COMPANIES IN CONFLICT SITUATIONS

SEMINAR PROCEEDINGS
BARCELONA, JANUARY 2013

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INSTITUT CATALÀ INTERNACIONAL PER LA PAU

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1. INTRODUCTION

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BUILDING A RESEARCH NETWORK ON "COMPANIES, CONFLICT AND HUMAN RIGHTS"

Antoni Pigrau
Director of Armed Conflict, Law and Justice Program of ICIP

The creation of the International Catalan Institute for Peace, an embodiment of the Catalan peace movement, materialized on November 28th, 2007 with the passing of Law 14/2007 in the Catalan Parliament.

The act establishes that the ICIP is an independent, public institution whose principal aims are to promote a culture of peace in Catalonia and across the world, to facilitate the peaceful resolution of conflicts and to ensure that Catalonia plays an active role as a peace broker. Consequently, the ICIP promotes human security, disarmament, peaceful solutions and conflict transformation, the construction of peace and respect for human rights.

Additionally, the law responsible for the creation of the ICIP states that the institution must provide services to the general public, the peace movement, the academic community and public administration.

Research areas have been of particular interest to the ICIP since its inception. This generates new results, not only in the theoretical field, but also in the practical application of solutions.

In light of its program on Armed Conflicts, law and justice, and as a result of its willingness to encourage research, the ICIP organized the first international seminar on "The Role and Responsibilities of Companies in Conflict Situations: Advancing the Research Agenda" in October 2011. In order to continue work on this topic, the ICIP organized a further International Research Conference, this time titled “Companies in Conflict Situations: Building a Research Network on

Companies, Conflict and Human Rights'" in Barcelona between January 17th and 18th, 2013.

Throughout the conference, several issues were discussed: the international arms markets, military and private security companies, and the access, exploitation and trade of natural resources. The conference also included a session on the potential of business in peacebuilding.

The aims of the conference were twofold: firstly, as a conventional international research conference, to discuss the agenda of on-going and future research projects, and secondly, to consider the possibility of establishing an international research network from an interdisciplinary perspective.

To accomplish this second objective, a short questionnaire was provided to participants. The general response was positive and demonstrated great interest in the creation of the network, which would have a three-way focus based on companies, conflict and human rights. Its principal contribution would be to create knowledge links provided by different perspectives of interest, fundamentally by the academic community, civil society and groups of activists.

A session of working groups was held, which enabled participants to establish the defining features of the network in a participatory and dynamic manner, as well as the initial steps for implementation. A series of work agreements were adopted to make the creation of the network possible, and it was agreed that the next meeting would be held in 2014 in London. The conference will hopefully attract the majority of those researchers engaged in such issues worldwide.

I would also like to acknowledge the fundamental role of Maria Prandi and Bruce Broomhall, who have accomplished and continue to accomplish the task of organizing these meetings. My thanks also go to the technical team of ICIP, particularly to Pablo Aguiar and Marta López, and to Jordi Vives, who produced the minutes of the proceedings.

2. BUSINESS INVOLVEMENT IN CONFLICT: LATEST DEVELOPMENTS

2

INTRODUCTION

José Luis Gómez del Prado
Former Chairperson of the UN Working Group on the Use of Mercenaries

Mr Gomez del Prado started his introductory note as moderator of the panel session by stating "war is a racket"; with its international scope, war is one of the oldest and most profitable rackets, certainly the most vicious. The Second World War, Vietnam, Iraq, Afghanistan; these are just a few examples. The connection of business activities with conflict and the plundering of natural resources is a constant throughout history.

In parallel, the hiring of private security services for the protection of natural resources exploitation in sensitive regions plays a decisive role in armed conflicts. Nation states also hire the services of these companies, which play an active part in acts of warfare along with their regular troops. Military privatization and national security are an attractive business.

We are facing an age of an enforced humanitarian and Human Rights law countered, at the same time, by ever-growing gaps in governance and unregulated globalized liberalism. The latter has been accompanied by a concentration of capital and power that poses a real threat to democracy.

The moderator finally remarked upon the systematic conflict of interests which prevails in the politics and business of conflict. One of the numerous examples cited by Mr Gómez del Prado is the appointment of John Ruggie, UN Special

Representative on business and human rights as a Special Consultant to the Barrick Gold Corporation's CSR Advisory Board. According to him, this illustrates the infiltration of multinational corporations in the UN as was recently evidenced during the first UN Forum of Business and Human Rights.

WHAT'S THE PROBLEM? MILITARIZATION OF ECONOMIC OPPORTUNITY IN WAR AND DICTATORSHIP

Mark Taylor
Researcher and analyst, Fafo Institute for Applied International Studies

Mark Taylor began his talk by explaining that there are two war economies:

1. The traditional war economy, which was perceived as "the arsenal of democracy", and which eventually turned into a threat to democracy during the Cold War era.
2. The economy linked to regular warfare as the predominant warfare we see today. This second example was the main focus of his speech.

Mr Taylor challenges three normative assumptions that are usually accepted when one looks at violence. In this perspective, the focus is not on the business activities in conflict regions, but the nature of economic activity itself, less concerned with rebel groups and armies and more with the nature of violence. Three assertions were presented:

1. The majority of contemporary armed conflicts are irregular; involving non-state armed groups, civilians and are often regionalized.
2. Informal markets coexist with armed violence. Such informal markets interact with illicit markets that occupy the same social and economic space which provides households with the chance to survive. At the same time, such markets are also sources of income and financing for armed groups.
3. The informal economies are usually transformed by armed conflict. Mr Taylor cited some examples such as the pre-eminence of several forms of labour exploitation, trafficking, child labour, etc. The combination of informal and illicit markets leads to the rise of the irregular war economies, which integrate the threat of use of arms. Ultimately, this represents the militarization of economic opportunity, (i.e.), armed groups controlling access to operation sites (roads, tunnels), trafficking legal/illegal products.

The militarization of economic opportunity is the basis for two problems:

1. Conflict financing
2. Human rights violations and International crimes as part of the exploitation of economic opportunities.

Since illicit and informal economies are well integrated in the global economic flows and supply chains, this represents a problem for businesses in any way linked to such supply chains. There is no set of norms to deal with this kind of commercial issues. There are basically three overlapping regimes:

1. International Business security regime, run by the UN Security Council, implementing sanctions and peace-keeping initiatives.
2. Organized transaction crime regime that deals with various forms of corruption and trafficking.
3. International Criminal Law regime dealing with the worst forms of human rights abuse. Definitions of crime are not designed to deal with the current abuses on the world economies. There are real obstacles for prosecuting companies (political, practical, legal, etc.)

There is a lack of clarity concerning extraterritorial jurisdiction for business organizations and international criminal law against legal persons. In this respect, state sovereignty cannot be an acceptable shield against human rights abuses. However, we are faced with a gap in definitions of regular crimes in warfare times beyond pillage, we should consider, for instance, slave and child labour or conflict financing, etc. Covering this gap should eventually help to enhance monitoring and accountability of business organizations.

CONFLICT MINERALS AND CORPORATE HUMAN RIGHTS DUE DILIGENCE

Olga Martin-Ortega
Reader in Public International Law, School of Law, University of Greenwich

Conflict minerals and their relationship with conflict financing are a key aspect of the business and human rights debate which has witnessed significant advances in processes and mechanisms in recent years. It seems that we are currently moving from a “naming and shaming” approach, to the development of a regulatory framework. We depend on the elaboration of a corporate standard of human rights due diligence. It is in the realm of conflict minerals regulation where the majority of progress has been made. It can become a potential source of influence for the evolution of a wider standard of corporate human rights due diligence towards a

normative framework.

The principal developments in recent years have come from the UN expert group from the DRC, the OECD and the International Conference on the Great Lakes Region. The most relevant piece of regulation has been the passing of the US Dodd-Frank Act and the implementation of section 1502, specifying the role of OECD due diligence standard as a satisfactory reference point. Other relevant progress includes the implementation of a regional certification harmonized with the OECD due diligence principles and the continued support of the UN Security Council resolutions in 2012 for due diligence activities.

One of the main effects of all these developments is the consolidation of the OECD due diligence guidance as the main instrument for defining and articulating corporations' human rights due diligence.

The OECD pilot reports on the implementation of the OECD Due Diligence Guidance for Responsible Supply Chain of Minerals from Conflict Affected and High-Risk Areas help to identify obstacles and challenges both upstream and downstream. Interestingly, results show that companies became more receptive and are progressively moving from a "this is an impossible, costly and devastating requirement for companies to do and for local population to suffer" statement to a "let's see how we do this in practice" approach, which includes teaming up with local authorities, business associations and international organisations.

The due diligence in the context of conflict minerals is mainly focused on the links with illegal armed groups. It implies understanding the supply chain, identifying the origin of materials, thereby enabling traceability. Thus, this process requires private independent private-sector audit by third parties, as the Dodd-Frank Act calls for.

However, the greatest difference between UN guidelines for due diligence and OECD guidelines are grounded in the lack of remediation aspects, which are not required by the OECD due diligence standards, or the Dodd-Frank Act. Sanctions, in either of these documents, do not contemplate reparations to the victims.

Consequently, the third UN Guiding Principle, remediation, continues being neglected.

Regulations concerning conflict minerals have meant that the due diligence tool has gained momentum moving towards regulation with a legally binding nature contributing to the consolidation of these standards. For companies, the demand for due diligence is generalizing. Companies buying from sources where due diligence is not monitored are moving from the realm of an immoral practice to that of an illegal practice.

THE DODD-FRANK ACT: THE SUPPLY CHAIN DUE DILIGENCE PROVISIONS (SECTION 1502)

Annie Dunnebacke
Senior campaigner, Global Witness.

Annie Dunnebacke delivered a speech where she aimed to outline the links and disconnects between the OECD Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD due diligence Guidelines) and section 1502 of the Dodd-Frank Act. Dunnebacke began her speech stating that due diligence (due diligence) on Supply chain is an appropriate tool for companies to manage risk. For three reasons:

1. Due diligence allows a comprehensive risk assessment approach. It addresses all types of activities; it is not only based on traceability of materials origin and thus enables detecting other types of risk (i.e. illicit financing).
2. Due diligence avoids blanket embargoes and helps targeting only harmful areas of trade, thus protecting legitimate businesses while it is faster and easier to initiate than complex certification schemes.
3. Companies, via due diligence, have more flexibility on how they discharge their responsibilities. The approach is not predicated on weak states functioning properly, which often find themselves in conflict situations.

The OECD due diligence Guidelines consist of 5 steps:

1. Companies need to strengthen the management systems and map supply chains allowing traceability.
2. The identification and assessment of supply chain risks; specifically the risks of financing conflict and human rights violation by non-state armed group or public and private security forces.
3. The design and implementation of strategies to respond to identified risks.
4. The commission of independent third-party audit.
5. The public disclosure of due diligence steps taken, including the risk assessment and audit.

The high level of participation and the consensus reached on the framework was obtained with the underlying need for compliance with the OECD working group standards, in addition to taking into consideration the Dodd-Frank due diligence requirements.

The Dodd-Frank Act applies to US and foreign companies that report to the US financial regulator (SEC) whose products contain any of the four conflict minerals (tin, gold, tantalum or tungsten). Companies have to determine whether products come from any of the other adjoining countries (DRC among them) by carrying out a "*reasonable country of origin enquiry*". This is a critical gate-keeping step because it determines whether a company is in need of running a due diligence process. Those who know or who have reason to believe they are trading conflict minerals, need to carry out a due diligence and report to the SEC, which must be independently audited. Finally, companies are required to determine whether their products are conflict-free or not. Products can also be designated as "indeterminable", a category with which Global Witness doesn't feel comfortable.

The link between the Dodd-Frank and the OECD framework is the recognition of the OECD guidelines by the SEC as the mandatory standard to follow; not doing so may represent an obstacle to providing a complete due diligence report. According to Dunnebacke, the difference between the two schemes tends to be overstated. Nevertheless, one area for potential disconnect is that the labelling and determination of risks by Dodd-Frank Act requirements are rather unclear and at odds with the OECD mitigation approach. However conversations are underway to reconcile both views.

Finally, Annie Dunnebacke closed her speech by highlighting the fact that Dodd-Frank boosted participation and interest from companies. However, the current situation is not an entirely rosy picture. Two major gaps have yet to be addressed.

