org/ESSD/ardext.nsf/11ByDocName/TopicsLandPolicyandAdministration

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Section 4

Flashpoint Issue 4
Indigenous Peoples

Flashpoint Issue 4
Indigenous Peoples

The issue

There are various estimates of the scope and breadth of the indigenous populations in the world today.[1] Commonly quoted figures place them at around 300 million in more than 70 territories from the Arctic Circle to equatorial rainforests and the tips of the South American and African continents. The extractive industries have a history of violent and troubled interaction with indigenous groups, who continue to dwell on the frontiers of investment.

The complexity of the dynamic between indigenous people and multinational companies challenges the best company and community leaders even in circumstances where both are willing to work together. Companies, whose mission is to remove natural resources, operate near communities that are physically, culturally, spiritually and economically tied to traditional habitats and the resources lying under them. Through long histories of colonisation and turmoil, these communities exist within nation-states that have treated them much differently than full citizens living within the same borders. Successor governments are now dependent on revenues from natural resources in their territories. Add to this explosive mix opposing perspectives on development, power differentials and centuries of prejudice about indigenous culture, and the result is a recipe for conflict.

Business case

Companies working in developed and developing countries experience serious difficulties when relationships with indigenous peoples deteriorate, including:

Work stoppages. Because of unaddressed concerns over the potentially negative impact of company operations on water resources, indigenous communities blocked access to a mine in Peru for weeks, supported by international and national NGOs. Protests shut down a major portion of the mining operation.

Local-level violence. After several years of vainly requesting government assistance to remove illegal diamond miners from their protected lands, a Brazilian indigenous group resorted to violence, killing 24 miners.

Widespread political unrest. When it was learned that most of the benefits from a large-scale gas project in Bolivia would flow out of the country or to the capital, protests by indigenous peoples and labour unions brought down the presidency in late 2003.

In situations where companies do not have good relations with indigenous peoples, they face loss of permits and contracts, law suits, hostile advocacy campaigns, the reopening of assessment and negotiation processes, and the re-drawing of project plans in mid-cycle.

1. Several definitions are used to differentiate indigenous peoples from other groups, depending on different national contexts. There are also several terms used in different national contexts by these peoples, including aboriginal, native and indigenous – often these terms are shown capitalised. For the sake of editorial consistency and with all due respect, this paper uses 'indigenous'. One definition tries to capture what it is that different indigenous peoples share, despite the enormous variety between them around the world: 'Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop, and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.' Cobo, J. M., (1981). **Study on the Problem of Discrimination Against Indigenous Populations, Volume 1** UN document EC/CN.4/Sub.2/476; successive volumes E/CN.4/Sub.2/1986/7; and Add.1-4.

Such pressures influence public and private investors, national and multilateral institutions, and other external stakeholders who are paying increased attention to a company's ability to engage constructively with indigenous peoples. For companies that have changed their practices, results include easier permitting, greater access to finance, more effective local planning and investment, lower project design costs and fewer outbreaks of violence. When relationships are based upon trust and mutual respect, some companies have experienced a direct competitive advantage after indigenous communities requested them by name during a later bidding process.

Standard assumptions and responses

Relationships between indigenous peoples and extractive companies are affected by many of the same procedures and assumptions that companies use for 'communities' in general (see Flashpoint Issue 1: Stakeholder Engagement), but there are a few critical – and some unique – factors that come into play:

Historical grievances or concerns of indigenous peoples (either with national governments or past industry practices) are outside the remit of engagement and project design processes. Many companies assume that any attempt to deal with historical grievances will mire them in endless local disputes and demands for compensation.

The major concerns of indigenous peoples are beyond the sphere of companies' influence. Land rights and access to services are issues for governments, not companies. Economic development is the sphere of development agencies and NGOs, so companies should stick to their core business and not get involved.

Companies tend to wait until all their 'ducks are in a row' before approaching those locally who bear the greatest impact. When affected peoples are contacted, it is usually to tell them what will happen since many companies assume indigenous peoples are incapable of participating in project design and planning because of cultural or historical marginalisation. It is further assumed that it is not in the company's best interest to concern itself with raising the community's capacity to plan or negotiate as this might weaken its advantage.

Defining the goal as getting a community signature on a document at the beginning of the project is the most important outcome. Companies assume that such a signature means the same to indigenous peoples that it does to them and that once a signature is obtained, the community has consented for the life of the project. More often that not, this is far from true.

Conventional assessment processes suffice. Social assessments, when they occur, focus on conventional indicators, such as health or income, and show little knowledge of indigenous cultural values, needs and aspirations, nor of the likely way a project will impact on these.

Indigenous cultures are 'backward'. Moving toward a more 'modern' existence and leaving behind antiquated practices is assumed to be good both for indigenous peoples and the rest of society.

Indigenous peoples 'will not know what to do with real money'. Benefits provided to indigenous peoples are either funneled through national distribution schemes or, if localised, focus on compensation, the provision of infrastructure or contributions to social services and jobs. More often than not, they do not validate traditional cultures, but serve to undermine them.

Key conflict issues

Conflict issues with indigenous peoples run the full gamut, involving the company, national and local governments, affected communities and neighbouring communities. Critical issues include:

History. Many company personnel say historical mistrust is the first hurdle to overcome. Targets for extractive operations are usually in territories that have experienced contact between the indigenous peoples, governments and previous extractive activities, and the experience has not generally been positive due to environmental degradation, loss of land, lack of compensation, cultural degradation or the loss of livelihood. Some communities have closed their doors to extractive activities altogether. Where companies or governments ignore past grievances and move forward on a project, conflict may erupt immediately or mistrust may simmer for several years, but it surfaces eventually.

Land. The most critical factor dividing indigenous peoples from other ethnic or minority groups is their ancestral relationship to land. Land is the basis for identity, spirituality, culture, medicine, food, housing and livelihood. Conflicts over land entail high stakes for everyone, including governments and companies. They can occur over rights and access, since governments, rather than inhabitants, hold the mineral rights. Companies rely for mineral rights on governments, placing both at odds with affected communities who must deal with the impact of losing almost everything they value. In instances where companies respect surface rights and negotiate directly with landowners, problems may yet arise if the company has an incomplete knowledge of ownership patterns, causing conflicts between landowners. Another issue that can cause conflict is resource use and protection. Indigenous people govern land and resource use through long-standing customary laws designed to manage resource use (plants, wildlife, water, earth) within the community and between neighbouring communities to ensure their sustainable supply. Customs protect those resources and areas that are considered sacred. Conflicts arise between individuals and communities when resource-use patterns are interrupted or destabilised by company activity. Conflict can also arise between company and communities when traditional resource use is curtailed, operations result in environmental degradation or sacred places are disturbed.

Benefits. There are two ways in which the provision and distribution of benefits from extractive industries has been at the root of local and national conflict. Many schemes for distributing rents, royalties and taxes flow into capitals rather than local centres. Indigenous peoples have tended to receive less of the basic services that national budgets are designed to fund. When combined with the fact that monies come from the development of resources in their own territory, such discrepancies fuel historical grievance. In cases where governments have tried to overcome such discrepancies by creating funds specifically earmarked for indigenous peoples, experience has shown them to be relative failures, with the funds not being distributed down to the local level. When benefits are distributed locally, they can be problematic if the distribution is poorly conceived. Indigenous peoples point to problems with the company practice of using payments to individuals to secure access and agreement for the project, fueling local divisions. They also point to a notable trend of indigenous peoples receiving lower compensation payments than non-indigenous peoples

for land and resource use, fueling conflict between communities. Conflict can arise when community expectations of royalties, compensation, jobs and services outweigh the reality. High expectations can result from a company overselling in order to win community support, from a community's ignorance of the industry or a project's ability to deliver benefits.

Development impacts. Infrastructure development, especially the development of roads, is generally described as having a positive impact from a company's investment in remote communities by helping inhabitants to reach towns and markets. However, it can also have negative effects as other groups move into the area in hope of finding jobs. In operations lasting decades, in-migration can attain monumental proportions, overwhelming indigenous communities and bringing pressure on land, as well as disease, crime, prostitution and increased inter-community conflict.

Cultural impacts. In-migration has critical cultural impacts, bringing different languages, practices, gender concerns and values. Cultural conflict is also a common outcome of the meeting between indigenous peoples and company personnel.

Local decision-making. Companies are challenged by traditional decision-making structures and practices. In the provision of information to communities, they tend to offer only that which is required by law, and then to rely on standard regulatory procedures. Such procedures place critical information about a project in the capital, other government bodies and usually in formats inaccessible to indigenous residents. Given the pattern of their historical relationship with governments, indigenous people assume that they are being ignored, that they are the last to know of critical developments and that companies have something to hide. Levels of mistrust rise higher if the information is later leaked by third parties. By and large, indigenous decision-making systems are not bureaucratic, so they may seem to companies ad hoc, convoluted or mysterious. This may lead companies to employ 'relationship brokers' or create local structures that make them feel more at ease. Companies argue that such steps create greater efficiency, but they also generate issues of legitimacy. Conflict may then arise between traditional and non-traditional structures, and between the different decision-makers.

Consent. The topic of consent, in the sense of 'free, prior, informed consent', has been at the head of debate on extractive industry practice for several years. It is usually discussed as a concern for all communities, but has specific and important implications for relations with indigenous peoples. The issue is that consent embodies the fundamental rights of 'a people' to shape and control its future as a collective identity; rights that indigenous peoples are actively fighting for at national and international levels. It also embodies the concepts of historic rights and empowerment of indigenous peoples in all facets of life, and is enshrined in international law in ILO Convention 169:

The peoples concerned shall have the right to decide their own priorities for the process of development as it affects their lives, beliefs, institutions and spiritual well-being and the lands they occupy or otherwise use, and to exercise control, to the extent possible, over their own economic, social and cultural development. In addition, they shall participate in the formulation, implementation and evaluation of plans and programmes for national and regional development which may affect them directly.[2]

2. International Labour Organisation Convention 169: Concerning Indigenous and Tribal Peoples in Independent Countries (1991), Article 7.1.

Indigenous peoples are not necessarily or inevitably against extractive operations. But there are risks if companies find themselves in situations where indigenous peoples do not consent to an operation. This issue is intimately related to access to land and land rights. Companies increasingly find that reliance solely on national governments for a legal right to operate is not sufficient. Indigenous and non-indigenous communities use protest and international pressure to access the critical points in decision-making about a project, but indigenous peoples also increasingly find relief in influencing national or international court rulings that uphold their right of consent. Judicial systems have begun to focus their attention on governments' responsibility for demarcating and titling indigenous lands, and ensuring indigenous participation in decisions with regard to those lands.

Options and alternatives

There are many ways in which extractive companies have recognised the need to build more successful, less conflictual relationships with indigenous peoples, and a growing body of industry practice brings this recognition to the operational level.

