DANCING WITH THE EXTRACTIVE INDUSTRY:

The limits of normative policies and guidance. 9 August 2016

Big business, particularly the extractive industry (oil, gas, mining) in many countries is a catalyst for violence, violations and conflict.

Big business, including the extractive industry, is a catalyst for economic development, improved governance and peacefulness.

These 'villain' and 'hero' stories are, as Ganson & Wennmann point out in their excellent and thought provoking book '*Business and Conflict in Fragile States. The case for pragmatic solutions',* the two prevailing narratives yesterday and today. Both narratives can find supporting evidence in illustrative cases and credible arguments.

The '*business as villain'* narrative has a long history, that includes for example the Arab and European slave trade, the predatory practices of the Dutch and British East India companies, the 'blood diamonds' of Sierra Leone, the violence in the oil-rich delta in Nigeria, the secessionist and internal war catalysed by the Panguna copper and gold mine in Bougainville, and the many protests and violent clashes with communities over company behaviours and impacts in the Andes. The singular drive for profit is said to encourage greed at all levels of the society where the extraction takes place, causing immense social, cultural and environmental damage. Macro-level statistics support the argument: few countries with rich natural resources have actually made significant improvements against their Human Development Index, and the number of contestations and confrontations of local communities with companies, often backed by the state security forces, is clearly increasing. Not surprisingly, a recent DCAF report, authored by Pedro Rosa Mendes, makes a strong plea to look more closely at the relationship between "*Business and Security Sector Reform"*.

The '*business as hero'* narrative also has its supporting cases and arguments. Its proponents point out that big business investments will develop new skills, create jobs and stimulate local enterprise, bring improved infrastructure and enhance basic services such as health, water and electricity. Oil allowed Norway to rapidly transform from a predominantly agrarian into an industrial and post-industrial society. The 2011 High Level meeting in Busan no longer put aid central but opened up the policy horizon to international investment as powerful driver of development. Such investment, and market forces more than 'projects', are seen as far more effective for job creation and poverty reduction. China's urbanisation and economic modernisation policies are often referred to as the greatest poverty reduction success. From this perspective, '*Ease of Doing Business'* assessments and rankings become very relevant. Oil, gas and mineral commodities remain primary ingredients for most businesses. Chevron's Partnership Initiatives in the Niger Delta, Total's relations with communities around the Yadana pipeline in Myanmar, or Pacific Rubiales Energy's investment in making waste water useful locally, are some examples that 'win-win' situations are possible. This is well argued and promoted, for example, in FSG's report '*Extracting with Purpose. Creating shared value in the oil and gas and mining sectors' companies and communities',* and the wider 'Shared Value Initiative' (sharedvalue.org).

The '*private sector-as-driver of development'* perspective has also become linked to the desire to build or strengthen legitimate, efficient and effective state institutions, that have a healthy governance relationship with all components of the population. Where natural resource extraction is already taking place, support is offered to the national government to manage the benefits for the population as a whole. Where it may start or be expanded, support is offered to national governments to strengthen their capacity to negotiate fine-tuned agreements that will ensure that companies take responsibility for minimising negative impacts and enhancing positive ones. Though relevant and appropriate, these efforts as usual tend to be pursued with a technical rather than a political economy perspective. That may hamper their effectiveness or even help to consolidate the power of an elite and its narrow supporter group.

The key question is: Are extractive industries willing and able to invest in win-win or shared value efforts? Although there has been progress over the past 15 years, the general feeling remains that many companies are not yet ready and sometimes not willing to take the step.

Non-company actors have taken three major approaches:

- **Pressure:** Exposing and denouncing violations and negative impacts from extractive companies, often by international and increasingly national NGOs, remains a frequent strategy. It seeks to shame companies into changed behaviour or invite national and international oversight and regulation. Increasingly, such campaigners have also been engaging investors to exercise greater diligence. While appropriate, a confrontational approach naturally encourages defensiveness on the side of companies.

- **Persuasion**: Articulating and calculating the business case: companies in trouble with local stakeholders risk e.g. direct costs from interrupted production, damage or loss of assets, injury or even death of staff, increased expenditure on security. Much bigger can be the cost of legal cases and reputational damage, leading in extremis to consumer boycotts, disinvestment and falling share prices. Benefits of serious societal engagement can be a stable business environment with little interruption in the supply chain, a more skilled, healthier and motivated local workforce that is often cheaper than bringing in workers from elsewhere; more competitive local suppliers, and new business opportunities in the local market. The key question is whether good societal engagement enhances the company's overall competitiveness and sustainability? Sceptical company managers may point out that, irrespective of the costs of conflict in certain locations, their overall profitability continues to increase. Proponents of better societal engagement argue that it does bring 'returns-on-investment'. They are supported by research such as the 2011 'Spinning Gold' study, which looked at events around 26 gold mines over a 15-year period, and found that increased cooperation and reduced conflict with stakeholders enhanced the financial valuation of a firm.

- **Regulation or Partnering**: Much of the recent global effort and institutional proliferation has concentrated on this approach. The Principles of the UN Global Compact were a milestone in this regard. Like never before, the UN focused on the private sector and invited them in as partners in creating a better world and achieving the Sustainable Development Goals. The UN Guiding Principles on Business and Human Rights are an important complement. Investors are asked to take their responsibility and guidance, such as the Equator Principles, the International Finance Corporation's Performance Standards, or the Principles for Responsible Investment, speaks particularly to them. There is now also a series of references particular to the extractive industry, such as the Voluntary Principles on Security and Human Rights, the Extractive Industries Transparency Initiative and the Mining, Minerals and Sustainable Development Initiative.