1. Public disclosure: few due diligence reports are available to the general public. The default approach is that all information must remain confidential while the default should be the opposite, everything except for the most sensitive information should be public knowledge.
2. Risk assessment. This is the backbone of due diligence. Assessing risks is vital to avoiding harmful practises. Companies need to gather information to defend their decisions and responsibilities. NGOs can be consulted but, ultimately, companies need to take the final decisions.

BUSINESS ACTORS IN THE TRANSNATIONAL GOVERNANCE OF NATURAL RESOURCE EXTRACTION

Annegret Flohr
Research Associate, Peace Research Institute Frankfurt

Annegret Flohr in her speech draws on the research agenda for two closely related fields:

1. The business and global governance field; more inspired by research into International Relations dealing with the emergence of international institutions and focusing on corporate behaviour; and global rule-making processes and behaviour of corporations.
2. Business in conflict research; which is inspired by peace-conflict research focusing on actions taken by organizations in this context.

These fields have many areas in common. One of the areas in which they overlap the most is also the same area they overlook. Flohr organized her political science conceptualization around three pillars: the output, the outcome and the impact.

- Output: policy norms stemming from political processes which aim to address specific problems.
- Outcome: focus on what actual (intended and unintended) changes in behaviour occur after policies and laws have been adopted.
- Impact: the actual extent of the impact of rules on the problem and whether these bear any effect on the problem situation.

From the perspective of output, it is true to say that there is some research available, although incomplete, into both field of business actors in global governance and conflict. However, what has yet to be determined is whether or not the result from these outcomes is of a sufficient degree. In this respect, there is less research available into global governance while in the field of conflict, there are several single case studies at one's disposal. What is lacking is a comparative overview of the subject. The same occurs when dealing with the area of impact.

Both fields of research should be brought together by generating comparable data systematically on company behaviour and actual impact. Such data should ideally be cross-sectoral, governance initiatives, and countries to make effective progress in the realms of what is known and whether anything has really changed over the past few decades.

Finally, Annegret highlighted the contribution that her institution has made in this respect by focusing on the natural resources sector and the impacts thereof. The

speaker recognized the difficulty of assessing impact, although she maintained the stance that the time is right to attempt to do so.

The Peace Research Institute strives to accomplish this objective by spearheading three closely coordinated projects.

1. Single corporation corporate social responsibility activities in Sub-Saharan Africa.
2. Dispute settlement in grievance mechanisms set up by companies in collaboration with other stakeholders.
3. Global multi-stakeholder initiatives.

DEBATE

The debate centred mostly around three topics with the following central arguments.

Firstly, Annie Dunnebacke provided more details on the current situation the DRC is facing. The DRC, she argued, is shifting to a scenario where many armed groups are integrating/leaving the state army which makes the context even more complicated for companies to understand. At the same time, the fact that companies are not conducting sufficient due diligence does not help them to truly comprehend the setting in which they operate. One positive sign is that the military, by law and thanks to international pressure, is no longer allowed to get involved in the mining sector, and only the mining police force are permitted to act in mining area. According to Dunnebacke, this has made significant inroads in easing the impact on human rights abuses.

In a second block of discussion, Peter Weiss raised the question whether whistle blowing was a recognized tool to implement regulation in the context of conflict regions. Peter questioned whether whistle-blowers are protected or incentivized enough and whether it is worth doing so.

The final discussion block raised the topic of legitimacy of both soft law developed by corporations and the (dis-) engagement of corporations with armed groups. This latter point sparked a heated debate lead by Professor Marco Sassoli on the assumptions behind the call for immediate disengagement with armed groups. Professor Sassoli argued that armed groups are not always abusive and may fight for legitimate causes (i.e. SPLA in South Sudan claiming that the natural resources belong to their people). In these cases, even though armed groups may be illegal, they might actually be morally entitled to be considered relevant stakeholders by corporations while some states might not necessary work in benefit or in

representation of their own citizens' best interests. Thus, it is dangerous to simply say that businesses should only establish relationships with states.

3. THE ROLE OF BUSINESS IN PEACE: ONGOING AND FUTURE RESEARCH

3

INTRODUCTION

Desislava Stoitchkova
Senior Programme Officer at International Alert.

Ms Stoitchkova, in her introduction, approached the question of the role of the private sector in peace building. NGOs (like International Alert) have extensively campaigned for over a decade in favour of methods by which businesses can support peace processes. The existing literature remains primarily focused on how the private sector tends to exacerbate conflict and fuel violence. However, research into how businesses can promote peace is less prevalent. Multinational corporations, which tend to be the ones with the largest conflict-footprint, have also started to gradually recognize that there are certain responsibilities to be met and certain contributions that could potentially be made. These changes stem from:

1. Changes in the regulatory landscape.
2. Growing concerns of reputational risks.
3. Broader corporate social responsibility commitments

As a result, there has been a growing awareness on the part of the private sector for the need to avoid harmful practices when operating in conflict regions and to prevent, or at least mitigate the negative impact from its operations in the local context and communities.

Rarely do companies get involved in peace building activities; for a variety of reasons:

1. Companies can actually benefit from conflict
2. Peace can be perceived as detrimental to business' interests.

3. Business' interest cannot be separated from religious ethnic individuals comprising it. This especially holds for local businesses but also for those countries where political and economic elites tend to overlap.

Companies, when requested to take a role in a peace building process, may also argue that they wish to avoid becoming involved in political issues or that they seek to maintain good relationships with both confronted sides.

Another reason for companies to not get involved in this kind of processes is their fear of liability or reputational risks. It may also be true to say that the private sector lacks the political space to meaningfully engage in peace processes.

More research is needed to uncover the motivating factors that prevent the private sector from engaging in peace building activities. Companies remain largely unaware of the contribution they can make to peace and what their options are (i.e. collective action).

The contribution companies can make to peace building processes depends on several factors:

- Credibility of an enterprise in a given local context.
- Previous experience in local engagement
- Access to the different counter parts in a conflict.

This is not to say that business contribution to peace building is limited; they can be very instrumental and make a proactive and positive contribution to political, social and security spheres. In the political domain, businesses can lobby for peace, support mediation processes, act as facilitators, or use their power to bring parties together. In the social domain, businesses can help alleviate social divisions by supporting reconciliation at the workplace or by supporting the creation of value chains across conflict divides. In terms of security, businesses can support the socio-economic reintegration of ex-combatants or promote human rights and support capacity building among private security providers.

Ultimately, the role for business can only supplement and add to the other elements involved in any peace process. The private sector can and should be a strategic partner in peace building. However, one should always bear in mind that it can rarely be the sole agent for change.

PRIVATE ACTORS IN PEACE PROMOTION: A COMPARATIVE STUDY

Andrea Iff
Senior Researcher and Project Coordinator of Business & Peace, Swisspeace

Andrea Iff shared the preliminary results of a comparative study conducted together with NCCR North-South consortium. According to Andrea, businesses could take different roles in peace building. However, the aim of the study was to find out whether they are in effect actually doing so, and to unearth evidence to demonstrate this. The study also aimed to better understand the limitations and potential of the private sector involved in these activities and to identify the factors influencing business engagement in peace building processes. The focus of the study was local businesses (individual businessmen, companies and associations).

The research clearly highlighted two different types of engagement by business enterprises in peace building activities.

1. Direct engagement: e.g., mediation via individual intervention.
2. Indirect engagement: as would be the case of economic reconstruction as a result of infrastructure companies need to operate.

The underlying question is whether there are ways to engage businesses in more peace building processes or whether one should request that companies do so.

The study looked into countries in post-conflict situation (seven years after conflict) where a transformation was taking place or had recently occurred from a war into a peace economy.

Confidentiality was a major obstacle/requirement when performing field research in peace building activities by corporations. Companies simply did not want to disclose their practices. Broader and more empirical research is required, not only case study based, but also to look at business stakeholders by focusing on different sectors other than the traditional ones.

The role of neighbouring countries is extremely relevant. In the initial post-conflict stages, regulations and rules are non-existent. Neighbouring countries are usually the most interested counterparts in (re-) building such normative structures in order to be able to establish economic and businesses relationships.

Nevertheless, the study did not uncover sufficient evidence to support whether companies did really involve themselves in peace building activities. Businesses did does not show an interest in initiatives such as re-integration of ex-combatants.

Business associations state that corporate social responsibility is not really a correct concept as it is based on the idea of responsibility.

There are however, well-known cases of the successful involvement of businesses in peace negotiations (i.e. South Africa, Ireland) but others have failed (i.e. Sri Lanka, Nepal). Iff reaffirmed that companies limit themselves to doing whatever is the easiest at any given moment. Businesses want to make money and as such, they have close ties to governments. Therefore, it is questionable whether they are the most suitable agents to engage in peace building processes.

THE ROLE OF BUSINESS IN THE COLOMBIAN PEACE-PROCESS (VIDEO-LINK)

Angelika Rettberg
Professor, Department of Political Sciences, Universidad de los Andes, Bogotá.

Colombia has a long-standing tradition of peace talks and has accumulated significant experience in peace negotiations and the demobilization of armed groups, having undertaken more than 20 processes over recent decades. Businesses have been playing a relevant role in peace negotiations since 1980 both via individual members and business associations. They have had an active participation in the preparation and development of peace talks in terms of their involvement in the negotiation team as well as acting as facilitators in representation of civil society. However, peace talks have failed and business participation decreased for some time.

Today, businesses are again playing an active role in promoting dialogue between parties and facilitating the acceptance and legitimacy talks require before Colombian society. Noticeably, the peace negotiation team has a business background (either through education, family origin, or prior positions held).

Angelika identified several reasons for Colombian business to support peace talks:

Historically, the peace dividend has been claimed as a key factor. Colombia is no exception; the conflict has huge direct and indirect associated costs for the business community.

Direct costs include extortion by armed groups, delay on merchandise distribution, attacks against business assets, enormous opportunity costs for foreign investments, large public investments in security to protect themselves or higher taxes related to war and conflict.

However, indirect costs have been higher than direct costs. Although the economic costs are an important argument, the prospects of the economic environment are essential for attracting foreign investment in an increasingly competitive global market, especially for a middle-income country such as Colombia.

According to surveys, the business community's perception of the socio-political conditions for investment has improved while negative perspectives have decreased. Business people in Colombia feel that the conflict is now costing them less.

Surveys show that in a peaceful environment, Colombian businesses would increase investment and innovation ratios and this is a strong argument to become involved in the peace negotiations.

In conclusion, if peace talks prove to be successful we know that in light of both the financial crisis and the crisis of peacebuilding worldwide, a large part of the Colombian peace building effort will depend on the Colombian state and tax payers. Nevertheless, the private sector will play a key role providing resources and legitimacy.

BUILDING SOCIAL COHESION THROUGH BUSINESS: DILEMMAS AND IMPLEMENTATION CHALLENGES

Maria Prandi
Expert in Business and Human Rights; Associated researcher at the School for a Culture of Peace (Universitat Autònoma de Barcelona) and at Esade Business School. External collaborator at ICIP.

Maria Prandi started her presentation by explaining that the role of companies as key players in conflict settings is a question that has been the subject of intense study and controversy in recent decades. Indeed, much of the literature regards companies as the engine or key factor in generating or perpetuating conflicts. Yet other more recent currents of thought describe companies' potential role in building peace, promoting development and fostering human rights within their area of influence. In a market economy, companies can contribute to raising per capita income in a number of ways. The main two manners in which they can do this being through purchasing raw materials, goods and services and, secondly, by creating job and entrepreneurial opportunities at the local level. But there are some implementation challenges and dilemmas that would need to be further discussed among the stakeholders involved in order to identify and pool ideas on how best to address them.

Although companies are increasingly expected to (pro-) actively play a role as agents in the benefit of global change, the conditions prompting businesses to remain engaged in the peace-building agenda need to be further identified and discussed. In practice, international and domestic capital is still difficult to mobilize and the proper economic and reputational incentives to produce commitment and action need to be further explained to the business community. Prandi remarks that companies are still reluctant to invest in unstable markets where the state is absent in many parts of the territory and where extortion and attacks by illegal armed groups may be recurrent. Any positive contribution to peace-building from the private sector is only possible based on the company's knowledge and comprehensive understanding of the context of conflict and post-conflict in which it plans to do business. Experienced and skilled employees in armed conflict and fragile settings who also have a good knowledge of stakeholder engagement and business management are scarce in the market place. For Maria Prandi, it is also worth noting that a country's reconstruction does not always have to presuppose a return to the *status quo* that prevailed prior to the conflict; instead it must offer a chance to reconfigure the country's economic underpinnings and therefore work in favour of reducing the short-term or structural economic causes that acted as catalysts for the violence. Issues such as land ownership or the wealth generated by the exploitation of natural resources, among others, can be some of the most sensitive of these points which usually require special attention and a new redefinition of the business strategy.