Companies are learning to see that indigenous peoples are not the same as others. They have histories, relations with government, laws, livelihoods and values that set them apart from other communities, and their goals may be different to those assumed by others around them. To ignore the difference is to neglect something that might be critical to a project. Companies have learned that such differences should be taken into account throughout a project cycle, from the earliest stage to closure.

Some specific examples of changed practices include:

1. Assessment and risk analysis (see M-CRIA and P-CRIA)**.** Industry and other experts say that the best and most neglected opportunity to build a positive relationship with indigenous peoples is in the research phase, and this means knowing enough to ask the right questions. Assessments should investigate local indigenous cultures, land rights (including demarcation and titling), inter-community relationships, the specifics of subsistence economies, local trade relationships and sacred areas. Companies find that community participation is crucial in the assessment process if it is to be done accurately. Companies have also begun to place greater attention on assessing government policies, capacity and performance with regard to indigenous peoples' rights.

2. Engagement process. Companies are beginning to develop direct relationships with indigenous peoples at much earlier stages, even before government permitting. To do this effectively, engagement practices need to change to accommodate indigenous decision-making and cultures. Company personnel are visiting communities, providing more information and in formats that are more accessible. Processes have been slowed to promote greater inclusion. More importantly, company personnel are learning that strong community negotiating partners benefit the company. Support is provided to improve negotiating skills and knowledge about rights, legal agreements, potential impacts and other key issues. The emphasis is increasingly on direct negotiation, but there are still challenges for companies in their understanding of indigenous decision-making. Some communities have begun to document these in order to come to an internal understanding about their dealings with a large commercial operation, but also to make it more transparent to the companies with whom they work.

Companies are also starting to develop company/community committees to help carry the relationship through the project cycle, and to resolve conflict before it gets out of hand. These joint committees provide a transparent mechanism for either party to discuss concerns, develop projects, or measure and evaluate changes in the operation as it moves through its cycle. These mechanisms incorporate measures of the parties' different cultures, providing an atmosphere of joint learning and trust.

3. Impact and benefit-sharing agreements. This term describes the kinds of formal, negotiated agreements that companies have developed with indigenous peoples. They include agreement on where roads are to be built, the number of jobs provided, the use of traditional foods in company cafeterias and adjusted schedules to accommodate traditional livelihoods such as hunting and fishing. Even with these tools to mitigate possible areas of conflict, there can be differences in interpreting the formal documents that result. Companies often see them as the opportunity to come to an early and final agreement on benefits, while indigenous communities see the document as a work-in-progress and solely the measure of the relationship at one point along the way.

4. Cross-cultural training. As part of the local engagement process, but often on a broader scale, companies are developing cross-cultural training programmes with the help of indigenous peoples in their areas of operation. These courses focus on helping company personnel to understand indigenous cultures, values and practices, but there are some that help company personnel explain company culture and operations to indigenous communities.

5. Land rights. Rather than become mired in the conflict between whether governments or indigenous peoples have the right to grant consent to operate, companies are moving toward acknowledging that both have rights and that both must be accommodated if a project is to be successful. This has led to companies supporting community efforts to clarify surface rights and demarcate and title territories.

Resources

International conventions and voluntary standards

Equator Principles. www.equator-principles.org.

International Labour Organisation Convention 169: Concerning Indigenous and Tribal Peoples in Independent Countries. www.unhchr.ch/html/menu3/b/62.htm

Proposed American Declaration on the Rights of Indigenous Peoples. www.cidh.oas.org/Indigenous.htm

UN Draft Declaration on the Rights of Indigenous Peoples. www1.umn.edu/humanrts/instree/declra.htm

International financial institutions, Operational Policies

Asian Development Bank, Indigenous Peoples Policy. www.adb.org/IndigenousPeoples/default.asp

Inter-American Development Bank, Indigenous Peoples Policy Framework. www.iadb.org/sds/IND/site_401_e.htm

World Bank Operational Policy 4.10 Indigenous Peoples. www.worldbank.org/indigenous

Websites

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Forest Peoples Programme. www.forestpeoples.org

International Work Group for Indigenous Affairs. www.iwgia.org

North-South Institute. www.nsi-ins.ca

UNHCHR Working Group on Indigenous Populations. www.unhchr.ch/indigenous/groups-01.htm

UN Permanent Forum on Indigenous Issues. www.un.org/esa/socdev/unpfii/

University of Melbourne, Indigenous Studies Program, Agreements, Treaties and Negotiated Settlements Project. www.atns.net.au

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Section 4

Flashpoint Issue 5
Social Investment

Flashpoint Issue 5
Social Investment

The issue

Many companies undertake extensive efforts to implement community social investment programmes, such as building schools, hospitals or roads in the areas in which they operate. These programmes have become increasingly grounded in the experience of local and international NGOs and other development actors, with innovative partnerships emerging between different sectors, pooling their 'core competences' toward shared goals. Companies engage in such projects through a combination of motivations, including seeing social investment as a strategy for risk mitigation and a desire to deliver – and to be seen to deliver – a 'net benefit' to communities that are affected by their operations.

However, many such projects show disappointing results. Well-intentioned development initiatives, such as school construction or the promotion of local economic activities, can unintentionally feed into local tensions and fuel conflict through their selection of recipients or priorities. They can also divert attention away from the social impacts of other areas of business activity. Companies are inescapably part of any context in which they operate: their day-to-day activities all have impacts on the societies in which they work. Such impacts can be positive or negative but, in contexts of social or political tension, they are never neutral. Understanding how all activities, including the philanthropic, can have harmful impacts, and how to take steps to avoid them, are core features of designing conflict-sensitive business practices (CSBP).

The business case

Social investment is a tool for ensuring that even in operational contexts where local governance and service delivery are poor, the communities most directly impacted by a company's investment experience some tangible benefits. It represents one of the major channels of interaction available to companies seeking a 'social licence to operate' through winning the support of local stakeholders. If companies successfully manage to contribute to the social and economic development of a particular place, they are investing in their own security in terms of more harmonious relationships with host communities, and by limiting the costs imposed on operations by underdeveloped and/or conflicted contexts. These can range from poor infrastructure, unskilled local work forces and political or physical insecurity, and are evident at the local, regional and national levels.

Increasingly, governments and international creditors expect companies to make some commitment to community development programmes, so competitive gains are also to be enjoyed from taking this area of business seriously. A competitive-minded approach to social investment has its own pitfalls, however, and as the international debate on corporate social responsibility becomes more sophisticated, NGOs and others have begun to scrutinise the content and impact of social investment programmes more rigorously, and to ask more difficult questions about their relevance to the overall impact of companies' operations. Common complaints that companies give with one hand, while taking away with the other, or are inconsistent across business areas, or insincere in their rhetoric about community development, need to be taken seriously if the gains to be made through social investment programmes are to be realised. And when social investment programmes themselves become a source of conflict or competition within communities, as has been seen most markedly in Nigeria, companies may, in effect, undermine the security of their own operations. Competition over resources of any kind is inevitable in resource-scarce contexts: managing social investments in such a way that they do not fuel competition – or enable it to become violent – should be a priority.

1. This paper is an adapted version of work published by the Collaborative for Development Action, Corporate Engagement Project. **Collaborative for Development Action,** 130 Prospect Street, Suite 202, Cambridge, MA 02139, USA. Tel: 1 617 661 6310, Fax: 1 617 661 3805. www.cdainc.com/cep

Standard assumptions and responses

Companies tend to go into social investment projects with some of the following assumptions, feeding into detrimental policies or impacts:

Social investment projects are always 'good'. Companies often assume that social investment or community relations efforts will, by definition, contribute to improved relations between companies and host communities. There is evidence from a range of contexts that programmes that benefit some people very often disadvantage others, and do not necessarily contribute to stability.

To be satisfied, the community needs to see immediate, tangible benefits. Companies assume that local communities will not be satisfied until they see direct benefits from their presence in the form of physical structures or financial investment. This assumption often leads to an emphasis on outcomes without determining process and, more importantly, without fully understanding who will benefit and who will not. When companies work to anticipate impacts (including avoiding negative ones), to respond to community needs and communicate with communities during the process, local hosts are often satisfied despite the fact that tangible benefits are slower to come. A focus on the immediate and tangible misses out on opportunities for companies to contribute to community development through emphasising skills training and capacity building, for instance. An approach focused on infrastructure alone, moreover, can increase communities' dependence on companies.

The community is against us, so we need to pacify it. Companies assume that conflict with communities is inevitable; that regardless of how they operate their core activities, communities will always seek compensation; and that companies will be subject to general waves of violence over which they have no control. Rather than analysing a specific conflict and addressing its root causes, community relations staff may seek to address existing grievances by 'giving away' schools, speedboats, soccer fields and so forth. This is an inadequate response to the root causes of many grievances.

Social investment strategies are a tool for responding to apparent threats. Often a company will establish a community relations project in the village that is most affected by its presence and with whom the company inevitably has most contact. This reinforces smaller identities rather than broader ones, feeds jealousy between groups and increases the risk of inter-group conflict. This approach can backfire when those who feel they have been left out direct their grievances towards the company, or try to obtain 'their share' through violent means. It also rewards violent rather than non-violent behaviour. If companies only respond to potential threats of violence or work obstruction, communities may feel they can only achieve their goals through such threats. By rewarding violent behaviour or the threat of violence with social investment projects, companies reward negative rather than positive behaviour. By only responding to the trigger, companies ensure that the trigger will happen.

Key conflict issues

Social investment as a social divider or conflict resource. Unless social investment programmes are designed so that they do not reinforce divisions among sub-groups, or historical inequities and concentrations of wealth and power, such efforts can worsen, rather than improve, corporate/community relations and relations between local sub-groups. In conflict areas, the latter impacts can be extreme.

Creating dependency. In many contexts, companies become a region's major provider of basic services through the sheer scale of their social investment programming. If this is judicious and grounded on a good understanding of local power dynamics and rivalries so as to avoid fuelling conflict, it may have short-term benefits. In the long run, however, by introducing large financial investments to which communities would otherwise not have access, companies often create a standard of living that cannot be maintained once they have left. Hand-outs create dependency and erode state legitimacy and accountability. State weakness or illegitimacy is a correlate to conflict.

Negative behaviour reinforcement. By using social investment as a tool for managing disturbances, companies often inadvertently reward violent behaviour, which quickly develops into a pattern of disturbance and reward, raising the level and likelihood of conflict. To avoid this impact, social investment should instead be based on a context analysis and participatory research, leading to a comprehensive strategy.

