

## The Private Sector, Peacebuilding and the International Anti-Corruption Agenda

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Two years ago a leading international company approached Control Risks to seek advice on a proposed investment in an African country that—all being well—is in the process of recovering from a debilitating series of internal conflicts. There was little question about the commercial opportunities, and our role was to advise on political, security and integrity risks. The central question concerned corruption. Our client's senior executives were confident that they could obtain a license without paying a bribe. However, they were uncertain whether they could actually run their business without being ground down by multiple day-to-day and week-by-week demands for smaller operational bribes. If they succumbed to these demands, they feared that they would be vulnerable to prosecution under their home country's extra-territorial anti-corruption laws. Ultimately, we were unable to resolve their concerns. Our client's business development managers were keen to pursue the investment, but their lawyers were much more wary. As far as I know, they are still stuck in an internal impasse: the investment has not gone ahead.

This episode highlights the relationship—and the potential for tension—between two key policy objectives:

- Equitable economic development is an essential requirement for peacebuilding in post-conflict recovery. This will not happen without the active participation of the private sector in its many manifestations, ranging from small family businesses to large international companies.
- Good governance is likewise essential both to prevent abuses by predatory private sector actors, and to create the conditions where honest companies can compete fairly. The prevention of corruption is a vital part of the governance agenda.

The tensions concern timing and practical decision-making. As a recent World Bank report has pointed out, it can easily take a generation to create the legitimate institutions that can prevent repeated violence and—one might add—create an equitable business environment with low levels of corruption.<sup>2</sup> Businesspeople cannot afford to wait—the choice is therefore between operating in an imperfect business environment and not operating at all.

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2 World Bank, *World Development Report 2011: Conflict Security and Development*, 2011, p. 10.

This article explores these questions in greater detail. It argues that even in the most difficult environments business actors are far from helpless: they are capable of making better and worse choices that may have a positive or negative impact on recovery from conflict, resistance to corruption and the promotion of good governance. However, to make the best choices, they need the support of policymakers who have a nuanced understanding of how the private sector does and does not work.

## Conflict, corruption and the politics of patronage

Even when peaceful political engagement breaks down, as in a civil war, economic exchange continues in one form or another. Military leaders need financial resources to pay for weapons and to support their troops: they may achieve this through, for example, trading in “conflict minerals”. Not infrequently, war economics involves some form of “trading with the enemy”, as in the trading across the military front lines that took place in Bosnia in the early 1990s.<sup>3</sup>

These exchanges are not regulated by anything resembling a formal statute book, but by custom, a degree of mutual trust (even across political boundary lines), and the enforcement provided by powerful political and military leaders. To the extent that civilian businesses survive, they at the minimum need the acquiescence of these leaders. They pay for their acquiescence through tolls, revolutionary taxes or protection money: such kinds of payment are readily understandable in conflict environments but in more peaceful settings with a functioning state would be seen as illicit, possibly even a form of bribery.

Peace settlements end fighting but do not resolve conflicts, at least not overnight. To return to the Bosnia example, the 1995 Dayton Agreement ended the war but “froze” the conflict in that it formalized the division of the country between the Federation of Bosnia and Herzegovina and Republika Srpska. The main objectives of the Bosnian Muslim, Croat and Serb political leaders of the time remained unchanged: to preserve the interests of their ethnic constituencies and to protect them from domination by rival groups. They sought to reward their followers through various forms of commercial patronage. Well into the 2000s, “ethno-nationalist clientilism” has remained a major source of what is now regarded as corruption.<sup>4</sup>

The point about the politics of patronage applies with even greater force to Afghanistan where the state’s formal political institutions remain weak despite the staging of two sets of presidential and parliamentary elections since the fall of the Taliban in 2001. Bargaining between regional warlords with their own economic power bases remains a paramount feature of the country’s politics. In a 2009 essay, Alex de Waal argued that, for Western policymakers, “avoiding failure in Afghanistan means embracing its patronage politics—bribes and all”.<sup>5</sup>

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3 One example comes from Kiseljak, a Croat-majority town north-west of Sarajevo. The town was under the control of hardline Croat nationalists who developed a lucrative economic role as middlemen between the Serbs besieging Sarajevo and Muslim black marketeers; see A. Little and L. Silber, *Yugoslavia. Death of a Nation*, 1997, p. 295.