To conclude, Maria Prandi explains that in fragile settings companies are often expected to take on activities that up until then have been regarded as traditionally government activities. This poses a problem of power and legitimacy because the company's role is not that of taking on responsibilities that are those of governments in areas such as education, health or basic infrastructures. To overcome this dilemma, and even before taking economics into account, managers need to evaluate the social costs and benefits of decisions for society overall and for the different beneficiaries, in particular. No player or organisation alone can handle the challenges entailed in the social, political and economic reconstruction of a country. The key lies in the coordinated, effective articulation of the capacities of each of the players involved. In this sense, companies should be perceived as relevant players in a complex web of relations either by governments or international donors. The collective challenge is for both the private sector and multilateral bodies to envision and implement a new paradigm of reconstruction that ceases to regard businesses as mere providers of products or services and instead endows them with a more advanced role as peace-builders in contexts of post-war reconstruction within their area of influence.

WOMEN'S PARTICIPATION IN DECISION MAKING AND THE REDUCTION OF VIOLENCE

Cora Weiss
President of the Hague Appeal for Peace.

Cora Weiss began her presentation highlighting that, thus far in the conference, participants only considered the incorporation of businessmen at the peace agreement table. However, women should be at the table, as well as combatants and young people prior to businesses taking part in negotiations.

Human Rights abuses by state and corporations are often interlinked; women are frequently the victims of violence in these cruel acts that take place in factories whose owners are mostly based in the west. Some of the most infamous examples are the Triangle Shirtwaist Factory fire in New York in 1911, the Bhopal 1984 tragedy, Foxconn employees rioting against the working conditions in September 2012 and, the most recent industrial tragedy, in November 2012 in Bangladesh where 212 workers burned to death.

The common denominator of all these episodes was low pay, lack of workers' rights, poor working conditions and the majority of workers being young women.

The key question is: would women in significant numbers on the boards of directors in the companies associated with these tragedies have made a difference? There is no available research on this issue. The research carried out to date shows that where there are women managers, there is increased profit and efficiency. The role of women in this context needs to be better researched, i.e. the word "women" is missing on the network proposal of the conference. Cora Weiss believes that women who reach top managerial positions do not bring with them the values of caring for the conditions of their factory workers.

Women are overwhelmingly the victims of state and inter-state violence. However, we also know that the presence of women at the peace making tables can make a sustainable difference in preventing violence. Weiss refuses to see and think of women only as victims.

Several Security Council resolutions call for the participation of women at all levels of decision making in the resolution and prevention of conflict and objective to protect women from sexual abuse. Resolution 1325 is one of the most relevant examples of this. It calls for the participation of women in governance, the prevention of violent conflict and protection of women and girls in violent conflict. According to the UN, this resolution is international law. However, no single case has been brought before a world court. Other resolutions are also relevant; 1820 addresses sexual abuse during armed conflict, 1888 mandates peace keeping

missions to protect women and children from sexual violence, 1889 calls for strengthening the participation of women in peace processes and 1960 cites the slow progress of states in complying with the need to end sexual violence.

These resolutions are enormously important. However they attempt to disassociate sexual violence from war and allow the war to continue. They are not interested in making war safer for women or anyone else.

It is well documented that when women occupy decision making positions in developing countries, in significant numbers, sexual violence decreases as well as violent conflict (i.e. Liberia, or the role of civil society in South Sudan and the Philippines).

In conclusion, Weiss believes that women who gain power by climbing the "testosterone ladder" to succeed in corporations are going to be more concerned with the efficiency of their company and profits and less about the working conditions of their employees. However, women do bring values of peace and justice to the peace-making table. We need more feminist women to enter the decision-making seats of power in order to secure a safer, more peaceful and more sustainable future.

DEBATE

During the first round of questions and comments, the panellists and the audience discussed three main topics: the Colombian conflict, the "revolving door" syndrome and the protection of women, children and other vulnerable groups.

Firstly, Jose Luis Gómez provided further accounts of the complexity of the Colombian peace talks involving the state, the paramilitary groups and the business community which both sides were conducting at the same time and in direct relation with the conflict. It is simplistic to state generally that Colombian businesses desire peace.

A second focus of discussion revolved around how under-protected women, children and migrants are by the operations and decisions of multinational corporations. There is a significant lack of transparency affecting subcontracted companies and suppliers and this syndrome is also taking over at the UN level (i.e. Ruggie as advisor at Barrick Gold or Stark and the UN subcontracting Blackwater services). Additionally, the debate also approached the issue of the lack of accountability for human rights violations in the aftermath of episodes of armed conflict.

Finally the “revolving door” syndrome was also discussed. The extremely close ties between public officials contracting services and awarding favours to companies and, subsequently being employed in the industry is flagrant and denotes a clear lack of accountability of businesses participating in peace processes.

During the second round for comments, the topic of business and its potential role in the peace building was the focus of all the discussions.

Firstly, Bruce Broomhall referred back to the discussion concerning the potential role of businesses in post-conflict situations. Although businesses have a plausible role in facilitating peace building initiatives, such as through the provision of employment to sensitive groups, financing peace negotiations, etc. One has also to bear in mind the inadvertent consequences of their actions as the case of Shell in the Niger delta demonstrates. Companies can end up aggravating conflict rather than mitigating it.

Desislava Stoitchkova specifically discussed the role that multinational corporations can take in peace building initiatives. Desislava agreed with the fact that multinational corporations are the ones that have recently been more attentive and compelled to take action with regard to the protection of human rights in conflict affected areas. Multinational corporations are frequently reluctant to take part in peace building processes because they believe that, in many cases, doing so may be perceived as an external interference in domestic political processes. On another level, it is usually local businesses that tend to be the most often involved and genuinely interested in peace processes. In addition, they usually have a better understanding of the context as well as the capacity and skills to act on the ground. However, if multinational corporations developed these skills they could certainly play an effective part in the processes also.

4. FOSTERING ACCOUNTABILITY THROUGH RULES, ATTRIBUTION, INVESTIGATION AND PROSECUTION

INTRODUCTION

William Bourdon
Founder, Association Sherpa.

During his introductory speech, William Bourdon briefly shared some significant knowledge he gained out of his experience as a lawyer in the field on how to tackle transnational impunity.

New legal avenues have recently opened up for making multinational corporations more accountable when operating in conflict situation thanks to the work of NGO Sherpa and its attempt to prosecute Total for unlawful confinement in Burma.

Bourdon explained the case of the company Amesys, a high-technology company which in 2008, sold its products to the Gadhafi regime to help him against Al-Qaida. Evidence emerged that such technology was used to spy on opponents to the regime that were subsequently tortured and executed. The company said that there was no moral intention from their side and that they didn't share the aims of the perpetrator. However, the company should have anticipated that the hardware could be used to torture and execute given the context of where they were selling their products. This, according to Bourdon, is already a proof of Amesys' complicit behaviour.

Bourdon stated that times have changed for judges; they are aware and exasperated by companies willing to convince the world of their responsibilities while at the same time actively orchestrating any way possible to escape from their legal responsibilities.

Many companies have a culture of secrets and violence, with an ever-increasing complexity in legal societies who are champions at placing obstacles in the path of anyone who dares to make them accountable for their irresponsible actions in conflict areas. Soft law, however, can become a new legal instrument for the civil society to bring companies before the courts. In the case of Total, the judge has

used the "ethical commitment" of Total to consolidate the demonstration of its criminal responsibility. Bourdon is optimistic that many more doors will be opening in a similar direction in years to come.

HOME STATE REGULATION TO ENSURE ACCOUNTABILITY OF CORPORATE ACTORS IN ZONES OF WEAK GOVERNANCE

Penelope Simons
Associate Professor, University of Ottawa.

Penelope focused her talk mostly on the theoretical challenges to arise in bringing law to the forefront of the picture in a world with an ever-increasing amount of soft and regulatory mechanisms promoted by international institutions as well as corporations. There has been considerable debate on what is the most effective way to regulate the activity of multinational corporations that impact human rights (i.e. international/domestic law, law vs. policy, self-regulation). In recent years, the debate has shifted away from law as the main response to these issues.

Penelope advocates home state regulation as a potential response, which, she recognized, might not be a silver bullet but might represent a valid response to corporate impunity in conflict zones. In her experience gained in Sudan, she and her research colleague concluded that existing mechanisms were not sufficient to regulate corporate activity and proposed other facilitating types of mechanisms in these contexts.

However, there are interesting challenges in the promotion of home state regulations. One of the reasons why professor Ruggie's approach was misconceived is because he did not consider that there should be an international treaty on business and human rights. The reason is that we have an international legal system in which impunity for corporate violations of human rights is deeply embedded. Since colonial times, international law has been used to protect and facilitate investment and trade activity while, at the same time, undermining the ability of specific countries to regulate these activities. To Simons, responding now to the business and human rights debate with soft law does not make sense. It is necessary to place law once again at the forefront of the picture.

Emerging theoretical challenges dispute the idea that there is any governance gap at all and how the so-called governance gap should be covered. For instance, some legal pluralist scholars developed the idea of polymorphic sources of law where other entities, besides the state, can create law and question the distinction between legal rules created by the state and norms enacted by other entities.

Penelope is sceptical of the position defended by some scholars of greater weight being given to initiatives such as the OECD Guidelines for Multinational Enterprises and the UN Global Compact, in place of the effectiveness of the state law.

The theories of a decentred approach to regulation see a change in the role of the state and the role of law in regulation. They question the need and the effectiveness of state-based regulation to address the extraterritorial corporate conduct where state-base regulation is based on a "command and control" approach.

The term "New Governance Theory", in political science and legal expertise, has been used to describe a range of governance forms and modalities that depart from the traditional "command and control" regulation. This theory sees the state more as a facilitator of governance initiatives (not necessarily controlling them) rather than as a regulator or orchestrator. Some literature suggests a move from "government to governance".

Reflexive law theory perceives laws as a normative system while they see economic conduct as another system. Accordingly, impact law does not have much impact on commerce because companies act according to their own norms. Thus, the best way to regulate commerce is to do so indirectly and oblige companies to do something they are used to doing (i.e. disclosing information as per the Dodd-Frank Act).

Command and control is already an overused term. The Dodd-Frank Act is an example of this as it obliges companies to act in a certain way under the threat of penalties. However, it continues to occupy a predominant place in social regulation. There is a need to stimulate state generated norms which bear consequences as part of a broader governance framework.

To conclude, Simons argued, adding home-state regulation to the different kinds of regulation already in existence is of significant importance because it provides advantages for addressing extraterritorial conduct:

1. States can act unilaterally, and have tools to ensure compliance which is not available in soft law mechanisms.
2. Unilateral legislation can push other states to do the same as is currently occurring with the Dodd-Frank Act in Europe.

THE RETROGRESSION FROM FILARTIGA TO KIOBEL

Peter Weiss
Vice-President, Center for Constitutional Rights.

Peter Weiss focused his intervention on the study he conducted into Supreme Court hearings for two reasons:

1. The principal issues for discussing corporate liability for human rights violations came out in a very dramatic way.
2. It has become apparent that this discussion has been fuelled by litigation developments in the US.

After several Alien Tort cases came the Kiobel case. The case was brought by a Nigerian widow whose husband had been executed by the Nigerian military after a sham trial while Shell was aiding and abetting the brutal repression of peaceful protestors. In one of the appeals, two of the three judges declared that there was no liability for corporate human right violations under international law. Surprisingly, prior to that decision, there had been more than a dozen cases in which courts throughout the US found no problem with that. In February, 2012 the Supreme Court issued a new directive asking for a re-argument of the Kiobel case in a question that had previously failed to figure for either party. The Supreme Court asked under what circumstances a case could be recognized in a US court if it was entirely based on events that occurred outside the US. In other words "what is this case doing here? Nigerian citizens suing a Dutch company in the US?"

Why should corporations be exempt from the Alien Tort application if individuals are not? The defenders also claimed that there were no precedents for a corporation being sued for violations under international law. Weiss stated that then there has to be a first time for cases to be brought before the courts when corporations violate norms such as those preventing torture, rape or summary execution.