Options and alternatives

Some companies are beginning to exhibit more nuanced and creative approaches to social investment that seek to avoid its potentially harmful impacts and maximise its potential as a conduit for contributing to peaceful societies:

1. Look at social investment through an operations lens, rather than as an add-on. Establishing and maintaining relations with local stakeholders through social investment projects cannot simply be contracted out or delegated to a specialised department, while other departments conduct 'business as usual'. Responsibility for community relations projects may be localised in one department, but implementation needs to be spread throughout the company. For example, as long as local communities perceive the personnel department's hiring criteria as unfair or local staff feel threatened by operations, the efforts of the community relations department will be unsuccessful.

2. Conduct a context analysis and impact assessment prior to designing a social investment policy. A first step towards establishing relations with local stakeholders is to identify pre-existing schisms in the host society and identify how the company's day-to-day activities either positively or negatively impact existing conflicts. Such an assessment is the basis of any effective social investment policy and an essential ingredient for success. Only by understanding these dynamics can companies establish cordial relations and a stable working environment, and support forces in society that integrate communities and build toward a peaceful, inclusive future. A conflict-sensitive social investment strategy, grounded in such context analysis, is a key output of CSBP, as described in the mitigation steps of M-CRIA and P-CRIA.

3. Ensure that social investment projects address root causes, and are not just reactions to episodic symptoms. When a company considers implementing a social investment project in response to a local demand or an episode of violence, companies should evaluate with the community the root causes of dissatisfaction and develop a project that will address them, however indirectly. Social investment projects should not be awarded to meet community demands that do not also address the underlying root causes of violence against the company or tension in society. Participatory analysis in order to understand communities' grievances and their wider context can identify the underlying issues of conflict that social investment helps to remedy. Designing projects in consultation with stakeholders is also important. In this respect, social investment is an opportunity to contribute to peacebuilding.

4. Involve the government. Companies should ensure buy-in from local government authorities prior to establishing social investment projects. This can be done by working with the government to implement an existing development plan (provided the plan ensures equal distribution of services). Without government buy-in, there may be no local funding or staff capacity to manage the facilities once they have been built. School buildings have been constructed in areas in great need of education which continue to stand empty for lack of teachers' salaries or funds to purchase blackboards and other supplies. This leads to frustration and anger among community members, who often direct their grievances against companies, or governments, once companies have departed. Companies may be inclined to exclude government officials because they view them as ineffective, burdened by bureaucracy, tainted by corruption or because they want to be solely responsible for the services and funding the company provides. Over the long term, however, it is local government that must deliver on the demands of local communities. Working to support and strengthen its effectiveness will have greater long-term benefits.

5. Collaborate with others. The competitive goals of companies sometimes undermine the strength of initiatives in the social arena. Partnering with other multinational companies, as well as NGOs, local businesses, INGOs and development agencies, will enhance the impact of initiatives and maximise the long term gains for all parties.

6. Focus on impact rather than input. People often assess effectiveness in terms of the successful completion of plans. For example, if the plan was to run 15 training sessions or rehabilitate four clinics, the activity is judged successful when those goals are achieved. However, such indicators tell only about programmatic inputs and give no information about how completing these activities affected either the intended beneficiaries, or larger society. For a genuine assessment of social investment programmes, companies must develop systems that trace the impact of an input on the society it was intended to benefit. Some companies do this through public meetings in which they hear the reactions of the communities directly. Others monitor increasing, or decreasing, trends in the number and type of complaints received in suggestion boxes. Others point at trends in security incidents.

7. Be clear about the objectives of social investment projects. Companies are often unclear about the specific, strategic objectives of their social investment efforts. They may feel pressured to 'do something', or have vaguely defined conflict-reduction objectives. To be most effective, companies need to be clearer and more transparent about their project objectives and the strategies used to implement them.

Resources

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International Institute for Sustainable Development, communities and livelihoods page. www.iisd.org

World Bank, local economic development and mining page. www.worldbank.org/ogmc/wbminingled.htm

World Bank, Oil and Gas Sector Issues and Policy, social and economic impact page. www.worldbank.org/ogmc/wbogpolicysocioeconomic.htm

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Section 4

Flashpoint Issue 6
Dealing with Armed Groups

Flashpoint Issue 6
Dealing with Armed Groups

The issue

The overwhelming majority of armed conflicts are intra-state, between governments and groups not under their control who are termed 'rebels', 'guerillas', 'insurgents', 'terrorists' or 'freedom fighters', depending on the context and who is describing them. These groups range from small, isolated guerilla bands to quasi-states that field armies and control large territories. Their ideologies, means of support and constituencies vary tremendously. What they do have in common is their unrecognised status and the fact that they are armed, both of which create real problems for companies that encounter them.

Armed groups are illegal – considered traitors at home and terrorists abroad, though, over time, they can acquire a more elevated status by evolving into the *de facto* rulers of breakaway territories. In addition to their informality, they usually sustain themselves through illicit means and their members live underground.

Companies find it hard to sustain relationships with such groups – though there is a probability that they will be invited to do so because they are seen as a source of revenue, either through 'taxes' in exchange for safe access to lands they control, or other levies, such as kidnapping and extortion. Is it legitimate to engage with armed groups and, if so, when? What are the risks? If companies do strike up relations with armed groups, how should they structure the engagement?

The business case

There is a range of business-case arguments against engaging with armed groups. However, in certain circumstances, there may be arguments in favour, though the risks remain steep.

Against engaging:

- Transparent contractual relationships with armed groups are difficult, if not impossible, given their illegality and unrecognised status. Engaging with them at a business level exposes a company to allegations of bribery, corruption and illegality.

- In the pursuit of their political and military objectives, armed groups are likely to have committed human rights abuses, and companies expose themselves to local and international criticism for any association with them. Legal prosecution under the doctrine of 'complicity' may follow if it can be proved that a company provided financial or logistical support to perpetrators of humanitarian crimes (see Introduction and Screening Tool).

- Political pressure from host governments against companies dealing with rebel groups is more than likely to be intense because of the threat they represent to national sovereignty and territorial integrity, leading in the most extreme cases to expulsion or seizure of assets.

- Because investments represent a source of revenue for both governments and armed groups, a company's mere presence can directly fuel violent competition between these factions, opening it to reputational damage and physical insecurity.

For engaging:

- Where government security forces are absent or unable to deal effectively with attacks on company staff or property, managers may decide to make the case against attack directly to an armed group. This rationale is useful in the short term, but could lead to later extortion demands, incurring the risks mentioned above.

- Armed groups can have strong links to local communities or others affected by a company investment and may as political actors represent long-term historical grievances in the host society. In a bid to develop good relations with a spectrum of stakeholders, companies may try to acknowledge these grievances by seeking tolerant relations with them.

- As part of a thorough context analysis (see M-CRIA and P-CRIA), companies need to gather information to minimise risk. Talking to aggrieved parties, including armed groups, can be viewed as a normal exercise in due diligence by the company to confirm that its context analysis is correct. Where it is safe and the government tolerates such contacts, it may be sensible to meet the representatives of armed groups in order to understand their motivations, threat perception and views on company's investment, or to use a third party to do so.

Standard assumptions and responses

Some companies harbour a number of standard assumptions about armed groups:

Dealing with armed groups is dangerous. While this is clearly true, there may be some situations in which it is necessary or legitimate to engage with them, as discussed above.

There is no choice but to pay them off. Companies expose themselves to a range of legal, material and reputational risks if they engage in extortion payments with armed groups. International legal authority is extending its reach and a number of former rebel commanders have ended up in court. Some companies have begun to develop creative solutions to extortion demands, as discussed below.

We can engage readily with those who stand up to tyranny. Where an armed group's campaign enjoys domestic and international support, and the regime it opposes is isolated (and perhaps sanctioned by the UN), it may be less problematic to engage in contacts with it. However, few conflict situations are morally simple and it is highly probable that the group will be engaging in abusive practices that can still rebound on a company's reputation.

If a rebel group is likely to win, prior engagement is a sensible investment of resources. Armed conflict is not an exercise in venture capitalism and companies should be wary of building relationships with armed groups on the basis of future gain. Engaging in order to win influence can promote violence since it promises rewards to those who have taken up arms. Companies should remember that civil wars are unpredictable. In short, betting on the winner is neither practical nor ethical.

Armed groups are all terrorists. Armed groups attack civilians and use violence to force the authorities to respond to their demands, but the term 'terrorist' is loaded because state security forces often use similar methods. The majority of civilians killed in conflict are victims of forces under state control or sponsorship, not rebels. Using pejorative descriptions can undermine a company's ability to understand accurately the conflict context.

Most are communist or anti-capitalist. Stemming from cold war experiences and legacies, this stereotype is also false. Groups take up arms for a bewildering variety of reasons and study of recent conflicts shows that many do so from profit motives. Using simplistic labels to define armed groups demonstrates a lack of understanding of the conflict context that will express itself in a poor management strategy.

Political armed groups are different to criminal gangs. Most armed groups finance their activities through crime, and many groups founded on political principles continue to fight for criminal gains, such as smuggling or plunder. However, Mafiosi and other primarily criminal gangs have also been prepared to contest the power of political authorities. Understanding the complex interplay between criminal and political agendas can help to inform a more accurate assessment of the conflict context.

Key conflict issues

Companies should ensure that when they are present in conflict zones their actions do not exacerbate violence. Where possible, they should take steps to promote peaceful outcomes. The risk that engaging with armed groups at any level will make the situation worse could outweigh any benefits. There are three basic but critical categories of risk in this regard:

Companies are a source of finance for war. Given their status as economic actors and potential sources of finance, companies should exercise extreme caution when considering engagement with armed groups. They can easily become caught in a mesh of extortion and bribery, the revenue from which directly fuels violence. Allowing this to happen incurs legal and reputational risks, and fundamentally jars with the CSBP approach.

Conferring legitimacy on armed groups. Most armed groups crave the legitimacy that comes from being acknowledged, whether formally or informally. Engaging with them can confer a legitimacy that may or may not be warranted. It is also important to recognise that, in situations of open violence, company investments confer a similar legitimacy – and revenue – on the host government, which is also party to the conflict.

Rewarding violence. By engaging with armed groups, companies inadvertently send a message to the community that violence is rewarded, in this case through access to foreign business and financial gain. This can contribute to endemic cycles of violence.

Options and alternatives

Developing a strategy for safely dealing with armed groups operating in proximity to a company investment is not simple. In fact, it poses such serious challenges that, from a conflict-sensitive perspective, it is a factor that should make a company re-think its investment, if identified early as a potential risk.

Humanitarian and peace groups, which aim to end war or at least mitigate its consequences, have a mandate to engage with all parties to a conflict. Their need to do so is self-evident and the various actors accept it. The case for companies engaging with armed groups is less clear-cut precisely because, as economic actors, they can easily become a source of finance for escalating the conflict.