4 On this point, see B. Divjak and M. Pugh, “The political economy of corruption in Bosnia and Herzegovina”, *International Peacekeeping*, vol. 15, no. 3, 2008.

5 A. de Waal, “The price of peace”, *Prospect Magazine*, 17 November 2009, [www.prospectmagazine.co.uk/magazine/the-price-of-peace/](http://www.prospectmagazine.co.uk/magazine/the-price-of-peace/).

For a trader seeking to survive and prosper in the bazaars of Kabul, Kandahar or Herat, de Waal's observation might seem so obvious as to be scarcely worthy of comment. However, it would be wrong to imply that "bribes and all" do not matter. The need to pay "tribute" to political patrons, bribes to petty officials and protection money to racketeers threatens the commercial survival of local entrepreneurs and deters would-be international investors. This deterrent effect is all the greater because of the gradual emergence of an international legal regime against cross-border bribery.

## Emerging anti-bribery norms for international business

The expansion of global trade has been accompanied by the gradual evolution of global rules to remove the distorting effects of corruption. It would be rash to suggest that these rules are even close to being wholly effective, but at least it is possible to discern an emerging international framework. The rules are clear even if observance is still uneven.

### United States Foreign Corrupt Practices Act

The United States Foreign Corrupt Practices Act (FCPA), which was passed into law in 1977, was the first in a series of initiatives to curb international bribery. The origins of the FCPA lie in a set of political circumstances specific to the United States. The Watergate affair, which led to the resignation of President Richard Nixon in 1974, triggered a series of investigations into illicit political financing by United States companies first domestically and then abroad. In the course of these investigations it was discovered that United States companies were paying substantial bribes not only in developing countries but also in established democracies, notably including Japan, the Netherlands and Italy. The FCPA was the outcome of a widespread public and political reaction against these revelations.<sup>6</sup>

The significance of the FCPA lies in the fact that was the first extraterritorial anti-corruption law—United States companies and foreign companies listed on United States stock markets can be charged in the United States for paying bribes anywhere in the world. The FCPA refers specifically to the "supply side" of bribery: payments to foreign officials to obtain or retain business. A 1988 amendment to the act excludes so-called "facilitation payments" to speed up routine governmental actions, such as the processing of customs clearance, from the criminal provisions of the act. However, companies are still required to keep accurate records of such payments. The FCPA does not claim jurisdiction over the foreign officials who receive bribes: it is understood that their own governments are responsible for deciding whether or not to take action against them.

The FCPA sent a clear signal to United States companies but for the first 20 years of its existence there were no more than a handful of cases each year. In the 2000s the pace of enforcement has increased dramatically. According to the international anti-corruption non-governmental organization Transparency International there had been 275 FCPA enforcement actions by the end of 2011, and there were more than 100 investigations in progress.<sup>7</sup>

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6 For the circumstances leading to the FCPA, as well as its antecedents, see J.T. Noonan, *Bribes: the Intellectual History of a Moral Idea*, 1984.

7 Transparency International, *Exporting Corruption. Country Enforcement of the OECD Anti-Bribery Convention, Progress Report 2012*, 2012, p. 9.

## OECD Anti-Bribery Convention

In 1977 the United States government anticipated that its international counterparts would follow its example by introducing similar laws of their own. For 20 years, no other state responded. However, in 1997 the member states of the Organisation for Economic Co-operation and Development (OECD) signed the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. The Convention has now been signed and ratified by all 34 OECD member states as well as six others: Argentina, Brazil, Bulgaria, Colombia, the Russian Federation and South Africa. China has introduced its own extra-territorial anti-corruption legislation but has yet to adopt the Convention.

