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Public Private Partnerships: The Role of the Private Sector in Preventing Funding Conflict

*Juliette Bennett**

I am glad to be here at this important conference focusing on Corporate Governance, Stakeholder Accountability, and Sustainable Peace and to thank the William Davidson Institute and The Aspen Institute's Initiative for Social Innovation Through Business for inviting me.

I live less than three miles from the World Trade Center, and I was there on September 11 to witness the devastation and talk to the survivors. Like all of us, I am appalled at what terrible crimes against humanity can be committed by people with four or five hundred thousand dollars and a consuming hatred. It is important to remember that the target they chose—the World Trade Center—was a symbol of the global economy and also that the money that underwrote these crimes was generated in the global economy. It is fitting and timely that a focus of this conference is on sustainable peace.

Last year in New York City, I organized a conference bringing together NGOs and business to discuss how to work together to promote conflict prevention, crisis management, and post-conflict reconstruction. The conference focused on the extractive sector, where conflict prevention is an important element of business operations.

I recently also chaired a workshop at the NGO Transparency International, whose pioneering work in bringing worldwide attention to the role of financial institutions in promoting responsible corporate behavior and in concepts like the rule of "know thy customer" and "integrity pacts" have helped to ensure that money generated by multinational business operations is used properly and transparently.

As the case against Osama bin Laden develops, we are seeing how easily money generated by multinational business activity can be used to underwrite terrorism and other criminal activity. Bin Laden's reportedly vast inherited wealth comes from his father's

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hugely successful international construction company. Bin Laden has supplemented that wealth through his own network of multinational businesses, ranging from construction to banking and finance to heroin smuggling to Russia and Eastern Europe, and he has used the revenues generated by these business activities to fund terrorist operations in as many as twenty nations.¹ And, I have no doubt he used these funds to train and equip the nineteen men who carried out the crimes of September 11.

To prevent the funding of conflict by the private sector, whether directly or indirectly, the coalition of nations fighting terrorism needs the advice and counsel of non-governmental organizations who can provide valuable expertise, such as tracking the arms trade and preventing money laundering.

In recent years, we have seen groups dedicated to human rights, conflict prevention, and other important causes move from attitudes of opposition to engagement with companies. Increasingly, responsible members of the NGO community and companies are working together to prevent human rights abuses, to preserve indigenous communities, to protect the environment, to fight corruption, and, most importantly, to prevent conflict.

In a recent report to the Security Council, the United Nations Secretary-General had the following to say about business and conflict:

The impact of the pursuit of economic interests in conflict areas has come under increasingly critical scrutiny. Corporations have been accused of complicity with human rights abuses, and corporate ties have continued to fuel civil wars. It has become common knowledge that by selling diamonds and other valuable minerals, belligerents can supply themselves with small arms and light weapons, thereby prolonging and intensifying the fighting and suffering of civilians.²

In recent years, leading human rights, environmental, conflict resolution, and anticorruption organizations have focused their energies on the extractive sector, not only because of its perceived complicity in human rights abuses, but also because extractive companies are seen as a means to prevent funding conflict and even as tools for peacebuilding.

1. For more information about tracking money funding the terrorist operations, see an interview by CNN with Peter Carbonara, senior writer for *Money* magazine (Dec. 24, 2001), available at <http://www.cnn.com/2001/COMMUNITY/11/08/inv.carbonara/index.html>; interview by CNN with William Wechsler, former Director for Transnational Threats on the U.S. National Security Council (Sept. 27, 2001), available at <http://www.cnn.com/2001/COMMUNITY/09/27/weschler/index.html>.

2. See generally Jim Wurst, *POLITICS: UN Security Council Bans "Blood Diamonds" Exports from Sierra Leone*, Inter Press Service (July 6, 2000), at http://www.oneworld.org/ips2/july00/00_38_002.html; *Diamond Industry to Police Illicite Gems*, FIN. TIMES (July 20, 2000), available at <http://www.globalpolicy.org/security/issues/diamond/000720.htm>.

Unlike other business operations, extractive companies are tied to the ground and cannot simply leave when conflicts arise.³ The end of the Cold War has seen superpower confrontation replaced by a growing number of local conflicts. Corporations involved in natural resources extraction—oil and mining—frequently find themselves heavily invested in some of the most politically and socially unstable regions of the world.

As globalization continues, other sectors of the international business community will find that they are confronted with the challenge of promoting peacebuilding in these areas or being blamed by non-governmental organizations for contributing to the conditions that lead to violent conflict. But, extractive companies were there first, and the lessons they have learned provide important learning opportunities for the rest of the global business community.

Such is the case with Talisman Energy—the only western oil company in the Sudan—which is under attack from a vocal and growing constituency in the United States and Canada aroused by reports that oil revenues are fuelling the Sudan's forty-year civil war.⁴

In fact, in the Sudan, it was bin Laden's al Jahira Construction Company that built the modern road from Khartoum to Port Sudan; this road would soon serve as the construction platform for the last four hundred miles of the oil pipeline running from the south of the country to Port Sudan.⁵ This pipeline, in turn, would pump oil revenues to the government for its brutal war of ethnic cleansing.