Engagement can be appropriate in specific ways in specific contexts. To ascertain whether this is the case or not, companies need to understand accurately the conflict context, its actors and profile. This requires detailed stakeholder mapping and conflict analysis tools (see M-CRIA and P-CRIA), and careful consideration of the following questions:

Understand the armed group(s). Armed groups are as diverse as the situations in which they take up arms. Companies need to understand both thoroughly. Key points to consider:

- **Leadership.** Is it in control? Is it cohesive? Is there a political wing and, if so, how much influence does it exert? Is there in-fighting between groups?
- **Ideological basis.** What motivates the group(s) and which aspects of ideology create openings for humanitarian and peace objectives? What types of people/groups are targeted as a result of the group's ideology?
- **Constituency.** Who supports the struggle? Who does the group say it is fighting for?
- **Sponsors.** What foreign governments or other actors give political or material support to the group(s)? Who are the local sponsors?
- **Means of support.** How are armed groups sustained?
- **Assessment of the company.** The group or groups' view of the company is likely to be based on its national origin. What is that nation's stance in the specific conflict; its historic involvement in the host country; its alliances; the identity of local staff? etc.

Factor in state attitudes. Companies that seek to engage armed groups need to consider how the state would view such contacts. They may be illegal and therefore not an option. However, the state might permit such contacts – or tolerate them – but later use them in ways that rebound negatively on the company. As a general rule, a company would be wise to assess the likely government response to it contacting an armed group before doing so. An armed group's tactics can only be understood in relation to those of the government's forces.

Once a company is certain it understands these different dimensions to a conflict, the following options are open:

1. Principled non-engagement in extortion and bribery. In some circumstances, the most significant contribution a company can make to peace is strict non-engagement. This choice may incur threats to its operations, but adopting a long-term approach in the interests of peace require that these are faced down. Again, the presence of such demands is in itself a risk factor so serious that it could well point to a no-go situation. When operating in such contexts, companies need stringent security arrangements, but it is essential that these themselves do not contribute to the climate of violence. Security forces should be trained in human rights and conduct themselves in accordance with humanitarian law and best practice (see Flashpoint Issue 6: Security Arrangements). A company can help by using its influence with other companies in the region to ensure that the industry as a whole resists pressure to finance the conflict.

2. Development of strong relations with local communities. Strong relationships with communities, particularly those sympathetic to armed groups operating in the area, can act as a *cordon sanitaire* to counteract the security risks incurred through non-engagement. If the community is convinced that the company's presence is in its interest and not just the government's, this encourages an armed group to protect it. Companies in Colombia have turned this idea into a workable strategy of discouraging attacks from the various armed groups in their operating environment.

3. Use of influence to support humanitarian and peace efforts. There may be discrete ways, through its core competencies or through use of trusted third parties, that a company can use its presence to promote peace by influencing armed groups. For example, staff can serve as intermediaries between rebel commanders and peace negotiators; companies can express strong disapproval of acts of violence; and companies can lobby governments to initiate peace talks, negotiate settlement and address any structural grievances that fuel the conflict.
The CSBP approach is designed for companies both to understand conflict and ensure that intervention through all areas of their business 'do no harm' and contribute to peace. Indirectly therefore, companies can seek to address armed groups' grievance issues within their spheres of influence, where appropriate (see mitigation sections in M-CRIA and P-CRIA).

Resources

International conventions and voluntary standards

Geneva Conventions and Additional Protocols I and II. www.genevaconventions.org

UN Draft Norms on the Responsibilities of Transnational Corporations with Regard to Human Rights. www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.2003.12.Rev.2.En?Opendocument

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Section 4

Flashpoint Issue 7
Security Arrangements

Flashpoint Issue 7
Security Arrangements

The issue

Companies have a legitimate responsibility to staff and shareholders to ensure that their property and personnel are physically protected from violent or illegal acts. Security threats can emanate from local communities, company employees, armed groups or other factions, artisan miners and migrant workers. They include:

- Petty theft
- Demonstrations (armed or unarmed)
- Riots
- Illegal mining on an undeveloped area
- Sabotage of pipelines and other installations
- Kidnapping, intimidation or assassination of staff.

The types of security arrangements companies make to handle these threats can have significant repercussions on the conflict-risk context. Cases exist where, through the conduct of security forces appointed on their behalf, companies have become implicated in human rights abuses, suffered deteriorating relationships with local communities and even loss of control in a volatile context. Security arrangements that are not founded on a substantial understanding of the context, stakeholders and international best practice run the risk of aggravating the very risk factors from which a company seeks to shield itself. Companies increasingly recognise that the most effective security strategies are developed with community perspectives and relations to the fore.

The business case

There is a strong business case for companies in unstable regions to take all possible steps to design conflict-sensitive security management strategies. Failure to so can impose a range of costs, including:

Security. Security forces that are not trained, or do not conduct themselves according to the highest standard of professionalism and with regard to International law, can all too easily become an aggravating factor in unstable contexts. Companies may then face ongoing security risks to property and personnel.

Reputation. An aggravated security context, in which company security staff become involved in violent skirmishes with local communities, is likely to attract the attention of local or international NGOs and media, leaving the company open to allegations from which, given the escalating nature of violence, it might be difficult to distance itself. Conversely, seeking out conflict-sensitive alternatives can enhance reputation locally, internationally and among peers.

Security and community relations are best managed separately. Traditionally, security managers are located far from community relations departments in terms of institutional cooperation. Increasingly companies recognise that these two departments need to work closely together if their individual targets are to be met.

Legal. Companies run the risk of becoming implicated in abuses of human rights and criminal law if the security forces protecting their project are involved in such abuses.[1]

1. As demonstrated by recent cases brought against companies under the US Alien Tort Claims Act (ATCA). See Fafo AIS www.fafo.no/liabilities/index.htm

Deteriorating local relationships. If security forces conduct themselves in a way that contributes to an escalation of tension or directly commit abuses against local communities, local perceptions of the company itself will be tarnished, sometimes irrevocably. This can impose business costs.

Repercussions on civil conflict. Companies that rely on security forces provided by a repressive regime (whether through choice or contractual requirement) increase local perceptions that the company's activities are an arm of government. Any claim to neutrality risks collapsing if a company is seen to extend unruly state power into an already volatile region.

Standard assumptions and responses

Companies carry a number of standard assumptions about the kinds of security arrangements that are appropriate in unstable regions, some of which can lead to poor strategies:

Security can be bought. Political or security risks are conventionally analysed as cost factors, to be dealt with by means of increased security budgets. Some companies are taking a more qualitative, strategic approach, which is essential to designing effective security arrangements.

To protect staff, build fences higher. There is a tendency for some companies operating near violence, or who have become its target, to adopt a siege mentality. Symptoms of this include armed guards, high fences, curfews, CCTV cameras and radio checks, fast driving in the field and the tendency of staff to avoid integrating with local residents as far as possible. While retreat is a natural response to threat, it exacerbates local perceptions of company employees as alien, privileged and unsympathetic to the community or country's needs and identity. This alienation increases the chances that company staff will be perceived as a source of grievance and eventually be attacked.

The conduct of state security forces is beyond our sphere of responsibility. Companies are often required to use state security forces by host governments. Companies may assume that the protection provided by state security forces exonerates them from any blame arising from the methods employed to enforce security. This is not entirely the case. While direct responsibility may be hard to prove, legal cases are on the rise, and reputational risks of association are high, with international media and local stakeholders tending not to distinguish between the finer shades of complicity.

In Colombia, one oil company facing a lawsuit under the ATCA has been accused of aiding and abetting paramilitary forces which committed human rights violations. The company denies the charges. In the late 1990s, another oil company was accused of passing information to paramilitary forces who used it to commit human rights abuses against communities sympathetic to an opposition group, that had previously attacked company assets. In Burma, the military asked an oil company to supply jeeps that were later used to commit human rights abuses. In Nigeria, oil companies have been accused of providing weapons, or the means of acquiring them, to security forces who used them to commit human rights abuses.

Local police are ineffective. Local police can be underpaid, under-trained and corrupt, leading companies using outside private security to be dismissive of their competence. Set against this, however, local police usually have a better acquaintance with the people living in their districts. Competent, impartial and effective law enforcement is critical to a region's long-term security.

Companies that find ways of working with and building the capacity of local policing, while bolstering their own security, will have improved long-term impacts on their host communities.

Key conflict issues

Security is at the frontline between a company and its operating environment and is critical for all areas of business.

Acts of violence. Violence breeds violence. If security forces protecting company assets engage in disproportionate or repressive acts of violence, they will reinforce a culture of violence and conflict that can easily escalate.

Handling grievances. When community grievances against a company over jobs, benefits or environmental hazards are met by armed security rather than dialogue, it increases the distance between community and company, increasing the likelihood of conflict. When one community is favoured over another, it can also fuel intra-community tensions.

Macro impacts on human rights situation. Turning a blind eye to misconduct by state security forces contributes to a worsening human rights situation and further instability in the country.

Options and alternatives

The security of an investment is inextricably bound up in the security situation at large. Designing effective security management requires thorough context analysis at both macro and micro levels (see M-CRIA and P-CRIA). These tools enable companies to identify structural and trigger security threats that can be addressed at various levels: by designing more effective security management strategies; by tackling security sector reform or weapons flow (if they are identifiable as issues of concern); and through social investment and policy dialogue activities.

In 2000, the US and UK governments (later joined by the Netherlands and Norway) convened a group of representatives of leading extractive industry companies and NGOs working on human rights, conflict transformation and corporate social responsibility, in order to develop some guiding principles for managing security arrangements in a manner consistent with human rights. The outcome was the Voluntary Principles on Security and Human Rights which offers options and alternatives for companies in three key areas: risk assessment; interactions with state security; and interactions with private security.

The challenge for the current Voluntary Principles group is to demonstrate that the Principles are a workable and effective tool, through implementation, collecting and sharing best practice, developing monitoring mechanisms and accountability to the principles, and extending their reach to a wider group of companies and to new policy fora.

If followed carefully, the principles offer a useful mechanism for managing security arrangements, and addressing the issues and risks raised above. They call for a regularly updated context analysis of the specific conflict-risk situation, and the engagement of local communities in designing security strategies, human rights training, monitoring of security forces and macro-level policy dialogue. An augmented institutional role for security and cross-departmental dialogue between headquarters and on-the-ground managers are required to ensure their full implementation. The Voluntary Principles are included in full in box 1.

Box 1: The Voluntary Principles on Security and Human Rights

Introduction

Governments of the United States, the United Kingdom, the Netherlands and Norway, companies in the extractive and energy sectors ('companies'), and non-governmental organisations ('NGOs'), all with an interest in human rights and corporate social responsibility, have engaged in a dialogue on security and human rights.