The design of the OECD Anti-Bribery Convention is broadly similar to the FCPA in that it focuses specifically on the bribery of officials “in order to obtain or retain business or other improper advantage in the conduct of international business”. Signatories are required to implement legislation meeting the principles of the Convention within the framework of their own legal systems.

Importantly, the OECD operates its own peer-review system, which is now going through its third phase. Each country is examined according to a prescribed set of criteria by a group of reviewers consisting of OECD staff members and representatives of two member states. These reviews are published on the OECD website and, although always phrased in polite diplomatic language, are often sharply critical. Criticism from the OECD Working Group on Bribery contributed to the political momentum leading to the United Kingdom’s 2010 Bribery Act (see below).

The Convention sets a clear standard but enforcement has been uneven. The United States has by far the largest number of enforcement cases, followed by Germany which had 176 enforcement cases by the end of 2011 according to Transparency International, which also reported five other states with “active enforcement”—Denmark, Italy, Norway, Switzerland and the United Kingdom—and 12 others with “moderate enforcement”. Eleven states had no international anti-bribery enforcement cases at all.<sup>8</sup>

## United Kingdom Bribery Act

The United Kingdom Bribery Act (2010) sets a new international standard because it in several respects goes beyond both the FCPA and the OECD Convention. Unlike the FCPA the Act covers both domestic and foreign bribery, and there is no exclusion clause for “facilitation payments”. The Act applies to British companies and citizens and to both individuals and firms that have a “connection” with the United Kingdom.

The Act puts a strong emphasis on prevention in that it introduces a new offence of “corporate failure to prevent bribery”. If a rogue employee pays a bribe, companies can defend themselves to the extent that they can demonstrate that they have instituted “adequate procedures to prevent bribery”. The Act itself does not define “adequate procedures”, and ultimately it will be for the courts to decide on this point, but a United Kingdom Ministry of Justice guidance document makes a series of recommendations, including the need for strong leadership from senior management and a focused risk assessment.

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8 Ibid.

The Act came into force in July 2011 and is not retrospective. In any case it takes time to conduct international investigations and, at the time of writing in March 2013, there have been no international enforcement cases under the new law. However, since 2008 there have been 23 prosecutions of foreign bribery offences under existing United Kingdom legislation,<sup>9</sup> and there is therefore little doubt of the determination of the Serious Fraud Office—the lead United Kingdom agency on foreign bribery investigations—to enforce the law.

### **An increased focus on smaller, operational bribes**

Both the FCPA and the OECD Convention focus on “grand bribery”: substantial bribes to secure major contracts. However, the Bribery Act’s coverage of smaller bribes has contributed a greater international focus on smaller payments associated with day-to-day business transactions.

As noted above, the FCPA excludes “facilitation payments” from its definition of the criminal offence of foreign bribery. Canada, Australia, New Zealand and the Republic of Korea have followed the United States’ example. However, the exclusion has always been problematic at the operational level because it is often difficult to differentiate between “bribes” that are forbidden and “facilitation payments” that may be considered acceptable. In December 2009 the OECD issued a Recommendation of the Council for Further Combating Bribery of Foreign Public Officials, which noted the “corrosive effect of small facilitation payments” and called on member states to “prohibit or discourage” them.<sup>10</sup> It has made similar recommendations in its Phase 3 reports on individual states’ enforcement of the Anti-Bribery Convention, for example with regard to Australia.<sup>11</sup>

The OECD’s recommendation makes sense on legal and social grounds. Exceptions to the law encourage companies and individuals to look for loopholes, which defeat its purpose. At the same time, the practice of soliciting and paying small bribes in return for what should be free public goods is socially corrosive in that it hits individual citizens and small firms hardest (larger international companies may be able to afford to pay) while depriving governments of much-needed revenue. Nevertheless, resisting demands for operational bribes presents a major challenge for larger or smaller companies in poorly governed countries. Typical problems range from demands for bribes in order to register companies, pay taxes or resolve legal disputes. In conflict-affected countries, businesses may be vulnerable to extortion demands backed by a threat of physical violence from the government forces that are supposed to protect them, as well as from rebels. Companies need to take account of all these factors in their risk assessments when looking at new commercial opportunities.