Peter Weiss also discussed the three principle issues at stake and which are developed in greater detail in his article.

1. Are corporations liable for human rights violations under international law?
2. Aiding and abetting.
3. Extraterritoriality

Certain prominent judges and lawyers argued that aiding and abetting a foreign government should not be brought to court, since this is not a legal problem but a foreign policy one. Others, when asked about extraterritoriality pose the question of "What is this case doing here? This has nothing to do with the US". The US, if it

considers itself a proponent of universal human rights, should do anything that may assist in the promotion of these norms, and thus it should constitute sufficient reasoning for accepting the case.

INTERNATIONAL LAW AND THE USE AND CONDUCT OF PRIVATE MILITARY AND SECURITY COMPANIES IN ARMED CONFLICTS

Marco Sassòli
Professor and Director of the Public International Law Department
Université de Genève.

Professor Sassòli began by clarifying that he is not in favour of war, state armies, armed groups or private security companies. However, regarding the latter, he is as yet unconvinced that they violate humanitarian law and human rights more often than state armies or armed groups do.

Nevertheless, the phenomenon is a perplexing one since the use of force has been at the core of the monopoly state functions in the Westphalian system for the last 200 years. We are currently experiencing a general tendency to challenge international law because international law is still focused on states, while international reality is more and more dominated by non-state stakeholders (armed groups, NGOs, multinational corporations, etc.)

The use of private security companies in armed conflicts is governed by different branches of international law: *ius ad bellum*, the rule prohibiting the use of force; and *ius in bello,* the law protecting persons affected by armed conflicts, and finally by human rights, which are equally applicable in armed conflicts.

Today we have few specific instruments concerning private security companies. However, it is wrong to say that these companies operate in a legal vacuum. Although international law was enacted when states held the monopoly over force and it was not designed specifically for private security companies, this does not mean that the responsibilities of individuals working for private companies under international criminal law or of a state vanish when it hires a private company to do the job and that the state is no longer responsible for the consequences.

Self-regulation in the industry remains quite vague. The main issue to be clarified is the relationship between direct participation in hostilities and self-defence or defence of others. Private security companies claim that "*we don't make war, we exercise the right of self-defence for our clients, and we do that in war time*". One of the limitations of the soft law mechanism is that, to find a company violation all stakeholders of the soft law mechanism need to agree on the fact that a violation

has been committed. Another limitation is the need to define and clarify the concept of self-defence.

From a hard law perspective, some say that these companies are not mercenaries because states, simply speaking, excluded persons fighting for their state of nationality form the definition of mercenaries and wanted to include mainly those who fight against them. There are specific activities which only state agents may perform, such as operating a prisoner of war camp or operating a camp of civilian internees where, by international law, the person responsible for such facilities must be a regular officer of the armed forces.

States, according to professor Sassòli, are nearly always responsible for private security companies they hire. However, rarely are the companies considered as organs of the state although sometimes they exercise elements of governmental authority or can receive instructions from states. However, a state hiring a company has at least a due diligence obligation. One issue that has not been approached so far is that of the laws by which the companies themselves are bound. Companies are bound by international law, domestic law, corporate criminal responsibility, individual criminal responsibility or self-regulation, among others. However, enforcing these rules continues to be the principal problem.

DEBATE

During this first debate of the third panel, William Bourdon argued strongly about the risks involved in the increasing privatization of war and conflict. In the end, the sophistication of international law serves merely as a façade for the international community in order to mitigate the impact from public outcry.

Sassòli replied emphasizing that private security companies exist and like war itself, this is an unfortunate reality, which should nevertheless be regulated, not ignored. Privatization is also a reality in other fields and there are no grounds for arguing that if the job is being performed by private stakeholders then this necessarily implies human rights and humanitarian law are not being respected, as long as there is sufficient regulation of such activity.

NOTES ON EXTRATERRITORIALITY AND THE PROTECTION OF THE ENVIRONMENT

Francisco Javier Zamora
Professor of Private International Law, Universidad Jaume I de Castellón

Professor Zamora structured his intervention along two lines of argument regarding the issue of extraterritoriality and protection of the environment.

1. The US extraterritoriality practice.
2. The review of a series of relevant initiatives of a local, national and international scope as well as academic.

Issues such as air or water pollution are directly associated with the extraterritoriality discussion although the reality of the debate and practice is still a far cry from addressing this issue properly. For instance, the lack of interest generated by extraterritoriality in the US practices in relation to the environment is surprising. The number of initiatives targeting this issue is rather limited with a balance between those in favour of (i.e. Bluewater case in 2001, or Norton case 2003) and against extraterritoriality (i.e. Pakuta case 2004).

However, most of the examples mentioned by professor Zamora during his speech were of an administrative nature considered only as mandates by the organisms of the US. This has a bearing on the issue of extraterritoriality. The reasons why this topic remains elusive may be found among the following arguments:

1. The need to avoid reciprocity with other countries
2. Prevention of a potentially massive extraterritoriality
3. The way in which judges delimit cases in order to avoid dealing with the complex issue of extraterritoriality.

During the second part of his intervention, professor Zamora highlighted a series of initiatives which, at different levels, attempt to contribute to the debate of the extraterritoriality and environment.

1. A Swiss popular initiative, recently adopted by the Swiss parliament is designed to oblige Swiss multinational corporations and their subsidiaries in foreign countries to respect human rights and the environment. This initiative goes hand-in-hand with the discussion about opening Swiss courts to human rights victims in foreign countries.
2. The British parliament is also working on these issues, as evidenced by the 2011 Foreign and Common Wealth Committee Annual Report and the work being carried out by them in the area of human rights.

3. Canada C300's initiative intended to respond to the attacks against human rights and the environment especially perpetrated by the conflictive mining industry. The C300 was defeated in the parliament despite enormous public pressure on the Canadian multinational corporations involved and affected.

In his conclusion, professor Zamora emphasized the international recognition of the hands-on relationship between environmental and human rights issues and the concept of extraterritoriality. If the sacrosanct market is defended with extraterritorial norms we must also use extraterritorial norms for much worthier causes, such as respecting our planet and ourselves.

LEGAL AVENUES AVAILABLE TO VICTIMS DEMANDING LIABILITY FOR ENVIRONMENTAL DAMAGE. EJOLT PROJECT

Antoni Pigrau
Professor of Public International Law, Universitat Rovira i Virgili.

Antoni Pigrau based his intervention on the research publication recently published and prepared by himself and his team into the topic of environmental justice. The study has been developed around the topics of ecological debt, environmental responsibility and ecological unequal exchange. Pigrau focused on the legal channels available to claim environmental responsibilities from multinational corporations. For this purpose, Pigrau's team developed a comparative analysis of 11 cases. The selection criteria for cases were based on four variables:

1. Severity of ecological impact.
2. Representativeness of behavioural patterns of studied multinational corporations.
3. Geographical diversity.
4. Degree to which legal action were suitably and duly documented.

New cases are planned to be included in the second phase, (i.e. Bhopal, Metalclad). The research is structured in four parts.

After the introduction there follows a description of the legal framework outlining the approach taken by multinational corporations. Here the study focuses on 5 different aspects: the invisibility of multinational corporations in international law, the debate between mandatory/voluntary instruments, the repercussion of environmental costs to private operators, the position of an imbalance in power in which multinational corporations find themselves in host states and the connection between human rights and environmental damage.

The third part, the core of the study, focuses on the legal avenues which actually assist those claiming for liability for environmental damage. This section has five separate subsections exploring the legal channels available in the host state (especially those linked to land and natural property rights), the home state and at the international level. The fourth and fifth sub-sections discuss the use of soft law as well as other instruments of social pressure.

Pigrau shared the four principal conclusions of his study:

1. Evidence shows that victims of severe environment damage and the organizations which support them combine a wide range of instruments and channels: political and legal, national and international etc. In other words results show that cluster litigation is the best way to succeed in the litigation process. The use of several of these instruments simultaneously helps to create synergies between them.
2. Litigation in home state countries against multinational corporations is a complex endeavour and usually subject to language barriers and new legal frameworks, which imply significant economic burdens as well as the wearing down of victims. This legal channel requires that home state countries allow foreign citizens access to their courts and that these courts have extraterritorial capacities.
3. The Alien Tort Claims Act has been used in cases involving environmental harm. However there are enormous challenges involved in accepting the claims via Alien Tort Claims Act, which are easier to overcome by presenting the claims along with other human rights violations. The *forum non-conveniens* doctrine is another obstacle to be overcome, particularly in the US.
4. Finally, Pigrau highlighted the situation in the European Union where regulation 44 2001 establishes that there must be a proven connection between the decision taker and the headquarters based in an EU country in order for the extraterritoriality condition to apply.

DEBATE

The panellist contributions generated an intense debate around the following central points: the legal vacuum in which the private security forces are presumed to operate, the mechanisms to enforce the existing legal instruments in this industry and the need (or not) for additional regulation.

The debate was kicked off by Helena Torroja expressing her disagreement with the opinion held by professor Sassoli and his statement that there is not a legal vacuum. She highlighted the need to distinguish two different scenarios which can be the target of regulation for private security companies:

1. To regulate the transnational behaviour of these multinational corporations and to determinate whether the state is responsible for them.
2. An additional sphere to be regulated is the rupture of the state coercion monopoly.

Legal vacuums exist in both spheres.

In the first, the industry is subject to international humanitarian law, however there are still many situations which are not covered by law, such as in non-conflict situations (i.e. Somali piracy) or when private security companies are hired by other companies and not states (i.e. Coca Cola in Paraguay), is then the home state responsible?

Secondly, is everything delegable? Are there no limits at the core of the Westphalian sovereignty state? There are few international conventions which set these limits (i.e. the Montreaux declaration stating that only officials may guard a prison camp). The industry soft law establishes how to proceed with detentions; this has been a traditional core state function, should it be privatized now? No, not everything can be privatized, there is a legal vacuum to be regulated and there is a need to set clear limits to the decline of the state coercion monopoly.

Using a similar line of reasoning, Mark Taylor highlighted how to mobilize enforcement. The law exists but it requires use. The private military and security companies are a result of the post-cold war era. The question is of a political nature, is this trend a positive one? Does the international code of conduct place us on a path towards effective state enforcement or does it place us at the end?

Laeticia Armentariz from the Open University of Catalonia pointed out the need to regulate either *ad bellum* or *in bellum* the role of these corporations given the potential they have to impact human rights. The type of services offered by these companies involves far-reaching powers (sometimes delegated by the state) and thus it is necessary to regulate the corresponding responsibilities of these corporations.

At this point, stemming from a question from professor Zamora, the debate turned towards an analysis of the prospects of extraterritorial law enacted in Canada and Switzerland.

Broomhall, from a Canada's perspective, emphasized the fact that the country is heavily involved in international mining operations and therefore there is an

evident need for enhanced instruments. However, the conservative government continues to place obstacles to making progress in this area.

In Switzerland, as stated by Corrina Morrisey, the situation is similar to that in Canada. Even though more and more initiatives from Swiss citizens reach the parliament and this helps to keep the debate alive, Switzerland is still a far cry from enacting significant changes in respect to extraterritoriality issues.

PRELIMINARY CONCLUSIONS

Bruce Broomhall
Professor of Law, University of Quebec at Montreal.

Bruce Broomhall concluded the first day sessions by inviting all participants to join the network proposal as this would be the best way to follow up on conversations. He also shared his concern that legal (normative) pluralism is here to stay to make corporate behaviour changes. Legal pluralists defend the stance that *if it works it's law,* Broomhall disagrees with this statement for a number of reasons. However, he recognizes the fact that if one intends to change corporation's behaviour, one needs to think broadly in terms of mechanisms. An open question would be what the right balance of these mechanisms would be; the network should recognize the need for this flexibility. An additional open question for the network would be to define the kind of relationship it should foster between academics, corporations, NGOs, activists, and other relevant stakeholders.

5. FOSTERING INTERPLAY BETWEEN REGIMES AND ACTORS

5

INTRODUCTION

Harald Tollan
Senior Advisor to the Multilateral Bank and Finance Section of the Norwegian Ministry of Foreign Affairs.

Harald Tollan's area of expertise is extensive on all aspects related to the role played by companies in the money laundering system associated with criminal organizations.