The participants recognise the importance of the promotion and protection of human rights throughout the world and the constructive role business and civil society – including NGOs, labour/trade unions and local communities – can play in advancing these goals. Through this dialogue, the participants have developed the following set of voluntary principles to guide companies in maintaining the safety and security of their operations within an operating framework that ensures respect for human rights and fundamental freedoms. Mindful of these goals, the participants agree to the importance of continuing this dialogue and keeping under review these principles to ensure their continuing relevance and efficacy.

Acknowledging that security is a fundamental need, shared by individuals, communities, businesses, and governments alike, and acknowledging the difficult security issues faced by companies operating globally, we recognise that security and respect for human rights can and should be consistent;

Understanding that governments have the primary responsibility to promote and protect human rights and that all parties to a conflict are obliged to observe applicable international humanitarian law, we recognise that we share the common goal of promoting respect for human rights, particularly those set forth in the Universal Declaration of Human Rights, and international humanitarian law;

Emphasising the importance of safeguarding the integrity of company personnel and property, companies recognise a commitment to act in a manner consistent with the laws of the countries within which they are present, to be mindful of the highest applicable international standards, and to promote the observance of applicable international law enforcement principles (e.g. the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials), particularly with regard to the use of force;

Taking note of the effect that companies' activities may have on local communities, we recognise the value of engaging with civil society, and host and home governments to contribute to the welfare of the local community while mitigating any potential for conflict where possible;

Understanding that useful, credible information is a vital component of security and human rights, we recognise the importance of sharing and understanding our respective experiences regarding, inter alia, best security practices and procedures, country human rights situations, and public and private security, subject to confidentiality constraints;

Acknowledging that home governments and multilateral institutions may, on occasion, assist host governments with security sector reform, developing institutional capacities and strengthening the rule of law, we recognise the important role companies and civil society can play in supporting these efforts;

Box 1 (continued)

We hereby express our support for the following voluntary principles regarding security and human rights in the extractive sector, which fall into three categories: risk assessment, relations with public security and relations with private security.

Risk assessment

The ability to assess accurately risks present in a company's operating environment is critical to the security of personnel, local communities and assets; the success of the company's short and long-term operations; and to the promotion and protection of human rights. In some circumstances, this is relatively simple; in others, it is important to obtain extensive background information from different sources; monitoring and adapting to changing, complex political, economic, law enforcement, military and social situations; and maintaining productive relations with local communities and government officials.

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The quality of complicated risk assessments is largely dependent on the assembling of regularly updated, credible information from a broad range of perspectives – local and national governments, security firms, other companies, home governments, multilateral institutions and civil society knowledgeable about local conditions. This information may be most effective when shared to the fullest extent possible (bearing in mind confidentiality considerations) between companies, concerned civil society and governments.

Bearing in mind these general principles, we recognise that accurate, effective risk assessments should consider the following factors:

Identification of security risks. Security risks can result from political, economic, civil or social factors. Moreover, certain personnel and assets may be at greater risk than others. Identification of security risks allows a company to take measures to minimise risk and to assess whether company actions may heighten risk.

Potential for violence. Depending on the environment, violence can be widespread or limited to particular regions, and it can develop with little or no warning. Civil society, home and host government representatives, and other sources should be consulted to identify risks presented by the potential for violence. Risk assessments should examine patterns of violence in areas of company operations for educational, predictive and preventative purposes.

Human rights records. Risk assessments should consider the available human rights records of public security forces, paramilitaries, local and national law enforcement, as well as the reputation of private security. Awareness of past abuses and allegations can help companies to

avoid recurrences as well as to promote accountability. Also, identification of the capability of the above entities to respond to situations of violence in a lawful manner (i.e. consistent with applicable international standards) allows companies to develop appropriate measures in operating environments.

Rule of law. Risk assessments should consider the local prosecuting authority and judiciary's capacity to hold accountable those responsible for human rights abuses, and for those responsible for violations of international humanitarian law in a manner that respects the rights of the accused.

Conflict analysis. Identification of and understanding the root causes and nature of local conflicts, as well as the level of adherence to human rights and international humanitarian law standards by key actors, can be instructive for the development of strategies for managing relations between the company, local communities, company employees and their unions and host governments. Risk assessments should also consider the potential for future conflicts.

Equipment transfers. Where companies provide equipment (including lethal and non-lethal equipment) to public or private security, they should consider the risk of such transfers, any relevant export licensing requirements, and the feasibility of measures to mitigate foreseeable negative consequences, including adequate controls to prevent misappropriation or diversion of equipment which may lead to human rights abuses. In making risk assessments, companies should consider any relevant past incidents involving previous equipment transfers.

Interactions between companies and public security

Although governments have the primary role of maintaining law and order, security and respect for human rights, companies have an interest in ensuring that actions taken by governments, particularly the actions of public security providers, are consistent with the protection and promotion of human rights. In cases where there is a need to supplement security provided by host governments, companies may be required or expected to contribute to, or otherwise reimburse, the costs of protecting company facilities and personnel borne by public security. While public security is expected to act in a manner consistent with local and national laws as well as with human rights standards and international humanitarian law, within this context abuses may nevertheless occur.

In an effort to reduce the risk of such abuses and to promote respect for human rights generally, we have identified the following voluntary principles to guide relationships between companies and public security regarding security provided to companies:

Security arrangements

Companies should consult regularly with host governments and local communities about the impact of their security arrangements on those communities.

Companies should communicate their policies regarding ethical conduct and human rights to public security providers, and express their desire that security be provided in a manner consistent with those policies by personnel with adequate and effective training.

Box 1 (continued)

Companies should encourage host governments to permit making security arrangements transparent and accessible to the public, subject to any overriding safety and security concerns.

Deployment and conduct
The primary role of public security should be to maintain the rule of law, including safeguarding human rights and deterring acts that threaten company personnel and facilities. The type and number of public security forces deployed should be competent, appropriate and proportional to the threat.

Equipment imports and exports should comply with all applicable law and regulations. Companies that provide equipment to public security should take all appropriate and lawful measures to mitigate any foreseeable negative consequences, including human rights abuses and violations of international humanitarian law.

Companies should use their influence to promote the following principles with public security: (a) individuals credibly implicated in human rights abuses should not provide security services for companies; (b) force should be used only when strictly necessary and to an extent proportional to the threat; and (c) the rights of individuals should not be violated while exercising the right to exercise freedom of association and peaceful assembly, the right to engage in collective bargaining, or other related rights of company employees as recognised by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work.

In cases where physical force is used by public security, such incidents should be reported to the appropriate authorities and to the company. Where force is used, medical aid should be provided to injured persons, including to offenders.

Consultation and advice
Companies should hold structured meetings with public security on a regular basis to discuss security, human rights and related work-place safety issues. Companies should also consult regularly with other companies, host and home governments, and civil society to discuss security and human rights. Where companies operating in the same region have common concerns, they should consider collectively raising those concerns with the host and home governments.

In their consultations with host governments, companies should take all appropriate measures to promote observance of applicable international law enforcement principles, particularly those reflected in the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms.

Companies should support efforts by governments, civil society and multilateral institutions to provide human rights training and education for public security as well as their efforts to strengthen state institutions to ensure accountability and respect for human rights.

Responses to human rights abuses
Companies should record and report any credible allegations of human rights abuses by public security in their areas of operation to appropriate host government authorities. Where appropriate, companies should urge investigation and that action be taken to prevent any recurrence.

Companies should actively monitor the status of investigations and press for their proper resolution.

Companies should, to the extent reasonable, monitor the use of equipment provided by the company and to investigate properly situations in which such equipment is used in an inappropriate manner.

Every effort should be made to ensure that information used as the basis for allegations of human rights abuses is credible and based on reliable evidence. The security and safety of sources should be protected. Additional or more accurate information that may alter previous allegations should be made available as appropriate to concerned parties.

Interactions between companies and private security
Where host governments are unable or unwilling to provide adequate security to protect a company's personnel or assets, it may be necessary to engage private security providers as a complement to public security. In this context, private security may have to coordinate with state forces, (law enforcement, in particular) to carry weapons and to consider the defensive local use of force. Given the risks associated with such activities, we recognise the following voluntary principles to guide private security conduct:

Private security should observe the policies of the contracting company regarding ethical conduct and human rights; the law and professional standards of the country in which they operate; emerging best practices developed by industry, civil society, and governments; and promote the observance of international humanitarian law.

Private security should maintain high levels of technical and professional proficiency, particularly with regard to the local use of force and firearms.

Private security should act in a lawful manner. They should exercise restraint and caution in a manner consistent with applicable international guidelines regarding the local use of force, including the UN Principles on the Use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials, as well as with emerging best practices developed by companies, civil society and governments.

Private security should have policies regarding appropriate conduct and the local use of force (e.g. rules of engagement). Practice under these policies should be capable of being monitored by companies or, where appropriate, by independent third parties. Such monitoring should encompass detailed investigations into allegations of abusive or unlawful acts; the availability of disciplinary measures sufficient to prevent and deter; and procedures for reporting allegations to relevant local law enforcement authorities when appropriate.

Box 1 (continued)

All allegations of human rights abuses by private security should be recorded. Credible allegations should be properly investigated. In those cases where allegations against private security providers are forwarded to the relevant law enforcement authorities, companies should actively monitor the status of investigations and press for their proper resolution.

Consistent with their function, private security should provide only preventative and defensive services and should not engage in activities exclusively the responsibility of state military or law enforcement authorities. Companies should designate services, technology and equipment capable of offensive and defensive purposes as being for defensive use only.

Private security should (a) not employ individuals credibly implicated in human rights abuses to provide security services; (b) use force only when strictly necessary and to an extent proportional to the threat; and (c) not violate the rights of individuals while exercising the right to exercise freedom of association and peaceful assembly, to engage in collective bargaining or other related rights of company employees as recognised by the Universal Declaration of Human Rights and the ILO Declaration on Fundamental Principles and Rights at Work.

In cases where physical force is used, private security should properly investigate and report the incident to the company. Private security should refer the matter to local authorities and/or take disciplinary action where appropriate. Where force is used, medical aid should be provided to injured persons, including to offenders.

Private security should maintain the confidentiality of information obtained as a result of its position as security provider, except where to do so would jeopardise the principles contained herein.

To minimise the risk that private security exceed their authority as providers of security, and to promote respect for human rights generally, we have developed the following additional voluntary principles and guidelines:

Where appropriate, companies should include the principles outlined above as contractual provisions in agreements with private security providers, and ensure that private security personnel are adequately trained to respect the rights of employees and the local community. To the extent practicable, agreements between companies and private security should require investigation of unlawful or abusive behavior and appropriate disciplinary action. Agreements should also permit termination of the relationship by companies where there is credible evidence of unlawful or abusive behaviour by private security personnel.