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9 Ibid.

10 OECD Working Group on Bribery, *Recommendation of the Council for Further Combating Bribery of Foreign Public Officials in International Business Transactions*, 2009.

11 OECD Working Group on Bribery, *Phase 3 Report on Implementing the OECD Anti-Bribery Convention in Australia*, 2012, p. 48.

## Opportunities, governance and risk in conflicted-affected regions

When markets start to open up as a result of economic reforms or political settlements there is often an initial flurry of enthusiasm in international business circles. To cite a now-distant example, a BBC news report in June 1999 carried the headline “UK industry prepares for Kosovo building bonanza”.<sup>12</sup> On a similar note, the allocation of construction contracts in Iraq has been a focus of widespread controversy.<sup>13</sup> More recently, thousands of would-be international entrepreneurs have been conducting reconnaissance visits to Myanmar, much of which still qualifies as a conflict-affected region, in the hope of profiting from the political reform process.<sup>14</sup> No one wishes to be left behind.

The initial excitement is typically followed by an extended period of sober analysis. Even if the enthusiasm is justified, it often takes years—at best—before initial hopes are matched by substantial benefits and bankable dividends. The details of these calculations of course vary according to the size, sector, nationality and appetite for risk of individual companies.<sup>15</sup>

The first questions are always commercial. Access to natural resources such as oil, gas and minerals has historically been a major attraction in countries such as Angola, the Democratic Republic of the Congo and Iraq. Petroleum and mining companies have long time horizons and are generally more willing to take risks. However, there may well be opportunities for companies in other sectors. Since the late 1990s, the rapid expansion of mobile phone networks has been a major commercial success story across much of sub-Saharan Africa, including in conflict-affected countries such as Rwanda, Sierra Leone and the Democratic Republic of the Congo. There is a similar “pent-up demand” in contemporary Myanmar. Larger and smaller companies from other sectors will hope to find their own niches.

If there is a half-way satisfactory answer to the commercial questions, companies will then consider other factors. These include security risks (bearing in mind that conflicts rarely cease overnight), the state of the country’s transport and communications infrastructure, and regulatory issues. The regulatory concerns may well derive from out-dated models that have survived because the country’s political energies have been diverted elsewhere. For example, post-war Bosnia’s legal system was based on the socialist model of the Tito period and far from friendly to the private sector. Myanmar is currently embarking on an extended process to reform a commercial legal framework deriving from the country’s

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12 “UK industry prepares for Kosovo building bonanza”, BBC, 4 June 1999, [http://news.bbc.co.uk/2/hi/uk\\_news/360925.stm/](http://news.bbc.co.uk/2/hi/uk_news/360925.stm/).

13 In its final report to the US Congress in 2011, the bipartisan Commission on Wartime Contracting in Iraq and Afghanistan concluded that “at least \$31 billion, and possibly as much as \$60 billion” had been lost to contract waste and fraud in the United States’ contingency operations in the two countries. See Commission on Wartime Contracting in Iraq and Afghanistan, *Transforming Wartime Contracting: Controlling Costs, Reducing Risks*, 2011.

14 According to the *Financial Times*, an official at the chamber of commerce in Yangon estimated that in May 2012 alone more than 4,000 businesspeople visited, in groups or individually, although these reconnaissance visits did not necessarily lead to quick investment decisions. See G. Robinson, “Companies wary of investment in Myanmar”, *Financial Times*, 12 June 2012.

15 I discuss these variations in greater detail in two earlier publications: *International Companies and Post-Conflict Reconstruction: Cross-Sectoral Comparisons*, World Bank, 2005; and “The role of private sector actors in post-conflict recovery”, *Conflict, Security and Development*, vol. 9, no. 1, 2009.

colonial inheritance as well as the socialist experiments of the 1960s and 1970s. Poor infrastructure and out-dated regulation lead to delays, for example in applications for license approvals, and therefore raise transaction costs.