The illicit capital flows heading to developing countries are estimated to be somewhere in the region of 1.3 billion dollars annually. These types of capital flows are much larger than remittances, direct foreign investment and official development aid combined. Commercial tax evasion represent about two thirds of the 1.3 billion dollars and the remainder is associated with drug trafficking and corruption. The social cost of this money is immense. Additionally, most of the money escapes fiscal controls and becomes lost to governments.

The estimated size of criminal income in the US is 4% of GDP (not including tax evasion). One might effectively argue that it would be more efficient to pursue criminals and put them behind bars for tax evasion rather than trying to put them on trial for their crimes.

Illegal fishing is a good example of the type of challenges we face, involving organised crime, tax evasion, environmental degradation, human trafficking, smuggling, flagstate issues, legal and jurisdictional issues etc. These problems are global, financial and commercial. Cooperation is needed at every level: geographically, between public agencies as well as inter and intra-state. It is of pivotal importance to track and investigate illicit profits and promote financial transparency and monitoring, elements which should be the foundational stones on which this is built.

IMPLEMENTING RESEARCH THROUGH COLLABORATION (VIDEO-LINK)

James Stewart
Assistant Professor, University of British Columbia.

James Stewart who could not attend the conference was considerate enough to have sent a video with his intervention. He talked about four different sets of literature with a significant impact on how to implement ideas in research through collaboration for corporate responsibility for international crimes. We need to stop thinking of law as lawyers and start an integrative movement of experts from a range of different perspectives.

1. Stewart referred to the influential work of Tracy Issacs and her book titled Moral Responsibility in Collective Contexts. Isaacs argues that when facing a large significant moral problem and when one recognizes that, as an individual, one cannot make a difference you need to collectivize efforts. According to Stewart, we are still a long way away from collectivizing all our efforts in the research field; we need to work towards this goal.
2. Philosophical pragmatism (i.e. John Dewey) speaks of developing robust theories but testing them at every stage to determine their value in the real world. This area of philosophy is critical of anything that seems to have no relevance in the real world. Stewart identified a symbiotic relationship in the realm of corporation and international criminal responsibility, between theory and practice. The field remains anchored to excessively abstract discussion and needs to examine the facts and proof in order to pool the evidence regarding what can and cannot be done.
3. A third influential literary source according to James Stewart is that of the field of criminology and the work of Professor David Garland on the abolition of the death penalty. One of the interesting things he points out is that social changes usually have nothing to do with academia. However, in the field of corporate accountability one has to try to nurture the sociological processes that may support the types of transitions we aim for.
4. Finally, drawing on arguments based on Marxist political theory, which are highly critical, one can shake the premises regarding the thinking that exploiting natural resources from conflict zones, regardless of the consequences, is absolutely acceptable. The key message Stewart tried to convey to the audience is the immense importance of including those who disagree from the mainstream ideas in the debate.

The core idea of Stewart's intervention relies on the premise that we need to be much more collaborative, go beyond our limited understanding as academics or lawyers and move beyond our comfort zones.

FOREGROUNDING CONFLICT: RESEARCH-ACTION IN A CONTESTED FIELD

Bruce Broomhall
Professor of Law, University of Quebec at Montreal.

For Broomhall, corporations are rational actors and need to be given an incentive to change their conduct. Corporations take decisions based on calculated risks.

How can current legal remedies be used to address issues in conflict financing on revenue flows from corporations in conflict areas? The G20 or G8 is to set a mandate for the financial action task force of the OECD responsible for money laundering regulations. Three or four high profile civil proceedings or prosecutions would go a long way towards changing the landscape of this field.

Capacity building for documentation and monitoring activities is also crucial to connect local activists in the south with policy makers in the north. Anglo Mining is a Canadian company that was taken to court accused of complicity in war crimes in the Congo. It took a 10-year effort documenting crimes systematically. Developing and sharing that information was key. Thus, a network could play an important role here.

Broomhall is sceptical about the conditions required for effective prosecution. Litigation is not really likely to occur. More important is the creation of a culture of accountability and responsibility. Documentation and monitoring, "*name and shame*", is still important and contributes to the desired accountability and mobilizes constituencies and eventually changes laws and enforces them. Local communities, media, indigenous peoples need to be mobilized.

STATE RESPONSES TO BUSINESS IN CONFLICT: FROM ENGAGEMENT TO PROSECUTION

Mark Taylor
Researcher and analyst, Fafo Institute for Applied International Studies.

The social culture, the environment in which prosecutors and judges work and how government resources are allocated are extremely important factors. The risk one needs to be aware of is that many of us may end up in a place where it is exclusively all about the social dimension and we lose touch with the law. However there should be a dialogic relationship between the two.

The document titled "Business and Human Rights in Conflict Affected Regions" that came together with the 2011 Ruggie report has gone widely unnoticed by the general public and contains important points and reasoning obtained from a series of meetings held with member state representatives.

In the first meeting, the response by state representatives to the question of how do you respond if one of your multinational corporations finds itself in conflict situations was a *"What?"* Most states encourage their companies to go abroad and do business but do not have a clear idea of how to react to hypothetical human rights abuses.

The document defines two broad categories of business enterprises: cooperative (i.e. willing to listen to advice) and uncooperative enterprises. The document includes a list of potential state responses depending on the type of company one needs to deal with.

Three broad approaches responding to the problem of companies in conflict areas were discussed during the conference:

1. The exclusion of certain types of behavioural crimes from global value chains.
2. The enforcement of law and the disruption of the activities of companies doing or contributing to damage.
3. The transformation of war economies and the peace building agenda.

However, there are two objectives that need to be kept in mind:

1. The change in corporate behaviour
2. The provision of justice.

Accountability is clearly the best tool for achieving both objectives. It is an incentive for business but it is also a way of obtaining justice for victims.

THE HUMAN RIGHTS DIMENSION OF BUSINESS OPERATIONS AMIDST CONFLICT: WHAT ROLE FOR STATES

Anita Ramasastry
Professor of Law, School of Law, University of Washington.

Anita Ramasastry began by underlining the importance of understanding how states and businesses think about accountability. This is a complex endeavour and there is a need for joining efforts with business ethicists and sociologists to work for solutions.

We have made some progress but we are still far from fully understanding the absolute potential of the state role. Apart from the issue of accountability, there is the issue of what support states can provide to companies. If companies are to be more accountable, the question from the private sector might be, "What can you do to help us?"

Part of this reasoning stems from the experience home states have acquired with respect to the anti-corruption regime. One of the biggest challenges for home states is the issue of a lack of willingness to provide legal advice by citing the argument that states are not consultants; it is not the state's business to tell companies what is, and what is not legal.

However, SMEs do need the help on anti-corruption norms. The role of embassies in host states is crucial in providing guidance. The question is whether a similar initiative can be implemented in regards to the area of business and human rights. Several points and experiences can help in this respect.

1. The creation of a curriculum for embassy personnel to provide guidance on the host countries proven to be a successful tool for the US administration. Embassy staff was provided with training to help them gain a better understanding of how and in what respect they can guide companies.
2. Technology companies come back to the US government saying, "We have to do business in conflict zones". Enterprises are put under pressure by host states to provide information about users, limit networks etc. (i.e. Google, yahoo in China). These companies fear reprisals and threats to the safety of their own workers if they refuse these particular demands. The collective action of home states in the interest of their companies can be extremely useful.

3. Another relevant experience was the MacBride Principles to avoid discrimination by companies when hiring catholic or protestant employees in Northern Ireland. In that situation, the home states, particularly the UK and the US, did not re-affirm the principles nor supported them. Therefore companies did not enjoy the comfort level to apply them.
4. Finally, funding and supporting multi-stakeholder initiatives such as the Voluntary Principles or the Global Network Initiative, is another effective way for home states to invest in supporting their companies when operating in conflict areas.

Ramasastry closed her speech by pointing out that it is important to find spaces which enable us to step outside our own perspectives and this might help us to encourage corporations to make the move forward.

LATEST DEVELOPMENTS AROUND THE UN ARMS TREATY

Brian Wood
Research and Policy Manager for Military, Security and Police Transfers, Amnesty International.

Brian Wood updated the audience on the progress made since the previous conference in respect to the UN Arms Trade Treaty.

The Arms Treaty is a complex negotiation involving arms manufacturers, states and the global society. However, the US administration is to play a crucial role in future progress to be achieved in negotiations.

In any case, independently of the will of the most powerful political stakeholders (the UN Security Council and Germany), the Arms Treaty has several weaknesses and major loopholes, which Wood explained in detail. Some of the most relevant issues cited here represent significant limitations before the treaty can be considered acceptable from the point of view of Amnesty International.

A standard common practice in the arms trade such as “end-use” certificates that have to be authenticated is not even mentioned in the treaty. Another example of poor regulation on the Arms Treaty is the weak statement regarding brokering practices. The draft treaty states that controls on brokering *may require* registration (emphasis added). Any reference to arms transport is missing and the annual reporting is up to the reporter on whether to include authorizations and/or transfers. Still, some of the key questions to be discussed and agreed upon relate to

the recycling of old weapons, the types of weapons that are not covered by the treaty (i.e. ammunition) and the transfer of arsenals from one base to another.

On top of this, there are no verifications in the treaty that may compromise the states national security. The Arms Treaty remains an opaque question in many regards.

DEBATE

The debate, led by Tica Font, took a closer look at the difficulties the treaty might run into when applied to the members of the European Union. Tica argued that when an embargo is declared the EU, that is the 27 state members, has a common position on complying with the 8 criteria of export denial. However, we may find different interpretations of the 8 criteria according to each state. A classic example is the case of Colombia and Israel. Some EU members might consider that the second criteria applies to these countries as some members may consider that Israel and Colombia systematically violate human rights. Instead, other members may consider the opposite.

The definition of conflict might be the source of different interpretations as well as the criteria for assessing the risk and stability of potential importing countries from the EU. There is a problem of interpretation that might eventually lead to an extremely lax application of the Arms Treaty in the EU. In conclusion, the Arms Treaty will provide us with a strong moral foundation but it is poorly equipped from a legal perspective.

Brian Wood acknowledged Tica's arguments and recognized the fact that the EU system is weak in regards to the interpretation of the Arms Treaty. Arms treaties are not panaceas; these treaties are not going to solve the problem. However, through these instruments the civil society can alter the discourse and demand increased accountability from companies and states.

Andrea Iff recognized the role home states can play as explained by Anita Ramasastry. Nevertheless, Iff raised the question that the discussion about home and host states is separate one from each other, and in this regard, Iff advocates for capacity building for lawyers and judges in the host state not only for the home state's civil society. At this point, Anita Ramasastry agreed and added that what is needed is to create anticorruption and human rights champions among SME ministers.

6 SETTING UP A RESEARCH NETWORK ON BUSINESS, CONFLICT AND HUMAN RIGHTS

During the first part of the last session Antoni Pigrau and Maria Prandi exposed the results of a short questionnaire that had been delivered to the participants. The vast majority of answers expressed a great enthusiasm regarding the creation of the research network.

Following this presentation three working groups were established to try to advance on different topics of the research network: (1) Activities; (2) Membership and Rules; and (3) Next steps.

A standing group was created to try to draft a research network document and it was agreed to make a 2014 conference at London thanks to the offering of different participants.

Lastly ICIP authorities made brief conclusions about the research conference, thanked all the participants for their enthusiasm and attendance and expressed their satisfaction with the worked developed hoping it will be fruitful and productive for the future network.

ANNEX 1: CONFERENCE AGENDA

COMPANIES IN CONFLICT SITUATIONS

Barcelona, January 17th and 18th, 2013

INTERNATIONAL CATALAN INSTITUTE FOR PEACE

INTERNATIONAL CONFERENCE FOR RESEARCH

Companies, conflicts and human rights

This will be the 2nd conference hosted by the International Catalan Institute for Peace and is a follow-up to "The Role and Responsibilities of Companies in Conflict Situations: Advancing the Research Agenda", an international conference which took place in Barcelona on the 20th and the 21st October 2011.

Following the structure of the first conference, discussions will focus on the international markets in conventional arms, private military and security services, as well as on the access, exploitation and trade of natural resources. The conference will also include a session on the potential for businesses in peace-building.

The aim of the conference is twofold: first, to discuss the ongoing and future research agenda and second, to consider the possibility of setting up an international research network from an interdisciplinary perspective.