Companies should consult and monitor private security providers to ensure they fulfil their obligation to provide security in a manner consistent with the principles outlined above. Where appropriate, companies should seek to employ private security providers that are representative of the local population.

Companies should review the background of private security they intend to employ, particularly with regard to the use of excessive force. Such reviews should include an assessment of previous services provided to the host government, and whether these services raise concern about the private security firm's dual role as a private security provider and government contractor.

Companies should consult with other companies, home country officials, host country officials and civil society regarding experiences with private security. Where appropriate and lawful, companies should facilitate the exchange of information about unlawful activity and abuses committed by private security providers.

Source: www.voluntaryprinciples.org

Resources

International conventions and voluntary standards

Geneva Conventions and Additional Protocols I and II.
www.genevaconventions.org

International Convention for the Suppression of the Financing of Terrorism.
www1.umn.edu/humanrts/instree/financingterrorism.html

UN Code of Conduct for Law Enforcement Officials and Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
www.uncjin.org/Standards/Conduct/conduct.html

UN Convention against the Recruitment, Use, Financing and Training of Mercenaries.
www1.umn.edu/humanrts/instree/1989a.htm

UN Draft Norms on the Responsibilities of Transnational Corporations with Regard to Human Rights.
www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.2003.12.Rev.2.En?Opendocument

Voluntary Principles on Security and Human Rights.
www.voluntaryprinciples.org

Websites

Amnesty International UK, **Human Rights Guidelines for Companies**. www.amnesty.org.uk/business/pubs/hrgc.shtml

Business and Human Rights Resource Centre, security and conflict page. www.business-humanrights.org/Categories/Issues/Security

Danish Centre for Human Rights Human Rights Compliance Assessment tool for companies.
www.humanrightsbusiness.org/compliance_assessment.htm

Human Rights Watch
www.hrw.org/advocacy/corporations/index.htm

International Business Leaders Forum, conflict and security page.
www.iblf.org/csr/csrwebassist.nsf/content/a1a2a3a4a5.html

London School of Economics, Centre for the Study of Global Governance, oil and conflict page.
www.lse.ac.uk/Depts/global/OtherProjects.htm

Section 4

Flashpoint Issue 8
Human Rights

Flashpoint Issue 8
Human Rights

The issue

Companies frequently find themselves operating in countries with poor human rights records. While there is not enough empirical evidence to support a direct, causative correlation between countries with poor human rights records and countries in conflict, the likelihood of these conditions co-existing is high. A high incidence of human rights abuse is often a precursor to conflict and the most egregious abuses of human rights take place during violent conflict. Conflict, and even potential or pre-conflict, can affect many rights, such as:

- The right to life
- The right to freedom of thought, conscience or religion
- The right to own property
- The right against forced displacement, plunder, pillage or profiteering
- The right against torture and inhumane or degrading treatment
- The right against arbitrary arrest and detention
- The right to a fair trial
- The right to freedom of expression
- The right against discrimination
- The right to free association and free assembly
- The right to a minimum adequate standard of living.[1]

In a number of countries, companies are faced with significant legal and moral dilemmas relating to human rights abuses:

- In Indonesia, oil companies operate in areas where armed opposition groups are seeking independence and where conflict with the state has led to human rights abuses.
- In Nigeria's oil-rich Delta province, companies operate in an environment where decades of economic neglect have angered local communities who now target them, and again where state response has involved human rights abuses.
- In Angola, the diamond industry has been accused until recently of trading with rebel groups who committed human rights abuses during the civil war.
- In Colombia, rebels regularly attack pipelines owned and managed by oil companies, whom they accuse of cooperating with unscrupulous state or paramilitary forces and view as legitimate targets.

Companies that try to ignore these complex features in their operating contexts by adopting a 'business as usual' approach have suffered widespread condemnation by civil society groups, sometimes culminating in consumer boycotts or lawsuits. Increasingly, companies are being called on to respect international human rights and humanitarian law in all areas of their operations.

The business case

There is a strong business case for companies to respect human rights, particularly in conflict-prone areas:

Reputation. When a company operates in a conflict-risk state, it becomes a lightning rod for activist groups. Neglecting human rights can have consequences on reputation locally and internationally, including repercussions on share price and the capacity to raise capital, win further contracts, maintain good security on the ground and hire the best staff.

1. See Annex for more detail on the relevant international instruments.

Boycott. NGOs have called for boycotts of companies' products and services. If the company has a high-street presence, for example through petrol pumps or jewellery retailing, its outlets can be picketed. If the company has no downstream operations, boycotts can be waged by placing pressure on ethical investor groups, trade unions, credit-rating agencies and institutional investors.

Shareholder pressure. Some activist groups buy shares, introducing hostile resolutions at annual general meetings. When allied with a sizeable group of other investors, this kind of campaign can have a significant impact on the company's public reputation, affecting share price. Since the campaign against apartheid, activist pension funds, mutual funds, ethical funds, trade unions and civil society organisations, have learned to use shareholder pressure – through resolutions, votes and demands for divestment – which forms another risk for companies.

Cost of capital and management time. A drop in a company's share price can have consequences on its ability to raise further capital. If a company does not pay adequate attention to human rights concerns before investing, or fails to reassess its portfolio when conflict ignites in its operating environment, it may face significantly increased costs in the time devoted by senior management or legal advisors in devising and implementing an effective counter-strategy.

Legal risks. Increasingly, activist groups, victims' groups and tort lawyers are using the law, particularly the Alien Tort Claims Act (ATCA) in the United States, to sue companies for complicity in human rights abuses. In addition to the cost of management time and legal representation, which can run into millions of dollars, there is a genuine possibility of an adverse judgment with serious repercussions in determining a company's liability and assessing punitive damages.

Incipient legislation. Reports by the UN Expert Panel on natural resource exploitation in the Democratic Republic of Congo (DRC) have been a wake-up call for many Western governments which are now looking at ways to strengthen their legislative frameworks.[2] New voluntary initiatives that could pave the way for longer-term legislative developments include the UN Draft Norms on the Responsibilities of Transnational Corporations with regard to Human Rights currently being considered by the UN High Commission for Human Rights. The initiative offers companies a comprehensive set of human rights responsibilities within their spheres of influence that assists in clarifying their roles.[3] Efforts to strengthen the OECD Guidelines for Multinational Enterprises as they relate to countries with weak governance,[4] as well as the UN Global Compact (the first two principles of which call for companies to respect human rights law and ensure that they are not complicit in human rights abuses), are also indications of this search for clearer rules.

Standard assumptions and responses

Since the mid-1990s, many companies have developed policies and standards on human rights, but full implementation has been hampered by a number of ongoing assumptions and practices:

It is not the business of companies to protect human rights. Many companies believe that they should respect human rights, but voluntarily. Legal responsibility for human rights lies with the state and companies should not interfere in sovereign or internal political affairs. Companies' responsibilities are wealth creation, the payment of taxes and, where feasible, the generation of good works through corporate citizenship, or corporate social responsibility. While international

2. See the reports of the Panel of Experts on the Illegal Exploitation of Natural Resources and Other Forms of Wealth of the Democratic Republic of Congo; April 2001; October 2002; and October 2003. All texts available at www.globalpolicy.org/security/issues/kongidx.htm#links
3. At the time of going to print, debate at the OHCHR as to the future status of this document is ongoing – with clarification possibly due to emerge from the 61st session of the Commission scheduled for April 2005. U.N. Doc. E/CN.4/Sub.2/2003/12/Rev.2 (2003). See also Amnesty International (2004) **The UN Human Rights Norms For Business: Towards Legal Accountability**.
4. See www.oecd.org/document/7/0,2340,en_2649_34889_34070151_1_1_1_1,00.html

human rights law does indeed locate primary responsibility for protecting human rights with the state, this does not help companies to meet the moral dilemmas they may encounter in certain countries. Limited interpretation of the law ignores the reality that companies have come under severe pressure when operating in the vicinity of human rights abuses.

Human rights issues are best handled by external relations departments. Companies have responded to the human rights challenge by drawing up voluntary codes of conduct that guide performance in their own operations and within their spheres of influence. The codes have been drafted in response to concerns in civil society about the role, activities and impact of companies on the human rights of their workers and communities in their operational areas. One problem relating to this has been the tendency for such codes to be developed at headquarters level – the level at which reputational, financial and legal risks are felt most keenly – while management of human rights issues takes place on the ground. There is, therefore, commonly a disconnect between headquarters aspirations and operational experience that opens space for ineffective strategy. Typically, external affairs specialists at headquarters level are called in reactively to cope with human rights crises, but managing human rights situations effectively requires a more integrated approach. These institutional complexities hamper an effective response to crises, and are indicative of an overall failure to deal pro-actively with the issue.

Key conflict issues

There are various ways in which company practices relating to human rights can exacerbate the incidence of conflict:

Security arrangements. In zones of conflict, the most direct exposure a company has to a potential human rights crisis is through its security arrangements. Who provides security? What methods do they use? What weapons are used? Are security personnel trained to ensure they use their equipment lawfully? What is their prior record? Companies have a legitimate right to protect staff and assets, but in several instances the security forces the companies employ are poorly trained and equipped, and not familiar with international human rights standards. This can result in a disproportionate use of force and human rights violations in which the company quickly becomes mired (also see Flashpoint Issue 7: Security Arrangements).

Labour practices. Recruitment policy is another area where company actions can have negative repercussions on human rights. An operational requirement in Burma is the need to take on a domestic partner, usually an arm of the government. Burma has a particularly egregious human rights record and credible reports allege that its military used forced labour to build an energy pipeline in the 1990s. A US energy company recently settled an ATCA case out of court, pledging to make financial contributions to support communities around their project area in response to charges that it had been complicit in slavery.

Building and operating oil exploration wells, refineries and mines requires a highly skilled workforce and companies find it difficult to hire local people for senior positions given low levels of technical expertise. In addition, they may experience political pressure to provide jobs to ethnic groups associated with the government. Companies run the risk of violating the right against discrimination through recruitment practices, fueling local competition and violence.

Community relations. When companies feel obliged to provide amenities and services to communities around their operations, especially in weakly governed states, they can inadvertently create situations that lead to human rights abuses. This happens when companies build schools, clinics and canals for example, but limit their engagement to the needs of communities closest to their facilities. This deprives other communities and breeds grievances that can lead to militant youth targeting a company's assets or committing human rights abuses. Widespread perceptions that a company benefits from the region, but is not doing enough for it, or for a particular group living there, can be sufficient for members of some groups to turn to violence. Lack of transparency about the distribution of the benefits – from employment to development projects – can contribute to feelings of suspicion and grievance. In volatile situations, these dynamics can lead to violence (see Flashpoint Issue 5: Social Investment).