At the operational level bribery demands can be regarded as a form of transaction cost. This typically works in one of three ways. The company can pay in order to remove some bureaucratic obstacle and therefore incurs extra financial costs. Alternatively, it resists payment and does not get what it needs. A third, somewhat hopeful outcome is that the company might resist payment and still gets what it needs, usually after an extended period of waiting. More broadly, high levels of bribery distort economies by favouring companies whose business model is based on a willingness to break rules, or the use of political connections, rather than quality and competitiveness.

Higher transaction costs may in themselves be sufficient to deter many would-be investors and entrepreneurs. However, international anti-bribery legislation adds an extra deterrent. Research by the United States-based economist Alvaro Cuervo-Cazurra suggests that companies from OECD countries have reduced their investment in countries with high levels of corruption since the OECD Anti-Bribery Convention came into force.<sup>16</sup> Recent commercial surveys point to a similar result. For example, a 2011 KPMG survey of United Kingdom and United States businesses showed that 70% of respondents agreed that there were places in the world where it was impossible to do business without engaging in corruption.<sup>17</sup> Among those who disagreed with this statement, 27% of United Kingdom respondents and 28% of United States respondents had nevertheless chosen not to do business in a country because of concerns about bribery and corruption. Neither Cuervo-Cazurra nor the KPMG survey include a category for conflict-affected countries in their findings. However, since conflict is often associated with poor governance, it can be inferred that these countries rank high in the list of states where high levels of corruption are a commercial deterrent.

Commenting on such findings, the United States lawyer Andrew Spalding has argued that the FCPA has in effect served as a form of economic sanction against emerging markets and that this is contrary to the policy objectives that the United States Congress had in mind when it passed the law.<sup>18</sup> He argues that this outcome is all the more unfortunate because it deprives emerging economies of the benefits of investment by responsible companies with high professional standards. All too often, these companies are replaced by what he calls “black knights”: second- and third-tier firms from non-OECD countries that have lower standards and in many cases are less capable of bringing the technical and financial resources needed to foster economic growth.

Spalding’s analysis raises challenging questions about the role of legal instruments in both reflecting and helping to form international anti-corruption norms: is the FCPA out of step with economic policy objectives? If so, does the same argument apply to other international laws introduced as a result of the OECD Convention? And what can be done to support good companies in high-risk countries?

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16 A. Cuervo-Cazurra, “The effectiveness of laws against bribery abroad”, *Journal of International Business Studies*, vol. 39, no. 4, 2008.

17 KPMG, *Global Anti-Bribery and Corruption Survey 2011*, 2011, p. 18.

18 A.B. Spalding, “Unwitting sanctions: understanding anti-bribery legislation as economic sanctions against emerging markets”, *Florida Law Review*, vol. 62, 2010.

In theory, one option might be to modify extraterritorial anti-corruption laws, or to make a tacit agreement not to enforce them. Neither option looks attractive. As noted above in the case of facilitation payments, creating carve-out exceptions to otherwise valid legal principles is problematic because it encourages companies and individuals to look for loopholes. Similarly non-enforcement or selective enforcement imply a willingness to accept double standards, and this contradicts the basic rationale for extraterritorial laws: global trade requires global rules.

Laws are in any case only one part of the solution. Rather than side-stepping the new laws, both governments and companies need to find ways of making them work.

## Strategies for effective commercial engagement

Even in high-risk countries, companies are far from being powerless. In the best case, strong anti-bribery laws such as the FCPA and the United Kingdom Bribery Act are a help rather than a hindrance to the extent that they give companies a credible reason for refusing to pay bribes. However, this will not happen unless companies take steps to develop concerted anti-bribery strategies.