Participants will be strongly encouraged to exchange information about their own research; identify gaps, overlaps and synergies in their work; and consider possible future collaboration. To maximize discussion among participants, each session will begin not with detailed presentations, but with concise, approximately 10-minute interventions aimed at presenting issues and sparking discussion. The organizers hope that this will foster an interactive and creative atmosphere while focusing participants' attention on how to maximize the contribution of researchers and their institutions to this rapidly evolving field. The agenda is also organized by theme rather than by method, discipline or theoretical approach, thus allowing the latter differences to inform and enrich the discussion throughout. Moderators will also be asked to open each session with a short presentation.

PROGRAM

THURSDAY 17 JANUARY 2013

09.00 WELCOME AND OPENING ACT

- **Rafael Grasa**, President, International Catalan Institute for Peace (ICIP).
- **Joan Auladell**, General Director of Institutional Relations and with Parliament, Generalitat de Catalunya.
- *Presentation of the Conference*
  Antoni Pigrau, Director, 'Armed Conflicts, Law and Justice Program' (ICIP); Professor of Public International Law, Universitat Rovira i Virgili.

09.15 SESSION 1: BUSINESS INVOLVEMENT IN CONFLICT: LATEST DEVELOPMENTS

- *Business Actors in the Transnational Governance of Natural Resource Extraction*
  Annegret Flohr, Research Associate, Peace Research Institute Frankfurt
- *Conflict Minerals and Corporate Human Rights Due Diligence*
  Olga Martin-Ortega, Reader in Public International Law, School of Law, University of Greenwich
- *The Dodd-Frank Act: The Supply Chain Due Diligence Provisions (Section 1502)*
  Annie Dunnebacke, Senior campaigner, Global Witness
- *What's the Problem? Militarization of Economic Opportunity in War and Dictatorship*
  Mark Taylor, Researcher and analyst, Fafo Institute for Applied International Studies

Moderator: **José Luis Gómez del Prado**, former Chairperson of the UN Working Group on the Use of Mercenaries

11.00 COFFEE

11.30 SESSION 2: THE ROLE OF BUSINESS IN PEACE: ONGOING AND FUTURE RESEARCH

- *Neighbours in Post-conflict Economic Recovery*
  Andrea Iff, Senior Researcher and Project Coordinator of Business & Peace, Swisspeace
- *The Role of Business in the Colombian Peace-Process (video)*
  Angelika Rettberg, Professor, Department of Political Sciences, Universidad de los Andes, Bogotá
- *Building Social Cohesion Through Business: Dilemmas and Implementation Challenges*
  Maria Prandi, expert in Business and Human Rights; Associated researcher at the School for a Culture of Peace (Universitat Autònoma de Barcelona) and at Esade Business School. External collaborator at ICIP.
- *Women's Participation in Decision Making and the Reduction of Violence*
  Cora Weiss, President of the Hague Appeal for Peace

Moderator: **Desislava Stoitchkova**, Senior Program Officer at International Alert

13.30 LUNCH

15.00 SESSION 3: FOSTERING ACCOUNTABILTY THROUGH RULES, ATTRIBUTION, INVESTIGATION AND PROSECUTION

- *Home State Regulation to Ensure Accountability of Corporate Actors in Zones of Weak Governance*
  Penelope Simons, Associate Professor, University of Ottawa
- *The Retrogression from Filartiga to Kiobel*
  Peter Weiss, Vice-President, Centre for Constitutional Rights
- *International Law and the Use and Conduct of Private Military and Security Companies in Armed Conflicts*
  Marco Sassoli, Professor and Director of the Public International Law Department University de Genève

DEBATE 1 (30 MINUTES)

- *Latest Developments Around the UN Arms Treaty*
  Brian Wood, Research and Policy Manager for Military, Security and Police Transfers, Amnesty International
- *Notes on Extraterritoriality and the Protection of the Environment*
  Francisco Javier Zamora, Professor of Private International Law, Universidad Jaume I de Castellón
- *Legal Avenues Available to Victims Demanding Liability for Environmental Damage. EJOLT Project*
  Antoni Pigrau, Professor of Public International Law, Universitat Rovira i Virgili

DEBAT 2 (30 MINUTS)

Moderator: **William Bourdon**, Founder, Association Sherpa

WITH THE HELP OF:

Generalitat de Catalunya
Departament d'Economia i Coneixement
Secretaria d'Universitats i Recerca

17.30 PRELIMINARY CONCLUSIONS

Bruce Broomhall, Professor of Law, University of Quebec at Montreal, will make closing remarks based on the first three sessions and prompt participants to reflect on the day's discussions in preparation for the second day of the conference.

20.00 CONFERENCE DINNER

FRIDAY 18 JANUARY 2013

09.00 SESSION 4: FOSTERING INTERPLAY BETWEEN REGIMES AND ACTORS

- *Implementing Research through Collaboration (video)*
  James Stewart, Assistant Professor, University of British Columbia.
- *Foregrounding Conflict: Research-Action in a Contested Field*
  Bruce Broomhall, Professor of Law, University of Quebec at Montreal
- *State Responses to Business in Conflict: from Engagement to Prosecution*
  Mark Taylor, Researcher and analyst, Fafo Institute for Applied International Studies
- *The Human Rights Dimension of Business Operations Amidst Conflict: What Role for States*
  Anita Ramasastry, Professor of Law, School of Law, University of Washington

Moderator: **Harald Tollan**, Senior Advisor in the Multilateral Bank and Finance Section of the Norwegian Ministry of Foreign Affairs.

11.00 COFFEE

11.30 SESSION 5: SETTING UP A RESEARCH NETWORK ON BUSINESS, CONFLICT AND HUMAN RIGHTS

- *Presentation of the network proposal*
  Antoni Pigrau, Professor of Public International Law, Universitat Rovira i Virgili
- *Closing Comments*
  Maria Prandi, expert in Business and Human Rights; Associated researcher at the School for a Culture of Peace (UAB) and at Esade Business School. External collaborator at ICIP.

Moderator: **Bruce Broomhall,** Professor of Law, University of Quebec (Montreal)

13.30 CLOSURE

- **Tica Font,** Director, International Catalan Institute for Peace (ICIP)
- **Rafael Grasa**, President, International Catalan Institute for Peace (ICIP)

13.45 A GLASS OF CHAMPAGNE WILL BE SERVED

Venue: Generalitat de Catalunya, Departament of Economics and Knowledge, Gran Via de les Corts Catalanes 639 (Conference Room), Barcelona.

Director: Antoni Pigrau, director of the research program "Armed Conflict, Law and Justice" of the ICIP, Professor of Public International Law, University Rovira i Virgili

ANNEX 2: SHORT BIOGRAPHIES OF PARTICIPANTS

COMPANIES IN CONFLICT SITUATIONS

Barcelona, January 17th and 18th, 2013

INTERNATIONAL CATALAN INSTITUTE FOR PEACE

SHORT BIOGRAPHIES OF PARTICIPANTS

William BOURDON	William Bourdon is a French Lawyer, Member of the Paris Bar since 1980. William Bourdon focuses his practice on human rights, business criminal Law, international public law, international criminal law, business law, media law. He served as legal adviser in numerous major lawsuits including: the Burmese victims of forced labor in a lawsuit against the French oil company Total regarding its activities in Myanmar; the civil parties in a lawsuit against Reverend Wenceslas Munyeshyka, a Rwandan national; French-Chilian families in a lawsuit against General Augusto Pinochet, in October 1998; Algerian families in a lawsuit against General Khaled Nezzar; Tunisian families in a lawsuit against alleged Tunisian torturers, in October 2001. From 1995 to 2000, William Bourdon was Secretary-General of the Fédération Internationale des Droits de l'Homme (Human Rights International Federation). In 2001, William Bourdon founded SHERPA, an NGO that aims at fighting economic crimes. He has written several articles and books on the topics of human rights, international justice. His latest book is entitled *Face aux crimes du marché - Quelles armes juridiques pour les citoyens?* (Facing Economic crimes - What legal tools for citizens?, 2009).
Bruce BROOMHALL	Bruce Broomhall is a professor of law at the University of Quebec at Montreal (UQAM). He primarily teaches international and transnational criminal law, and conducts research on a range of issues related to transitional justice, universal jurisdiction, international peace and security, illegal economies of war, the responsibility of business actors in conflict settings, and children in the international justice process. Prior to this, Dr. Broomhall was Senior Legal Officer for International Justice at the Open Society Justice Initiative (Budapest), where he worked to promote the ratification of the Rome Statute of the International Criminal Court, the documentation of international crimes and the advancement of the contemporary system of international justice by coordinating advocacy, training, research and other types of collaboration in Cambodia, the Caucasus, Colombia and the Democratic Republic of the Congo. He is currently pursuing research on resource conflicts under international law.
Antoni CARDESA	Antonio Cardesa-Salzmann (PhD, Universitat de Barcelona, 2010) is a Post-doctoral Research Fellow at the Department of Public Law of the Universitat Rovira i Virgili. Previously, he had been assistant lecturer of international law at the Universitat de Barcelona (2005-10), and visiting researcher at the Max-Planck-Institute for Comparative Public Law and International Law (2008). He made an internship in the European Commission, DG Environment (2002), and post-graduate studies at the IEHEI (2001). He accomplished his PhD in International Law at the University of Barcelona in 2010 with a dissertation on Compliance Control Mechanisms in Global Multilateral Environmental Agreements. Papers based on his research have been selected for presentation in the 4th Biennial Conference of the European Society of International Law (Cambridge, 2010), and published in the Revista Electrónica de Estudios Internacionales (2010) and the Journal of Environmental Law (2012). He has also authored a monograph on this topic (El control internacional de la aplicación de los acuerdos ambientales universales, Marcial Pons, 2011). Having joined the Universitat Rovira i Virgili in September 2010, he participates in several research projects on justice, environmental protection and international law. In this context, he has co-authored with Antoni Pigrau Solé the paper 'Seeking justice in a multipolar world: Reflections on a global standard of access to justice for transnational litigation', which was recently presented in the 2nd Research Forum of the American Society of International Law (Atlanta, 2012).
Annie DUNNEBACKE	Annie Dunnebacke leads Global Witness's Conflict Resources team, managing campaigns covering oil governance in South Sudan, the trade in conflict minerals in eastern Democratic Republic of Congo and Zimbabwe's diamond sector. Annie coordinated the organisation's work on conflict diamonds and the Kimberley Process for four years and more recently led the conflict minerals campaign, carrying out frequent field investigations in the Great Lakes region and other parts of Africa. Before joining Global Witness, Annie worked for non-governmental organisations in Central Africa, Croatia, the UK and Canada on a range of issues including arms control and human security, children and women's rights, and human rights education. She holds an MA in Conflict Resolution and Peacebuilding from the University of Leuven.