From good intention to human rights abuse

1. A company sees widespread poverty in the community and provides a public good (a school or clinic) that the state does not provide
2. The company decides to provide the service to five villages immediately around its operations
3. Villages beyond that perimeter feel denied and develop grievances
4. These villages make demands on the company that it fails to provide
5. Militant youths in the village target the company by sabotaging operations, abducting officials or damaging infrastructure
6. The company turns to the state to provide security forces to protect its installations
7. The forces are poorly equipped so the company provides resources to acquire equipment
8. The security forces commit human rights abuses, implicating the company.

Complicity. Since the UN Expert Panels reported on links between the exploitation of natural resources and conflict in the DRC, businesses have started to think carefully about laws relating to complicity, plunder, the doctrines of 'known-and-should-have-known', and aiding and abetting. Defining complicity is a contentious issue in human rights law, but even in the absence of a legally binding definition, companies must be careful if they have business relationships that bring them into proximity with perpetrators of human rights abuses; if their operations are close to the site of human rights abuses; if they are in a relationship which could be defined as a 'joint criminal conspiracy'; or otherwise benefit from plunder, pillage or profiteering. In zones of conflict, the closer the relationship, the louder the alarm bells. Clearly, this has implications at the level of supply-chain management, requiring that companies be fully apprised of the links of those from whom they purchase to human rights abuses or war crimes.[5]

Options and alternatives

1. Recognise and adhere to the law. Recent research shows that voluntary initiatives, though welcome, are not sufficient to make the environment safe for human rights.[6] There has been a growing recognition in recent years of the need to regulate corporate activity from a human rights perspective. While voluntary approaches to human rights are a starting point, forward-thinking companies should be looking ahead.

2. Take adequate steps not to aid or abet human rights violations or abuses by state or non-state actors. In practical terms, companies should understand and mitigate their own scope for complicity through their conduct, or that of their partners suspected of committing abuses, including

5. See www.fafo.no/liabilities/index.htm
6. See Resources.

plunder, forced labour and discrimination. The CSBP Screening Tool, M-CRIA and P-CRIA are designed to help determine this.

3. Conduct due diligence and human rights assessment. Understanding the human rights context and the likely impact of operations on different human rights challenges should be a key part of due diligence and assessment prior to engaging, and be regularly updated. The method should take into account the fact that it is difficult to access freely expressed opinion in many countries because of a systematic pattern of violation by the state, or it may be difficult to get the opinion of specific groups, such as women or minority groups. Again, CSBP tools are useful, and specialist human rights assessment tools are also emerging.[7]

4. Take responsibility for security arrangements. The UN has two codes of conduct – one on the use of firearms, another on the use of force by law enforcement officials – that define responsible conduct.[8] Companies should also sign up to and implement the Voluntary Principles for Security and Human Rights (see Flashpoint Issue 7: Security Arrangements).[9]

5. Develop indicators and benchmarks for managing human rights challenges. To close the gap between headquarters policies and on-the-ground challenges, and to ensure businesses operate in a manner consistent with human rights responsibilities, companies are beginning to develop indicators and other measurable benchmarks. This will enable performance on the ground to be measured in this area, as well as on production targets. These can include:

- Verifying the human rights record of security forces
- Providing human rights training for staff
- Monitoring the human rights situation in the region
- Reporting specific problematic incidents to the relevant authorities
- Taking steps to ensure that funds or facilities provided to, or built for, security forces are used for their intended purpose
- Ensuring that the response time to alert top management about security breaches or other human rights crises is minimal
- Making sure all policies regarding payments to communities are transparent
- Devising non-discriminatory recruitment and compensation policies.

7. Danish Institute of Human Rights, **Human Rights Compliance Assessment Tool**. www.humanrightsbusiness.org/compliance_assessment.htm
8. These are the **United Nations Code of Conduct for Law Enforcement Officials** of 1979, adopted by General Assembly resolution 34/169 of 17 December 1979, and the **Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990
9. www.voluntaryprinciples.org

Annex

The UN Charter of 1945 and the Universal Declaration of Human Rights (UDHR) of 1948 spelled out a number of important human rights obligations. In many instances, these obligations have become customary international law, binding on all states. Two major international covenants, signed in 1966 and ratified in 1976, clarify the obligations of states: the International Covenant on Economic, Social and Cultural Rights was adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966. It entered into force on 3 Jan 1976. Likewise, the International Covenant on Civil and Political Rights (ICCPR) was passed in the UN General Assembly as per resolution 2200A (XXI), also in 1966, entering into force on 23 March 1976. Other major human rights conventions include: the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict; the Convention on the Elimination of All Forms of Discrimination against Women; the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Similarly, there is the tripartite declaration of the International Labour Organisation, which includes the core conventions applicable for workplace concerns: Freedom of Association and Collective Bargaining (Conv. 87 and 98); Elimination of all forms of Forced or Compulsory Labour (Conv. 29 and 105); Non-Discrimination in Employment and Occupation (Conv. 100 and 111); and Minimum Age (Conv. 138) and Elimination of Worst Forms of Child Labour (Conv. 182).

Laws of war are governed by the Hague Convention of 1899 and 1907, and the 1945 Charter of the International Military Tribunal at Nuremburg that defined war crimes as 'violations of the laws or customs of war'. These included murder, ill-treatment or deportation of civilians in occupied territory; murder or ill-treatment of prisoners of war; killing of hostages; plunder of public or private property; wanton destruction of municipalities; and unnecessary military devastation. The Geneva Conventions of 1949 codify war crimes as grave breaches of the four conventions. These include willful killing, torture or inhuman treatment, including medical experiments, willfully causing great suffering or serious injury to body or health; extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly; compelling a prisoner of war or civilian to serve in the forces of the hostile power; willfully depriving a prisoner of war or protected civilian of the rights of a fair and regular trial; unlawful deportation or transfer of a protected civilian; unlawful confinement of a protected civilian; and the taking of hostages. Additional Protocol I of 1977 expands the protection of the Geneva Conventions for international conflicts to include as grave breaches certain medical experimentation; making civilians and non-defended localities the object, or inevitable victims, of attack; the perfidious use of the Red Cross or Red Crescent emblem; the transfer of an occupying power of parts of its population to occupied territory; unjustified delays in repatriating POWs; apartheid; the attack on historic monuments; and depriving protected persons of a fair trial. Under the Geneva Conventions and Additional Protocol I, states must prosecute persons accused of grave breaches or hand them over to a state willing to do so.

Resources

International conventions and voluntary standards

Global Sullivan Principles.
www.globalsullivanprinciples.org/principles.htm

OECD Guidelines for Multinational Enterprises.
www.oecd.org/document/28/0,2340,en_2649_34889_2397532_1_1_1_1,00.html

UN Global Compact. www.unglobalcompact.org

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www.hrweb.org/legal/undocs.html#UDHR

UN Draft Norms on the Responsibilities of Transnational Corporations with Regard to Human Rights.
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Voluntary Principles on Security and Human Rights.
www.voluntaryprinciples.org

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www.amnesty.org.uk/business/

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www.amnestyusa.org/business/index.do

Business and Human Rights resource centre.
www.business-humanrights.org/Home

Fafo AIS. www.fafo.no/liabilities/index.htm

Fund for Peace Human Rights and Business Round Table.
www.fundforpeace.org/programs/hrbrt/hrbrt.php

Human Rights Watch. www.hrw.org/doc/?t=corporations_extract

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www.iblf.org/csr/csrwebassist.nsf/content/a1a2a3.html

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Section 4

Flashpoint Issue 9
Corruption and Transparency

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The issue

Revenue from extractive industry investment represents one of the most significant forms of foreign investment across the developing world, making its way to governments in the form of taxes, fees, royalties and payments for access to, and extraction of, natural resources. These funds should and could promote equitable and sustainable development, but governments and the other institutions that manage them are often not accountable to their citizens. Lack of transparency and accountability facilitate embezzlement, corruption and misappropriation.

Companies may see their legitimate revenues squandered in this way and find themselves open to accusations of complicity with corruption. Corruption and poor governance at national and local levels can be major contributing factors to conflict, leading to disaffection among population groups excluded from a share in the country's wealth, and providing a source of revenue for armed elites. In such contexts, domestic politics can be reduced to a struggle between different constituencies over access to resource rents. This 'rentier' model of state behaviour is inherently unstable since the competing groups may resort to violence. While natural resource wealth cannot be said to be the only source of conflict in a specific country, it is clear that the mismanagement of those resources can aggravate existing political, social or other grievances, and heighten the risk of conflict.

The business case

There is little value to international companies in having their legitimate payments to governments used in this way, since it leads to social divisiveness and an instability that threatens their long-term operational environment, with associated risks to reputation. Or, in the words of a joint statement issued in 2003 by 57 major North American, European and South African investment houses (managing US$6.9 trillion in funds and holding significant stakes in all the main international oil companies):

Legitimate, but undisclosed, payments to governments may be accused of contributing to the conditions under which corruption can thrive. This is a significant business risk, making companies vulnerable to accusations of complicity in corrupt behaviour, impairing their local and global 'licence to operate', rendering them vulnerable to local conflict and insecurity, and possibly compromising their long-term commercial prospects in these markets.[1]

In addition to reputational threats, an opaque financial environment allows unfair competition from unscrupulous rivals who may pay bribes or backhanders for resource access. As the Enron and similar scandals demonstrated, a company that manages its finances in a non-transparent way poses a clear risk to the interests of its investors. Moreover, using corrupt means to win future contacts leaves a company subject to ongoing pressure thereafter, a challenge faced by Total which inherited the liabilities of French state oil company Elf Aquitaine in countries such as Congo Brazzaville. Disclosure of revenue flows to governments could have partly prevented a recent spate of international corruption scandals involving oil companies in Angola, Congo Brazzaville, Equatorial Guinea, Gabon and Iran.

Corruption and bribe paying at the local level also imposes business costs. First, it is illegal under the OECD Convention Combating Bribery of Foreign Public Officials, and has associated reputational and legal risks. Second, corrupt relationships between companies and local officials reinforce mistrust within local communities and perpetuate poor governance and the likelihood of instability in the immediate operating environment.

1. Joint statement by ISIS Asset Management et al. 17 June 2003, revised February 2004. **Investors' Statement on Transparency in the Extractives Sector**. www.insightinvestment.com/Documents/ responsibility/eiti_investor_statement.pdf

Standard assumptions and responses

Until recently, most companies viewed the promotion of greater transparency as the sole responsibility of host-country governments. However, as a result of advocacy campaigns and international initiatives geared towards promoting more positive impacts from extractive industry investment in developing countries, it is now accepted that a lack of financial transparency requires companies to 'publish what they pay' to governments; governments to publish what they receive from companies; and a process in which civil society and international organisations can compare these disclosures and investigate discrepancies. This is the approach embodied in the Extractive Industry Transparency Initiative (EITI) launched by UK Prime Minister Tony Blair in June 2003. The EITI has received broad support from major international companies and an increasing number of governments and NGOs, although significant disputes about its operational detail still need to be resolved.