Effective strategies start with internal measures such as those recommended in Transparency International's *Business Principles for Countering Bribery* and the United Kingdom Ministry of Justice's guidance document on the Bribery Act.<sup>19</sup> These include the publication of a clear statement of ethical principles as well as a training programme that includes a special focus on the key executives who are most likely to be exposed to bribery demands. Companies that have strong ethical standards should make this clear on their websites and in other external communications—the objective is to make it less likely that they will receive bribery demands because it is assumed that they will not pay.

The second step is a focused risk assessment that goes beyond a general overview of country risks to focus on the company's particular commercial sector and the kinds of transaction that it is likely to undertake. For example, within the construction sector, consultant engineers whose role is to ensure quality may face fewer risks than the contractors who are responsible for dealing with the local labour market and acquiring permits. It may be more readily feasible to take on a consulting project in a high-risk market than a contracting project. Similarly, as with other aspects of security and governance-related risk, some areas may be easier to operate in than others: it may not be appropriate to write off an entire country because it receives a poor rating on Transparency International's *Corruption Perceptions Index*. To take an obvious example, Lagos, the commercial capital of Nigeria, has higher governance standards than the Niger Delta region.<sup>20</sup>

Formal company procedures need to be accompanied by “soft” diplomatic skills. As a local businessperson interviewed for a Control Risks report on Nigeria commented, “If

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19 See [www.transparency.org/whatwedo/tools/business\\_principles\\_for\\_countersing\\_bribery/](http://www.transparency.org/whatwedo/tools/business_principles_for_countersing_bribery/); and [www.justice.gov.uk/legislation/bribery/](http://www.justice.gov.uk/legislation/bribery/).

20 On recent improvement in Lagos governance, as well as continuing challenges, see X. Rice, “Africa: lessons from Lagos”, *Financial Times*, 28 June 2012. For a review of governance problems in the Delta, see M. Peel, *A Swamp Full of Dollars: Pipelines and Paramilitaries at Nigeria's Oil Frontier*, 2011.



you are a smart Westerner, you will be able to get around a lot of things. If you are a dumb Westerner, you will get hit even more”.<sup>21</sup> Being “smart” in this instance includes having the cultural and social skills to read body language effectively, treating people with respect rather than patronizing them, and knowing when to persist and when to give up.

It may require years of experience to develop these kinds of skills. Working with local partners may be a potential short-cut as long as they are people who are both knowledgeable and committed to business methods that are within the law. Making payments via a local intermediary—by far the most common means of transmitting large bribes in international corruption—is not a solution.

While emphasizing that companies are not powerless, it is also important to recognize the scale of the challenges that they face. Demands for bribes often take the form of commercial extortion that in some cases may be backed by the threat of harassment and even outright violence. Well-documented examples include the demands for extra payments faced by truck drivers at checkpoints in Aceh, Indonesia.<sup>22</sup> Lasting solutions to these kinds of governance problems need to come from states.

## Peacebuilding, anti-corruption and the slow road to governance reform

If political actors and policymakers are to play their part, the first requirement is acknowledgement that resisting corruption is a priority. This has not always been as obvious as it may sound. Understandably, political factors tend to be decisive in peace negotiations to the extent that it may be considered acceptable to “buy off” conflicting parties with commercial concessions.<sup>23</sup> Similarly, in the immediate aftermath of conflict, holding elections or meeting humanitarian needs as soon as possible may seem less important than working on governance reform. Nevertheless, one of the main conclusions of a recent United Nations Development Programme (UNDP) report on corruption in post-conflict contexts is the need to begin the necessary reforms as soon as possible.<sup>24</sup> Failure to do so—as demonstrated by the experience of Afghanistan during the last 10 years—is to risk undermining the legitimacy of whatever post-war political settlement is in place.

The second requirement is an acknowledgement of the importance of the private sector in its various manifestations. Again, the point is not always seen as self-evident. As the same UNDP report noted, failure to engage the private sector was one of the reasons for limited progress in anti-corruption reforms in Sierra Leone in the mid-2000s.<sup>25</sup> The outcome was that local businesses sought to shift to neighbouring countries, presumably at the expense of local livelihoods.