Another example is the diamond company De Beers, which was the target of an international consumer campaign by Global Witness and other organizations called "Fatal Transactions" aimed at bringing public attention to the issue of conflict diamonds.⁶ As the *International Herald Tribune* described this:

3. Extractive companies mine or remove natural resources from the ground, and therefore they cannot relocate to other areas that might not contain the same resources like other businesses can.

4. For criticisms of Talisman Energy's involvement in Sudan, see generally Bernard Simon, *Oil Company Defends Role in Sudan*, N.Y. TIMES, Oct. 17, 2001, at W1. See also Talisman Energy's website, at <http://www.talisman-energy.com>.

5. For notes on the commission for the pipeline, see http://www.findarticles.com/cf_0/m3112/28_97/59105984/p1/article.jhtml?term=%22Talisman+Energy%22. For a map of the pipeline route, see <http://www.sudanupdate.org/reports/Oil/toc.html>, and select "Sudan—pipeline route." For a summary of the roads in Sudan, see <http://www.sudan.net/>, and select "Travel & Tourism" followed by "Local Transportation."

6. For information on the subject, see Press Release, Global Witness, Global Witness Releases Conflict Diamond Report, (June 20, 2000), available at http://www.oneworld.org/globalwitness/press/pr_20000620.html. For other press releases on the subject, see the Global Witness website, at <http://www.oneworld.org/globalwitness/index.html#diamonds>.

Where they are mined responsibly, as in Botswana, South Africa or Namibia, diamonds can contribute to development and stability. But where governments are corrupt, rebels are pitiless and borders are porous, as in Angola, Congo or Sierra Leone, the glittering stones have become agents of slave labor, murder and wholesale economic collapse.⁷

The case for business to join local and international NGOs and governments in conflict prevention is simple and compelling. Most of these business sectors have a vested interest in stability and peace. As articulated by the author of *The Business of Peace*, it goes like this:

There are 72 countries where the security risk for the majority of locations in which foreign business operates is rated medium, high or extreme. . . . Today, only about 4% of the world's GNP is military related; 96% of the international business community provides civilian products and services.⁸

The groundbreaking report, *The Business of Peace*, written by Jane Nelson and researched by three prominent NGOs, examines over thirty countries and a variety of industry sectors.⁹ The report asserts that "both domestic and multinational companies have an increasingly important role to play in conflict prevention and resolution" and that "in today's global economy they also have a growing commercial rationale for playing this role."¹⁰

The report argues that the private sector can no longer afford to ignore the causes and costs of conflict. It outlines some of the key factors that determine whether business plays a negative role by creating or exacerbating violent conflict or a positive role by helping to tackle it.

Some business leaders have been leaders in recognizing the need to engage and learn from past mistakes. Public attention on the role of extractive companies in civil conflict reached a high point in 1995 when Ken Saro Wiwa was executed by the Abacha regime in Nigeria on trumped up murder charges.¹¹ Many saw Saro Wiwa's real "crime" as advocating the rights of the Ogoni people who opposed Shell Oil's operations on their land, which left environmental

7. JANE NELSON, *THE BUSINESS OF PEACE* 83 (2000) (quoting *To Some Countries, Gems Bring Only Misery*, INT'L HEARALD TRIB., Apr. 7, 2000).

8. JANE NELSON, *THE BUSINESS OF PEACE*, available at http://www.womensgroup.org/peacebiz_2001.html.

9. *Id.* at 11.

10. *Id.* at Executive Summary.

11. For information about Ken Saro-Wiwa's life and execution, see KEN WIWA, *IN THE SHADOW OF A SAINT* (2000); KEN WIWA, *BEFORE I AM HANGED: KEN SARO-WIWA, LITERATURE, POLITICS, AND DISSENT* (Onokome Okome ed., 2000); Cindy Baxter, Paul Horsman & Steve Kretzmann, *Ken Saro Wiwa and 8 Ogoni People Executed: Blood on Shell's Hands* (Nov. 10, 1995), at <http://www.greenpeace.org/~comms/ken/murder.html>; Andrew Rowell & Andrea Goodall, *1st Anniversary of the Death of Ken Saro-Wiwa, Press Releases, Articles and Reports*, at <http://www.greenpeace.org/~comms/ken/>. Also find various statements, writings and background materials of Saro-Wiwa, at <http://www.prairienet.org/acas/siro.html>.

destruction and little compensation for the local community. Today, Shell is a leading member of networks created from conferences like this one, which are aimed at averting tragedies like the execution Ken Saro Wiwa.