With regard to local bribery and corruption, many companies have developed strict internal standards on corporate governance and on corruption in operations since the introduction of the OECD Convention in 1997, and other OECD integrity instruments also during the 1990s. Most recently, the UN adopted a Convention against Corruption, and the UN Global Compact reflected this by adopting a tenth principle on the subject.[2]

Despite this mind-shift with regard to tackling grand corruption through improved transparency, and petty corruption at the local level, efforts to translate codes of conduct and policy statements into action on the ground have been poor, in part because of certain persistent assumptions:

Operational realities require compromise on principles of transparency and anti-corruption. Most companies are party to contracts with host-country governments that contain gagging clauses that prevent financial information from being publicly disclosed without government permission. They feel inhibited from finding creative ways to overcome these constraints. Companies continue to assume that bribe paying is simply part of doing business in a developing country. There are still several instances each year of bribery scandals involving major companies.

It is competitively disadvantageous to disclose information on payments to governments unilaterally. The risk a company takes by playing by the rules is that others fail to follow suit, leaving less scrupulous operators to take advantage. One company's figures represent only a fraction of all revenue flows to a government. It is argued that it will only be possible to obtain a complete picture of government earnings in a given country when all companies disclose at the same time and in a comparable format. Disclosure, therefore, is only possible after a level playing field has been established that guarantees competitiveness and existing contractual agreements. The EITI takes this approach into account, but companies still have a role to play by using their good offices to advance improved practice in potential host countries.

Transparency over payments would impose higher costs in terms of setting up additional accounting procedures. In fact, companies already have the necessary information in their group accounts to prepare annual financial statements. Though complicated, company interactions with host governments are not unfathomable and a few simple reporting rules would capture most company and government interactions. Much of the work on deciding who should report, what should be reported and when it should be reported has already been finalised under the auspices of the EITI.

2. See www.unodc.org/pdf/crime/convention_ corruption/signing/Convention-e.pdf and www.unglobalcompact.org

Key conflict issues

The mere presence of natural resources in a developing country does not automatically equate to conflict and corruption. It is the governance structures surrounding the management of such industries that determine the development impact. However, the large and sustained flow of revenues from extractive industries has clearly been a driver of conflict in many of the world's worst-affected countries. The fight for access to, and control of, resource-rich areas by rebel groups or different ethnic, religious and social factions has devastated these countries, and undermined efforts to alleviate poverty and stabilise economies.

Undisclosed payments by foreign companies and revenues to the Angolan government from the oil and diamond industries aided and abetted the country's devastating civil war. Angola receives up to 90 per cent of its state income from oil production. Since much of this revenue has been – and continues to be – misappropriated because of the lack of transparency and accountability, companies cannot absolve themselves from this direct causal relationship without full disclosure of payments. This does not mean that all companies engage in bribery and state looting in Angola and other resource-dependent and corrupt countries. It means that more effort must be made to open up company and government accounts.

Corporate and government entanglement. Recent grand-scale corruption scandals in Africa and Central Asia demonstrate that revenue transparency is not only needed for the sake of developing countries, but also supports the interests of companies by helping to prevent bribery and promote better corporate governance.

Misuse of company funds by employees of the French oil company Elf Aquitaine (now merged with Total) resulted in the conviction of 30 former senior executives in November 2003. The trial revealed that the executives, unconstrained by transparency requirements in the countries in which they operated, had for many years paid vast sums in bribes to politicians in several African countries, including Angola. They also enriched themselves at the company's expense, siphoning off commissions into secret bank accounts, buying multimillion-dollar properties and jewellery, and embezzling money for divorce and alimony fees.

Bribery. According to Transparency International's Bribe Payers' Index, the petroleum and mining sectors are the third and fourth most likely sectors in which government officials extort or accept bribes. The three main reasons are political pressure. commercial pressure and financial pressure (for example, differential tax rates). The laxity of laws and regulations is also a significant factor, as are the low salaries of government officials in developing countries. Bribery and the lack of financial transparency over legitimate revenue flows to governments directly exacerbate corruption and conflict. The key difference is that paying bribes for favourable treatment in contract procurement (or fees extracted by extortion) is illegal in the many developed jurisdictions in which companies are registered and listed on stock exchanges. However, there is often a grey area between what can be considered legitimate payments to governments and bribes. Bribe paying to local public officials is also illegal, but at times companies exploit the grey area of defining what is a bribe. Engaging in corrupt relationships with local officials can contribute to undermining development and damage a company's community relations.

Provoking grievances at the local level. Since company payments generally flow to state governments in capitals, local communities may feel marginalised and adversely compensated for the impact of a company's operations on, or near, their territory. Feelings of resentment can worsen company relations with local communities and lead to civil unrest. Local citizens may air their grievances against the company through protest or violence. Companies operating in unstable and volatile countries are at times faced with ransom demands and extortion from rebel groups in the host community. Company staff may be directly targeted though more often it is the actual oil fields, pipelines or mines that are most vulnerable. In these circumstances, companies often have no choice but to succumb to demands, albeit illegally, in order to ensure the security of their operations and personnel. Some companies recruit their own security services for protection. Payments to these groups are categorised as 'off-the-book' transactions, thereby evading scrutiny. This simply perpetuates a cycle of violence and mistrust within host communities, damaging a company's reputation and further alienating people from their governments.

Revenue transparency – a cause for further conflict? In politically unstable countries, companies may feel that the disclosure of revenues could in fact provoke greater conflict by contributing to higher expectations and increased activism by local citizens, who may turn against their government, or fight among themselves about how the money should be spent. Transparency of payments and revenues is a mechanism that allows local citizens and other observers to track how such incomes are spent through national budgets. It is difficult to predict whether publishing revenue data would ignite further conflict among already marginalised peoples or lead to violence. Any potentially adverse impact of publication could be mitigated by a clear strategy to provide civil society organisations with the necessary tools to interpret the data and manage its nationwide dissemination.

Options and alternatives

Transparency allows citizens and other observers to scrutinise the management and distribution of resource revenues. If financial flows in resource industries are opened to greater scrutiny, this can help close down the channelling of funds to rebel groups, militants and terrorists who profit from the lack of transparency. In turn, the chance of civil war breaking out – or re-igniting – over control of natural resource revenues in such countries is greatly reduced. Institutional capacity building to provide governments with the means to manage revenues for the benefit of a more diversified economy and a better educated civil service is also essential.

Revenue and contract transparency is fundamental to the effectiveness of any anti-corruption and conflict prevention strategy in resource-dependent developing and transitional countries. Revenue transparency and committment to codes countering all forms of bribery will not curb corruption completely, nor prevent civil conflict outright. They are nevertheless important measures for companies to take, and it is in their best interests to ensure that natural resource industries are managed accountably and that opportunities for corrupt behaviour by extractive industry members and government officials are limited.

Some companies have made considerable progress in trying to check both grand and local-level corruption, including moving towards enhanced transparency of payments. Given the growing international consensus that transparency is integral for good governance, corporate social responsibility and development for poor but energy-rich countries, it is in companies' best interests to take a pro-active approach to the issue and get involved in working towards the necessary reforms by:

1. Making a clear and unequivocal commitment to transparency of all revenue flows to governments. This should apply to every country in which a company operates and involve publishing figures in a clear and accessible format. Some companies already publish amounts paid as 'signature bonuses' to governments on winning new concessions, or are negotiating exemptions from a blanket waiver on disclosure. Others have gone further: Talisman Energy provides a breakdown on its website and in company reports of overall fiscal contributions to each country in which it operates. Talisman was prompted to do this following allegations that the revenue it paid to the Sudanese government was used to buy arms for the civil war. Communicating intentions and information about payments clearly and meaningfully within local communities, media and industry groups helps ensure that information disclosure fulfils its objective of raising awareness and accountability.

2. Cooperating with other companies to form effective industry lobbies. The anxiety that disclosure of payments or any other activity that promotes transparency will cause a company to lose out to competitors can be overcome by improved industry cooperation at the national and international level. In some cases, companies have formed an effective pro-transparency lobby (as in Azerbaijan); in others, they have not, and paid the price (Equatorial Guinea).

3. Highlighting commitments to transparency and the non-payment of bribes. Sending a strong signal on this issue to host governments and others through publication of business principles on the company website and in annual reports is also an important step, provided it is backed up in practice.

4. Ensuring that all subsidiaries adhere to company policy on transparency of payments. This should apply to contract procurement processes through internal governance and management structures, and active encouragement to business partners to follow suit.

5. Engaging constructively in multi-stakeholder processes, such as the EITI, at both national and international levels. This includes working collaboratively with home and host governments, IFIs, investors, civil society organisations, industry representative associations and other companies, including state-owned enterprises, toward ensuring that such initiatives evolve into meaningful and accountable standards of practice.

6. Assisting in the development of a reporting framework. Reporting frameworks need to be comprehensive and consistent for companies at a country level, and allow for proper analysis by civil society organisations and other observers.

7. Supporting the implementation of 'integrity pacts'. These ensure fair and transparent contract procurement in the extractive industries.

8. Devising methods of strengthening democratic institutions in their spheres of influence. Helping to provide a secure domestic environment in which citizens can question their leaders and air grievances about the management of national resource is critical in resource-rich developing countries. Companies can support relevant initiatives as part of their social investment programmes to complement core business and policy engagement activities.

Resources

International conventions and voluntary standards

Council of Europe Conventions on Corruption.www.coe.int

IMF **Code of Good Practices on Fiscal Transparency**. www.imf.org/external/np/fad/trans/code.htm

International Chamber of Commerce Extortion and Bribery in International Business Transactions. www.iccwbo.org/home/statements_rules/rules/1999/briberydoc99.asp

OAS Inter-American Convention Against Corruption. www.oas.org/juridico/english/Treaties/b-58.html

OECD Convention Combating Bribery of Public Officials, and integrity instruments. www.oecd.org/department/0,2688,en_2649_34855_1_1_1_1_1,00.html.

OECD Guidelines for Multinational Enterprises. www.oecd.org/dataoecd/56/36/1922428.pdf

Transparency International Business Principles for Countering Bribery. www.transparency.org/building_coalitions/private_sector/business_principles.html

Transparency International Integrity Pacts. www.transparency.org/integrity_pact/index.html

UN Global Compact. www.unglobalcompact.org

UN Convention against Corruption. www.unodc.org/pdf/crime/convention_corruption/signing/Convention-e.pdf

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