Most of the public debate has been about whether voluntary guidance is sufficiently effective, or whether a more binding regulatory framework is required. Less attention is paid to the more fundamental question: Even if a company makes major efforts to abide by these principles and standards, will it be sufficient to avoid or stop conflict and violence? Ganson and Wennmann believe not.

What is the problem? Various factors make the translation of lofty policies and principles difficult. Here are some:

- ***Mismatched time frames***: Even if efforts to build more legitimate, efficient and effective state institutions at national level are successful, they are likely to take twenty to forty years (see *World Bank 2011 Development Report*). Companies nor communities in conflict can wait that long.
- ***It's the Local***! The prevailing policy discourse on conflict, violence, fragility etc. continues to take the national state as central unit of analysis and action. Yet, as Ganson and Wennmann point out, the global learning shows that the drivers and actors in systems of violence and conflict are largely local, even if there is influence from actors and factors elsewhere. Local actors do not necessarily care about international policies and national legislation. The primary drive to reduce violence and conflict therefore must also be strongly local. The successful reduction of violence in Medellin came from collective local initiative, and is not automatically replicated in other Colombian cities.
- ***Incomplete Problem-Analysis:*** Much of the policy prescription focuses on the conflict generated by company action, and assumes a fair degree of company control over the dynamics. In many instances, there are longer-standing patterns of conflict and violence that a company arrives into, and a multitude of actors that play a role in it. Even if the company tries to do everything right, it is only part of a wider dynamic, much of which is beyond its control.
- ***Awareness, corporate cultures and capacities:*** A few thousand companies around the world now engage with these initiatives. Yet there are many more that remain unaware of them, and remain narrowly focused on company competitiveness and profit. There has been significant criticism, for example, of the ways in which Chinese companies operate in Africa, which are perceived as highly insensitive and causing many negative impacts. The many attacks on Chinese run companies and personnel indicate that this is not just a critique of frustrated Western neo-colonial powers. Chinese business and governmental officials have become aware of the direct and indirect costs. One important element here is simply lack of experience: Chinese companies, mostly state-owned enterprises, only started investing globally some 15 years ago. Abroad they operated as they were used to do at home, i.e. dealing with government only and relying on government to sort out all the social issues. They do not (yet) have the capacities of other multi-nationals to assess risks including 'non-technical risks'. They are not used to dealing with NGOs, let alone engage in longer-term community relationship processes. Sustained, constructive engagement by, for example, the American Friends Service Committee, seeks to help these Chinese companies become more attentive, and better equipped to pre-empt and handle such conflicts (see Dr. Jiang Heng 2015: "*An Evolving Framework for Outward Investment. A Chinese approach to conflict sensitive business*" which is a slightly adapted English version of an original Chinese publication). Other companies have well established and more experienced Corporate Social Responsibility departments, but suffer from the 'silo syndrome': The people in the CSR department may be well versed in stakeholder processes etc. but this remains largely disconnected from the rest of the company culture and mind-set. In addition, many CSR initiatives remain conducted with a transactional mind-set: some charitable investment is made locally, on the assumption that the 'social license to operate' can be bought. This turns out not

to be the case. Much deeper, broader and serious investments in relationship building is required. Some companies have come to understand this, but they rarely have the in-house competencies on societal issues that are required to manage such multi-stakeholder processes.

- ***Trusted Brokers***: As we know from experience, the effective reduction of violence and conflict requires collaborative action among many actors, across social and political groups and levels. This is often impeded by a competitive mind set and lack of trust. There is vital need then for individuals or teams that can gain the trust of all, to first act as connectors and convenors, and later as catalysts and facilitators. They can create the conditions for different actors to develop some functional relationship, discover their common interest, and mobilise in concerted action, each using its own strengths and entry points in their own domain of influence. Only such intentionally combined effort has a chance to transform entrenched patterns of violence, confrontation and conflict. This is where practical peacebuilders have expertise to offer.

My own work in Bougainville a few years ago, leading a very consultative peace, security and development analysis, confirms the above points. The Panguna copper and gold mine on the island (part of Papua New Guinea) has been closed for some 25 years. It was a major driver of conflict that led to an armed secessionist war but also extensive infighting among Bougainvilleans. For some years now, intensive efforts are underway to negotiate agreements that will allow the mine to be reopened. Although the population of Bougainville is relatively small, there are multiple 'stakeholder groups' to deal with. Within the mining area, there have been different and sometimes competing associations of 'landholders'. Overwhelmingly male, they have pushed aside the women in whom land ownership here is traditionally vested. These demand to be properly included. Then there are those whose water, forest and land have and can again be affected by the environmental damage of the mining. But Bougainvilleans elsewhere on this small island argue that they too are stakeholders, as all have been affected by the decade of violence caused by the mine. Meanwhile there are the many individuals that are now making a living from artisanal mining, a livelihood that can be threatened by a renewed large-scale and controlled mining operation. The situation is further complicated by the widespread distrust of the Bougainvilleans in their Autonomous Bougainville Government (ABG), whose 'consultations' on the re-opening of the mine they saw as manipulative. Although virtually every department of the ABG had had a foreign adviser for several years now, virtually nobody on the island had ever heard of any of the international guidance or 'soft law' references that are relevant here. Nor is there public conversation about the development choices that Bougainville could make: rely predominantly on this natural resource, or invest much more in agro-forestry where most people make a living from? In such a small place, these are choices leading to significantly different futures. Finally, those seeking to broker an agreement and advising the ABG on its negotiation approach, were Australian. Irrespective of their actual integrity, this is a cause of deep distrust for many Bougainvilleans. They know full well that the mine was originally operated by BCL, a subsidiary of Conzinc Rio Tinto of Australia, and that there are strong Australian interests in who will operate it again.

The dance with the extractive industries continues.

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