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21 Control Risks, *Facing up to Corruption in Nigeria*, 2009, p. 17.

22 See World Bank, *Trucking and Illegal Payments in Aceh*, 2007.

23 For a review of these and related issues see D. Zaum and C. Cheng, “The role of corruption in peacebuilding”, *Anti-Corruption Research News*, no. 8, 2011. See also C. Cheng and D. Zaum (eds.), *Corruption and Post-Conflict Peacebuilding. Selling the Peace?*, 2011.

24 United Nations Development Programme, *Fighting Corruption in Post-Conflict and Recovery Situations. Learning from the Past*, 2010, p. 14.

25 *Ibid.*, p. 128.

In a 2010 article reviewing the role of the private sector in peacebuilding, Mats Berdal and Nader Mousavizadeh note that the “prevailing interpretation among both scholars and development actors and donors, at least with regard to the foreign private sector, has been one of suspicion and disapproval”.<sup>26</sup> As they go on to discuss, part of this suspicion derives from the widely publicized role of predatory local and international commercial actors in such activities as the trade in conflict minerals in parts of Central Africa. However, these concerns strengthen rather than weaken the argument for governance reforms that help to create an enabling environment for legitimate local and international business as distinct from predators.

Here it should be emphasized that the fundamental requirements of local and international business players are broadly similar.<sup>27</sup> In addition to basic physical security and a viable public infrastructure, these include the protection of property rights and access to dispute resolution without the need to pay bribes.

The process of governance reform demands persistence and a sense of realism. Johnston classifies two syndromes of corruption—*Oligarchs and Clans* and *Official Moguls*—that are often associated with conflict areas.<sup>28</sup> Noting that the reform process is often slow and fragile, he suggests that a third syndrome—*Elite Cartels*—may be regarded as a useful “halfway stage of reform”. If progress is going to be slow, that is all the more reason for starting as soon as possible.

## Conclusion: incremental progress and the need for a holistic view

To return to the problem outlined at the beginning of this essay, and maintaining an appropriate note of realism, what can one recommend to responsible companies seeking to do business in conflict-affected countries without paying bribes?

In Control Risks’ analysis, we were able to point to the experience of companies already working in the country concerned. They reported many frustrations. For example, one company told of appealing to higher authority in the national capital in order to resolve a demand for bribes from environmental inspectors, only for the problem to keep recurring. Another company reported making long round-trips to secure permits rather than paying bribes at check-points. The process of transporting goods across international borders was seen as particularly problematic.

Clearly, the transaction costs of operating in this country were going to be very high. We nonetheless thought that with persistence and skill the company should be able

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26 M. Berdal and N. Mousavizadeh, “Investing for peace: the private sector and the challenges of peacebuilding”, *Survival*, vol. 52, no. 2, 2010.

27 For a broader discussion of these points, see World Bank, *World Bank Development Report 2011. Conflict Security and Development*, 2011.

28 M. Johnston, *First Do No Harm—Then, Build Trust: Anti-corruption Strategies in Fragile Situations*, World Bank, 2010, p. 14. As Johnston describes it, the most notable characteristic of Oligarch and Clan corruption is “an atmosphere of pervasive insecurity, often accompanied by high levels of organised crime” (p. 26). Official Mogul corruption “involves corrupt figures—often, the top figures in a regime or their personal favorites—who practice corruption with impunity using state power almost as personal property” (p. 29). Elite Cartels “build extended networks of elites who share major benefits among themselves while staving off political and economic competitors” (p. 33).

to establish a style of business that was both commercially viable and consistent with international anti-bribery laws. However, there was always going to be an element of risk, and of course we could offer no guarantees.

The most important contribution of both local and international companies is to conduct their core businesses responsibly and thus to sustain livelihoods, contribute to national wealth and—in post-war settings—reinforce the economic foundations of peace. They are better able to make this contribution to the extent that host governments and international policymakers provide institutional support, free from the distractions of corruption. Peacebuilding, security and equitable economic development are not separate agendas: they are the same.

## Note

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