The problems facing the corporate actor in these areas are complex, and smart companies seek to address these issues in partnership with government and the NGO community. A great example of how such a partnership can succeed occurred last year when several leading oil and mining companies, nine human rights NGOs, and corporate responsibility groups came together under the auspices of the U.S. State Department to agree on "Voluntary Principles on Security and Human Rights."¹² Former Deputy Assistant Secretary of State Bennett Freeman described this groundbreaking achievement:

No single set of issues has become more concrete than the clash between security and human rights, between the companies' determination to meet their legitimate security needs and the insistence of local peoples and international NGO's that human rights are also respected. Over the past several years, some companies were accused by local activists and NGO's of complicity, whether witting or unwitting, in human rights abuses. Some, like Chevron in the Niger Delta and Exxon Mobil in the strife-torn province of Aceh in Indonesia, have been charged with responsibility for the consequences of the use of their equipment by the state security forces known to have been complicit in, if not directly responsible for, abuses of human rights surrounding the communities.¹³

This initiative demonstrates that multinational corporations working closely with governments and non-governmental organizations can develop practical solutions to human rights problems that businesses face when operating in zones of conflict.

Another significant development in this area has been the United Nations' "Global Compact," initiated by United Nations Secretary-General Kofi Annan to harness the energy and influence of multinational corporations in promoting human rights and avoiding conflict. It brings companies together with United Nations organizations, international labour organizations, NGOs, and other parties to foster partnerships and to build a more inclusive and equitable global marketplace.¹⁴

This year, the Global Compact is focusing on "Business in Zones of Conflict." Following a meeting in March 2001, the Office of the

12. U.S. DEP'T ST., BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR, *Fact Sheet on Voluntary Principles on Security and Human Rights*, Dec. 20, 2000, at http://www.state.gov/www/global/human_rights/001220_fsdr1_principles.html.

13. Bennett Freeman, *New Drill for Oil Companies*, HUMAN RIGHTS AND BUSINESS MATTERS No. 5 (2001).

14. Find general information about the Global Compact on their website, at <http://www.unglobalcompact.org/un/gc/unweb.nsf/content/whatitis.htm>.

Global Compact selected revenue sharing in natural resource extraction contracts as an important topic to be examined in the context of conflict prevention.¹⁵

In June, I was part of a group that the UN gathered in New York with international lawyers, representatives of NGOs, and oil and mining companies to discuss the topic of revenue sharing as a tool for conflict prevention and economic development. In particular, the goal was to learn how MNCs have and could address revenue sharing practices working with governments, civil society groups, NGOs, and multilateral organizations.

“Revenue sharing” offers a means of assuring the equitable distribution of resources—between developed and developing countries, between central and local governments, and between local communities and indigenous peoples. It is an essential element in discussions searching for ways to diminish the risk of violence in the global economy.

James Wolfensohn, President of the World Bank, wrote in the *International Herald Tribune* that the global community must fight terrorism by confronting terrorism and internationalized crime and money laundering, but he put special emphasis on fighting social injustice. He writes: “Central to conflict prevention and peace-building must be strategies for promoting social cohesion and inclusion, ensuring that all have opportunities for gainful employment, that societies avoid wide income inequalities that can threaten social stability and that poor people have access to education, health care, and basic services. . . .”¹⁶

Participants in the Global Compact dialogue, including natural resource companies and NGOs gathered again in Geneva to discuss revenue sharing and related topics. Five issues were identified at the June 2001 meeting as central to effective revenue sharing regimes: (1) Who are the stakeholders? (2) Who should hold the money? (3) How does the agreement provide for transparency and ensure compliance? (4) What legal norms should apply? (5) How are disputes to be resolved?¹⁷ We hope to produce a final report on these subjects early next year.

As the events in New York City in September have shown all of us, it is important that there be an increased understanding among

15. Global Compact, *UN Global Compact Policy Dialogue on Business in Zones of Conflict*, Geneva, Sept. 27-28, 2001, at http://www.unglobalcompact.org/un/gc/unweb.nsf/content/09_Report.htm; http://www.unglobalcompact.org/un/gc/unweb.nsf/content/ZonesCon_Exm.htm#Revenue; *The Role of the Private Sector in Zones of Conflict*, United Nations Headquarters, Mar. 21-22, 2001, at http://www.unglobalcompact.org/un/gc/unweb.nsf/content/03_Report.htm.

16. James Wolfensohn, *Rich Nations Can Remove World Poverty as a Source of Conflict*, INT'L HERALD TRIB. (Oct. 6, 2001), at <http://www.ihf.com/articles/34699.html>.

17. See *supra* note 15.

all sectors of society on the ways that the global economy can increase the risk of violence in the world and an examination of ways to avoid or diminish those risks of violence. A significant contributor to these risks is the perception among many that they do not benefit from the global economy, that they are exploited by it, and that global business—and symbols of global business, such as the World Trade Towers—are legitimate targets of violence. As Kofi Annan said at Davos in January 2001:

[I]f we cannot make globalization work for all, in the end it will work for none. The unequal distribution of benefits, and the imbalances in global rule-making, which characterize globalization today... [will] unravel the open world economy that has been so painstakingly constructed over the course of the past half-century.¹⁸

18. Secretary-General Kofi Annan, Address in Davos, Switzerland to the World Economic Forum (Jan. 28, 2001) (transcript available on the United Nations website, see *In Address to World Economic Forum, Secretary-General Says Globalization Must Work for All* (Jan. 29, 2001)), available at <http://www.un.org/News/Press/docs/2001/sgsm7692.doc.htm>.