COMPANIES IN CONFLICT SITUATIONS

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Tica FONT	Tica Font graduated in physics at Valencia University. After completing her studies, she moved to Barcelona, where she actively participated in the campaign against Spain joining NATO. She has worked for peace ever since. She founded the Centre d'Estudis per la Pau J.M. Delàs and was the vice-president of the NGO Justícia i Pau. She was also the president of the Catalan Federation of NGOs for Peace and, in March 2009, she became the Director of the International Catalan Institute for Peace (ICIP). Tica Font is an expert on econòmic aspects of defence matters, arms trade, defence budget, military industry, etc. She collaborates on many research projects and publications about these topics, such as: *Atlas del militarismo en España 2009*, *El comercio de armas español* (2009) and *Informe 2009, exportaciones de Material de Defensa 1999-2008* (2011).
Mark FREEMAN	Mark Freeman is the Executive Director of the Institute for Integrated Transitions. A Belgian and Canadian citizen, Mark is an international lawyer and leading expert on human rights issues in contexts of democratic and postconflict transition. During the last 15 years he has worked extensively with societies in transition including Algeria, Bolivia, Bosnia-Herzegovina, Burundi, Colombia, DR Congo, El Salvador, Kenya, Mauritania, Morocco, Nepal, Serbia, Sri Lanka, Tunisia, Turkey and Zimbabwe. Mark helped launch and direct the International Center for Transitional Justice, in New York and in Brussels, and is the author of several leading texts on issues of political and post-conflict transition including Necessary Evils: Amnesties and the Search for Justice (Cambridge University Press, 2010) and Truth Commissions and Procedural Fairness (Cambridge University Press, 2006), which received the American Society of International Law's highest award. Mark is a lecturer-in-law on Transitions and Conflict Management at the KU Leuven Faculty of Law and previously served as Chief of External Relations at the International Crisis Group. Fluent in English, French and Spanish, he holds a B.A. in Humanitarian Studies from McGill University, a J.D. from the University of Ottawa Faculty of Law and an LL.M from Columbia Law School where he was a Human Rights Fellow and James Kent Scholar.
Annegret FLOHR	Annegret Flohr is a research fellow at the Peace Research Institute Frankfurt (PRIF) where she works in the private actors-programme. Annegret's research focuses on the role of corporations in global governance processes and on the effectiveness and legitimacy of non-state forms of regulating corporate behaviour. Currently, she is involved in two research projects. One takes a closer look at the effects of corporate participation in the governance of natural resource extraction. The second analyzes the potential and limits of corporate grievance mechanisms in solving disputes with local communities. Annegret studied International Relations, Public International Law and Human Rights at universities in Dresden, Geneva, Malta and Paris. She has been interning and volunteering with several intergovernmental and non-governmental organizations with a focus on human rights advocacy.
Júlia Gifra	Júlia Gifra is associate lecturer on public international law at the Universitat Autònoma de Barcelona. She holds law degree and a Master in International Studies from the Universitat Pompeu Fabra. She received her Ph.D. (cum laude) in law at the University Pompeu Fabra. She wrote her thesis on DR Congo and Peace Operations. From 2004, she is the coordinator of the Summer Courses on Human Rights at the Collège Universitaire Henry Dunant (Geneva). Since 2004 she has been associate lecturer in public international law at Universitat Autònoma de Barcelona. Between 2004 and 2009 she was lecturer in Human rights and Peacekeeping at the Escuela de Prevención y Seguridad Integral.
José Luis GÓMEZ DEL PRADO	He is a Former Member of the UN Working Group on the Use of Mercenaries, serving in his personal capacity as a human rights independent expert. Has chaired the Group at several sessions and presented a number of reports to the UN Human Rights Council and the General Assembly. Former Senior Officer of UN OHCHR has coordinated the UN Security Council Expert Group entrusted for investigating and determining the genocide committed in Rwanda in 1994 as well as other UN human rights missions in the Region of the Great Lakes in Central Africa. He has assisted Mary Robinson in coordinating the World Conference against Racism. Member of the Spanish Society for the Advancement of Human Rights Law (AEDIDH). Last articles and monographs: *Hacia la Regulación internacional de las empresas militares y de seguridad privadas*, Editorial Marcial Pons, Barcelona, 2011; "Privatising security and war", in *Forced Migration Review*, Refugee Studies Centre, University of Oxford, Issue 37, March 2011; "A United Nations Instrument to Regulate and Monitor Private Military and Security Companies", in *Notre Dame Journal of International, Comparative and Human Rights Law*, Vol. I, Number 1, Spring 2011; "Impact on Human Rights of a New Non-State Actor: Private Military and Security Companies", in *The Brown Journal of World Affairs*, Fall/Winter 2011-Vol. XVIII Issue I. A UN Convention to Regulate PMSCs? in *Criminal Justice Ethics*, Vol. 31 Issue 3 December 2012. Visiting Professor in European and American Universities.

Alfons GÓNZALEZ	Alfonso González Bondia is lecturer in public international law and international relations at the Universitat Rovira i Virgili (URV). He is visiting professor at the Official Master in European Integration and the Official Master in International Relations and Security and Defence of the Universitat Autònoma de Barcelona (UAB) and postgraduate teaching in various management and local law courses at the School of Public Administration of Catalonia. His research areas include law and institutions of the European Union, European foreign and security policy, local entities and Europe, the European environmental law and teaching innovation in the legal field with more than 40 publications on these areas. Currently he is Dean of the Faculty of Legal Sciences at the URV and he is involved as an active researcher of the Research Group on Planning, Citizenship and Sustainability (environmental law, immigration and local government) of the URV and of the Observatory of European Foreign Policy CIDOB /UAB. Alfonso González Bondia is B.A. in Law, Universitat Autònoma de Barcelona -UAB- (June, 1991); Master in "Comparative law", UAB (September 1993); Ph.D. in Law, Universitat Rovira i Virgili -URV- (May 2003).
Rafael GRASA	Rafael Grasa is the President of the International Catalan Institute for Peace (ICIP) and Professor of International relations at the Universitat Autònoma de Barcelona (UAB). He also teaches at the Barcelona Institute for International Studies (IBEI) and regularly gives guest lectures on conflict resolution and development cooperation at various other universities in Spain and Latin America. He also coordinates ICIP´s research programme on 'Human Security, Conflict Transformation, and Peace Investigation' and has been President of the Catalan Federation of Development NGOs, member of the Spanish Council for Cooperation Development, and the Catalan Council for the Promotion of Peace. His latest book is entitled *Cincuenta años de evolución de la investigación para la paz: tendencias y propuestas para observar, investigar y actuar* (2010).
Lina GRIP	Lina Grip (Sweden) is a Researcher with the SIPRI Arms Control and Non-proliferation Programme. Her research interests include regional and multilateral governance policies and processes, with a focus on those covering weapons and weapons technology. Lina is currently involved in a research project which investigates the possibilities for setting up an African governance structure for natural uranium extraction and trade.
Sònia GÜELL	Sonia Güell is, since January 2006, Associate Professor at the Department of International Law and International Relations at the Pompeu Fabra University. Her last publications are: La privatización del uso de la fuerza armada. Política y derecho ante el fenómeno de las "Empresas militares y de serguridad privadas (coord.), J.M. Bosch: Barcelona (2009) and Conflictos armados internos y aplicabilidad del derecho internacional humanitario, Madrid: Dykinson (2005).
Andrea IFF	Andrea Iff is Senior Researcher and Project Coordinator of Business & Peace at Swisspeace. She holds a PhD in political science from the Institute for Political Science at the University of Bern (2009), where she also earned her Master's degree in Political Science, Media Science and Public Law. Before joining the University of Bern as a scientific assistant, she worked with PricewaterhouseCoopers, the Swiss Federal Government and at the Institute of Political Science of the University of Zurich. Before entering the field of Business & Peace, she worked mainly on institutions and conflict transformation. She has studied with Prof. Ronald L. Watts at Queen's University, Kingston in Canada and consulted Berghof Foundation on the question of federalism and decentralization in Sri Lanka.
Olga MARTÍN-ORTEGA	Olga Martin-Ortega is currently a Reader In Public International Law at the University of Greenwich in the United Kingdom. She holds a Law degree from the University of Sevilla (Spain) and received her PhD cum laude in International Human Rights Law at the University of Jaen (Spain) in 2006. Prior to joining Greenwich she was Senior Research Fellow and member of the Management Team at the Centre on Human Rights in Conflict, School of Law and Social Sciences, University of East London. She conducts research in the areas of business and human rights, post-conflict reconstruction and transitional justice. Her latest research has focused on the impact of the activities and working methods of multinational enterprises in conflict zones and peacebuilding and transitional justice in Bosnia-Herzegovina and Spain. She is a founding member of the London Transitional Justice Network and the European Society of International Law Interest Group on Business and Human Rights. Among her publications are: the monograph Empresas Multinacionales y Derechos Humanos (Bosch 2008); the co-edited volumes Peacebuilding and Transitional Justice on the Ground: Victims and Ex-combatants (Routledge, 2012); Peacebuilding and the Rule of Law in Africa (Routldege, 2011); Surviving Field Research (Routledge, 2009) and the textbooks International Law (Sweet and Maxwell, 2009) and War, Conflict and Human Rights (Routledge, 2010).

COMPANIES IN CONFLICT SITUATIONS

Barcelona, January 17th and 18th, 2013

Corrina MORRISSEY	Corrina Morrissey is a social anthropologist. She worked as a desk officer at the Human Security Division from September 2011 and was responsible for Business and Human Rights, Democracy and Human Rights, Rights of the Child and Switzerland's Human Rights policy in Latin America. Since 1st January 2013 she is no longer in charge for democracy and human rights in order to strengthen her focus.
Irene PIETROPAOLI	Irene Pietropaoli is PhD Candidate at the Law faculty of Middlesex University, London (research on corporate legal accountability & transitional justice); lecturer in Business & Human Rights at Regent's College, London; and Researcher at the Business & Human Rights Resource Centre, London. Previous work for a number of international organizations and NGOs in South America, South and Southeast Asia: ECPAT International, Thailand; VSO International, Laos; Informal Sector Service Centre (INSEC), Nepal; Inter-American Court of Human Rights, Costa Rica. Educated at Irish Centre for Human Rights (LLM Honours – International Human Rights Law); Univ. La Sapienza (Rome) (JD); Univ. of Barcelona (law degree).
Antoni PIGRAU	Antoni Pigrau is the Director of the 'Armed Conflicts: Law and Justice Research Programme' at the International Catalan Institute for Peace (ICIP) and member of the Board of Governors of the institute. He is Professor of public international law and international relations and currently teaches at the Faculty of Legal Sciences of at the Universitat Rovira i Virgili (URV) in Tarragona, where he has served as both Vice-President and Secretary General. He collaborates with the Permanent Peoples' Tribunal, is the Spanish correspondent for the Yearbook of International Humanitarian Law, is the Director of the Tarragona Centre for Environmental Law Studies (CEDAT) and is Editor-in-Chief of the Revista Catalana de Dret Ambiental, coedited by URV and the Generalitat de Catalunya. Antoni Pigrau is also author of a variety of works on the topics of environmental law, international humanitarian law, criminal international law and liability for environmental damages.
Maria PRANDI	Maria Prandi is a consultant on Business and Human Rights. She is associated researcher at the School for a Culture of Peace (Universitat Autònoma de Barcelona) and researcher and associated lecturer at the Institute for Social Innovation at ESADE Business School (Universitat Ramon Llull). She is member of the UN GC Expert Group on Responsible Business and Investment in High-Risk Areas. She has worked in the field of human rights as a consultant and participated at the former UN Commission on Human Rights and Sub-commission (Geneva). She has done field research in Nepal, Morocco, Colombia and Mexico. She is currently a Ph.D. Candidate in International Relations at the UAB. She holds a Master in International Relations (with Honours) and a Postgraduate Diploma on Culture of Peace (UAB). She has conducted her research in the following fields: the dilemmas that transitional justice is confronting in many post-conflict contexts and the role of business in relation to the three UN pillars: human rights, development and peace-building. Her last main publications include Can companyies contribute to the MDG? Keys to understand and act (2009), A Practical Handbook on Business and Human Rights (2009) and CSR in Conflict and Post-Conflict Environments: From Risk Management to Value Creation (2010). She is also co-editor of the book Transitional Justice and Human Rights: Managing the Past (2010) and co-author of the yearbook Alert! Report on Conflicts, Human Rights and Peacebuilding, since its first edition from 2002 to 2011.
Anita RAMASASTRY	Anita Ramasastry is the UW Law Foundation Professor at the University of Washington in Seattle. Her research and teaching focuses on anti corruption, business and human rights, law and development and commercial law. From 2009-2011, she was a senior advisor in the International Trade Administration at the US Department of Commerce, as part of the Obama administration. Her work with the US governmment focused on anti corruption and trade. Her most recent research project focused on the role of states in promoting and regulating human rights due diligence.

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Marta REQUEJO	Marta Requejo is a tenured lecture of Private International Law at the University of Santiago de Compostela. She obtained her law degree in 1992, and holds a Doctorate (European Doctorate, 1996) from Santiago de Compostela University; since 2011 she is eligible for senior professorship. Her primary teaching and research interests are conflict of laws and private international litigation. She has been visiting professor in Paris (Paris-Panthéon University), Madrid (Complutense University) and Salamanca, as well as visitor for researching purposes at the Max Planck Institute on Foreign and Private International Law (Hamburg, Germany), the Institut Suisse de Droit Comparé (Lausanne, Switzerland), the Paris-Pantheon University, and the BIICL (London). From February 2013 she will be working as a senior researcher at the Max Planck Institut Luxembourg. She has published several monographs, articles printed in Spanish and foreing collective works, and numerous papers in law journals, like the Revista Española de Derecho Internacional, Diario La Ley, Revista de Derecho Comunitario Europeo, Noticias de la Unión Europea, The European Legal Forum, the Era Forum, the Yearbook of Private International Law, or the Revue Critique de Droit International Privé. She belongs to the Group of research De Conflictu Legum, where she has led two governmental-funded research projects centered on civil litigation against MNCs and TNCs for violations of human rights. She is member of different academic organizations, such as the Asociación Española de Profesores de DI, Relaciones Internacionales y Derecho Internacional Privado, the BIICL, and the ESIL, where she has funded and chaired the group of interests "International Business and Human Rights". She is editor of the website www.conflictoflaws.net.
Angelika RETTBERG	Angelika Rettberg earned her PhD from Boston University. She is an associate professor and chair of the Political Science Department at Universidad de los Andes (Bogotá – Colombia). She also leads the Research Program on Armed Conflict and Peacebuilding at the same university. Her research has focused on the private sector as a political actor and, specifically, on business behavior in contexts of armed conflict and peacebuilding. She has also been involved in research about other aspects of the political economy of armed conflict and peacebuilding, such as the relationship between legal resources, armed conflict, and criminality in several Colombian regions as well as the dynamics of transitional justice. Her research has been funded by the International Development Research Centre of Canada (IDRC), the Social Science Research Council, the Colombian Institute for Science and Technology, the World Bank, the United Nations Development Program (UNDP), the Gesellschaft für Internationale Zusammenarbeit (GIZ), and the Universidad de los Andes. She has published over ten books, and more than forty journal articles and book chapters. Her most recent edited book is Construcción de paz en Colombia (Peacebuilding in Colombia, Bogotá: Ediciones Uniandes, 2012).
Josep Maria ROYO	Josep Maria Royo has been, since 2000, a researcher at the Conflict and Peacebuilding Programme at The School for a Culture of Peace and lectures on peace and conflict subjects at several universities in Spain. He has given technical support to the Spanish Farewell to Arms Campaign led by Amnesty International, Greenpeace, Doctors Without Borders, Intermón OXFAM and 13 other NGOs. His expertise includes conflict and peacebuilding in Africa and his work is focused on sub-Saharan Africa, specially the regions of Great Lakes and the Horn of Africa. His areas of interest include non-state armed actors, armed conflicts and Peace processes. He has conducted field work in Djibouti, Kenya, Burundi, Uganda, DR Congo and Rwanda. He attended some sessions of the Somali National Peace and Reconciliation Conference organized by the regional Organization IGAD held in Kenya between 2002 and 2004. Since its first edition in 2002, he has been co-author of Alert! Report on conflicts, human rights and peacebuilding, and has written book chapters, reports and articles on the Great Lakes Region and the Horn of Africa, among others. He is a member of the NGO Advisory Council Lliga dels Drets dels Pobles for its campaigns on DR Congo. He also participates in the Network for DR Congo (a Catalan NGO) and cooperates with MSF-Spain in the analysis of the Central Africa context. He holds a Master in International Relations (with honours), a Postgraduate Diploma in Peace Culture, and a BA in Political Science specialized in International Relations by the Universitat Autònoma de Barcelona, as well as several specialization courses on Mediterranean and African Affairs. He is currently working on a Ph.D. dissertation about non-state armed groups in Africa.

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Marco SASSOLI

Marco Sassòli, a citizen of Switzerland and Italy, is professor of international law and Director of the Department of international law and international organization at the University of Geneva. From 2001-2003, Marco Sassòli has been professor of international law at the Université du Québec à Montreal, Canada, where he remains associate professor. He is also associate professor at the University de Laval, Canada and chairs the board of Geneva Call, an NGO engaging armed groups to respect international humanitarian norms. Marco Sassòli graduated as doctor of laws at the University of Basel (Switzerland) and was admitted to the Swiss bar. He has worked from 1985-1997 for the International Committee of the Red Cross at the headquarters, inter alia as deputy head of its legal division, and in the field, inter alia as head of the ICRC delegations in Jordan and Syria and as protection coordinator for the former Yugoslavia. During a sabbatical leave in 2011, he joined again the ICRC, as legal adviser to its delegation in Islamabad. He has also served as executive secretary of the International Commission of Jurists and as registrar at the Swiss Supreme Court. Marco Sassòli has published on international humanitarian law (inter alia How Does Law Protect in War? 3rd ed., Geneva, ICRC, 2011, 2580 pp. (with A. Bouvier and A. Quintin)), human rights law, international criminal law, the sources of international law and the responsibility of states and non-state actors.

Jaume SAURA

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Penelope Simons is an associate professor at the Faculty of Law (Common Law Section), University of Ottawa, Canada. She has been engaged in research on corporate human rights accountability since December 1999 when she participated in the Canadian Assessment Mission to Sudan (Harker Mission), appointed by Canada's Minister of Foreign Affairs and International Trade, to investigate allegations of slavery as well as links between oil development in Sudan and violations of human rights. Her current research is focused on the human rights implications of domestic and extraterritorial corporate activity as well as state responsibility for corporate complicity in human rights violations. She is the co-author with Audrey Macklin of The Governance Gap: Extractive Industries, Human Rights, and the Home State Advantage (Routledge, forthcoming 2013) which examines the human rights implications of corporate activity in zones of weak governance and argues for home state regulation. She is also a co-author with Anthony VanDuzer and Graham Mayada of Integrating Sustainable Development into International Investment Agreements:A Guide for Developing Countries (forthcoming 2013), a book that discusses ways in which international investment treaties could be reimagined to address more effectively the sustainable development concerns of party states. Penelope teaches international human rights law, business organizations, public international law and a course on the intersections between human rights, transnational corporate activity and international economic law.

James STEWART

Professor Stewart joined UBC law in August 2009, after spending two years as an Associate-in-Law at Columbia Law School in New York. Prior to his time at Columbia, Professor Stewart was an Appeals Counsel with the Prosecution of the United Nations International Criminal Tribunal for the former Yugoslavia. He has also worked for the Legal Division of the International Committee of the Red Cross and the Prosecution of the International Criminal Tribunal for Rwanda. His research interests include international criminal law, the laws of armed conflict, international human rights, comparative criminal law, theory of criminal law, public International law, counter-terrorism, corporate criminal liability, corporate responsibility for international crimes and the Great Lakes Region in Africa. Professor Stewart initially graduated from Victoria University of Wellington, New Zealand with degrees in both law and philosophy. He has since completed a Diplôme d'études approfondies in international humanitarian law at the Université de Genève and is currently finishing a JSD at Columbia University in New York. He has taught at Columbia Law School, NYU Law School, and the University of Geneva. Professor Stewart was also the Chair of Editorial Board of Journal of International Criminal Justice between 2007 and 2010, and is presently an appointed member of the Institute of International Humanitarian Law. Different aspects of his work have been cited by the International Criminal Tribunal for Rwanda, The Special Court for Sierra Leone and the International Criminal Court.

INTERNATIONAL CATALAN INSTITUTE FOR PEACE

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Mark TAYLOR	Mark Taylor is a researcher at the Fafo Institute for Applied International Studies in Oslo. Mark's work focuses on regulatory and policy responses to violence and conflict, in particular the ways in which law is applied to non-state actors (armed groups, warlords, business). Mark is a former Managing Director at the Fafo Institute and represents Fafo as a founding member of the Center for American Progress' Just Jobs Network. Mark has been an advisor and analyst for governments, business, civil society organisations and the United Nations. In addition to his work at Fafo, Mark edits the legal blog Laws of Rule (www.lawsofrule.nte), writes for various media outlets including OpenDemocracy, the European documentary magazine DOX, and Le Monde Diplomatique (Norway). He holds a B.A. (honours) in Religious Studies from McGill University, in Montreal and an LL.M (cum laude) in Public International Law from Leiden University, The Netherlands (1996), where he is completing a mid-career PhD in International Criminal Law.
Harald TOLLAN	Harald Tollan is Senior Advisor in the Multilateral Bank and Finance Section of the Norwegian Ministry of Foreign Affairs. He is primarily engaged in issues of global finance, and in particular related to illicit capital flows and development. Tollan chaired the International Task Force on the Development Impact of Illicit Financial Flows, set up under the Leading Group on Solidarity Levies to fund Development, which helped bring illicit financial flows on to the international development agenda. He is involved in various initiatives Connected to tax evasion, anti-money laundering, fighting organised crime, asset recovery and capacity building. Tollan is an economist by profession and has worked on international issues for 15 years in the Norwegian Ministry of Justice, the Norwegian Agency for Development Cooperation and the Ministry of Foreign Affairs – including a posting to Mozambique.
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Jordi VIVES	Jordi Vives is a PhD candidate in International Management at the University of St Gallen under supervision of Prof. Dr. Florian Wettstein. He holds a Bachelor and a Master in Business Administration by ESADE Business School and a Master of Research in Political and Social Science at Pompeu Fabra University. Jordi Vives research focuses on the following fields: multinational corporations and their Human Rights duties and responsibilities, the political role and impact of transnational businesses on democracy in the context of a globalizing world and general business ethics and political theory. Since 2009, Jordi has collaborated regularly with the Institute for Social Innovation at ESADE as researcher and assistant lecturer on CSR and sustainability topics. On January 2012, Jordi joined the IWE team. On February 2012 Jordi was awarded a three years PhD Fellowship by the Oikos Foundation where he is responsible for the Oikos Case Writing Competition. He is also member of the Transatlantic Doctoral Academy on CSR (TADA). Jordi writes regularly at the Next Billion en Español blog. Before engaging into academia Jordi gained relevant professional experience at Deloitte and Touch and Hewlett Packard corporation.

COMPANIES IN CONFLICT SITUATIONS

Barcelona, January 17th and 18th, 2013

Cora WEISS	Cora Weiss has spent her life in the movements for civil rights, human rights, women's rights and peace. She was President of the International Peace Bureau (Nobel Peace Prize 1910) which she now represents at the United Nations and is President of the Hague Appeal for Peace. She was among the drafters of Security Council Resolution 1325 on Women Peace and Security and continues to work for its full implementation.
Peter WEISS	Peter Weiss has led a double life as an intellectual property lawyer (now retired) and a constitutional, International and human rights lawyer (now active). He was born in Vienna in 1925 and obtained his J.D. from Yale Law School in 1952. He has been active with the Center for Constitutional Rights (CCR) since 1968 and currently serves as one of its cooperating attorneys and Vice Presidents. He was the lead attorney in the Filartiga case which established, in 1980, the right to sue foreign persons and entities in US courts for gross human rights violations. He has worked with colleagues at CCR in litigation seeking to hold multinational corporations accountable for such violations. He was involved in the creation of the European Center for Constitutional and Human Rights (ECCHR) in Berlin and serves on its Advisory Board. Corporate accountability is one of ECCHR's main priorities. He is a former president and current co-president of the International Association of Lawyers Against Nuclear Arms and president of its US affiliate, the Lawyers Committee on Nuclear Policy. He was counsel to the government of Malaysia in the nuclear weapons case argued before the International Court of Justice in 1995. He has taught and lectured on international law and written numerous articles, including The Future of Universal Jurisdiction in International Prosecution of Human Rights Crimes, Springer 2006, and "Taking the Law Seriously: The Imperative Need for a Nuclear Weapons Convention", in Fordham International Law Journal, April 2011.
Celia WELLS	Celia Wells is Head of the Law School and Professor of criminal law at University of Bristol. Celia's research is mainly in criminal law with a particular specialism in corporate criminal liability. She has provided expert advice on corporate criminal responsibility to a number of national and international bodies including: OECD Bribery Convention Working Group; Specialist Adviser to the House of Commons Select Committee Inquiry into the Draft Corporate Manslaughter Bill (2005); the International Commission of Jurists' Expert Legal Panel on Corporate Complicity in International Crimes (2006); and as expert witness to the Parliamentary Joint Scrutiny Committee on the draft Bribery Bill 2009, resulting in a sharpening of the corporate offence (now Bribery Act 2010. s. 7). Her recent publications are: "Corporate Crime: Opening the Eyes of the Sentry", Legal Studies, 30. (pp. 370-390), 2010 and "Corporate Criminal Liability in England and Wales: Past, Present and Future", in M. Pieth, R. Ivory (Ed.), "Corporate Criminal Liability", (pp. 91-112), Springer Science and Business Media B.V, 2011.
Brian WOOD	Brian Wood is Amnesty International Research and Policy Manager for Military, Security and Police Transfers. Wood co-authored The Arms Fixers, a book detailing the methods used to traffic arm and has written numerous reports on the human rights impact of the largely unregulated arms trade. Wood has also served as an expert witness to the UN on arms embargo violations.
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