

CORPORATE ENGAGEMENT PROJECT

Issue Paper

Working with Local Authorities

This paper is one of a series of Issue Papers based on preliminary findings from the site visits and consultations carried out by the Corporate Engagement Project (CEP). CEP is a collaborative learning project involving multinational corporations that operate in areas of socio-political tensions or conflict.

Based on visits to companies' field site operations, CEP identifies and analyzes the challenges for corporations that recur across a wide range of different companies and contexts. From the patterns that emerge, CEP develops practical management tools to managers for supporting stable and productive relations in the societies where corporations work.

The Project is based on two fundamental premises:

1. Inevitably, corporations become a part of any context in which they operate. Companies' day-to-day activities have impacts on the societies where they work. These impacts can be either positive or negative, but, in a context of social or political tension, never neutral.

2. Most companies channel their interactions with local communities through community relations programs, often related to the objective of conflict management. However, daily operational interactions with communities such as compensation policies, hiring policies or stakeholder consultation are equally, if not more, important in establishing the terms by which communities view the impact of the corporation on their lives.

This paper is a working document, not a final product of the Project. Rather, its purpose is to elicit further thinking, experience, ideas and suggestions. Additional site visits and consultations are being carried out to encourage further engagement, challenge, and refinement of the ideas presented here.

More information on CEP can be found at <http://www.cdainc.com>.

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WORKING WITH LOCAL AUTHORITIES

A constant challenge for companies is how to work with the local authorities who control the areas where company activities take place. Companies often fear that these authorities will see any engagement as “political interference.” Many corporations rightly acknowledge that they should not attempt to choose, support, undermine or determine other people’s governments. They want to avoid the kind of neo-imperialism implied by political interference. However, engagement with local authorities is inevitable. It therefore needs to be managed to avoid “interference,” to avoid inadvertently fueling the conflict, and to ensure corporate responsibility for a company’s ethical standards.

Often the authorities—whether civilian or military—are part of the conflict. Their interactions with companies are shaped by the desire for power and military/strategic advantage. Companies, on the other hand, are often perceived through their association and interaction with governments to be legitimizing oppressive regimes or authorities that are part of a conflict. This is especially true for companies that have had a presence in the country since colonial times and are often seen as being part of the same “system.”

There are six typical ways in which companies’ associations and interactions with governments can fuel conflict:

1. **Providing revenue or other cash transfers.** Companies provide revenue to governments through joint ventures, taxation, sign-up bonuses, bribes or other fees.

When the authorities are part of the conflict, such revenues can be directly inserted into the war economy. External stakeholders are increasingly becoming vocal about corporate “complicity” when companies are associated (for example through joint ventures) with oppressive authorities. Local and community groups have voiced concern that, “Companies should take responsibility on how governments spend company-generated revenues.”

2. **Relying on state security forces.** Companies often have agreements with the government that require state security forces to provide security around the area of operations.

If the State is on one side in the conflict, the company will be perceived to be on that side of the conflict as well. Opposition groups may, therefore, consider corporate assets or villages surrounding the corporate site as legitimate military targets. Also security provided by state security forces can provide legitimacy to local commanders that allows them to further their own conflict agenda.

3. **Providing services the government should otherwise provide.** Companies often work in areas where the provision of social services such as education, law and order and

health care are low or absent. In such areas companies are compelled to provide some of these services, for some or all of the following reasons: a) because the government contract stipulates this; b) because local communities make this a prerequisite for allowing the company to operate; or c) because companies themselves see this as an appropriate risk mitigation strategy.

This can be seen as an acceptance of the government's abdication of responsibility, and can free up funds for the government to continue to pursue the conflict. (See "Special Risk: Substitution of Government Services", below.)

4. **Sharing infrastructure.** Company infrastructure (airstrips, roads) can be used by authorities, which may be perceived as company support for the authorities.

When these authorities take part in the conflict and use such infrastructure for the pursuit of warfare, companies are directly associated with support of the authorities' position in the conflict.

5. **Delegating negotiation with communities.** Especially in countries where companies have had a presence since colonial times and are backed up by their own powerful—and former colonial—governments, companies may be able to delegate their interaction with local communities to local authorities. For example, they request the authorities to "solve problems" when communities block a road to demand social services or compensation.

In such cases, local communities perceive that authorities are "in the pocket" of these companies. Especially in the logging sector, communities accuse the government of tolerating illegal activities. But community grievances are not only directed towards the government. Communities also hold companies responsible for "allowing" corrupt or violent behavior displayed by local authorities.

6. **Adhering to conditions imposed by the authorities.** Governments often place conditions on companies' rights to operate in an area. These can include political pre-selection of potential employees, (forced) population movements, the routing of a pipeline, etcetera.

When the government is taking part in the conflict, these conditions often relate to furthering their goals with regard to the conflict. Thus companies that go along with these conditions are inadvertently perceived as supporting one side or another.

Thus, the presence of large, multinational corporations inevitably has political and social impacts. Although a company may maintain a nonpartisan stance in relation to political allegiance in a foreign country, there is no neutrality in terms of the impacts of corporate operations on the societies where they work. Some people gain; others do not. Resource flows affect income and wealth distribution, social services and public welfare. These impacts can be negative, but they can also be positive.

OPTIONS AND ALTERNATIVES FOR WORKING WITH LOCAL AUTHORITIES

CEP has learned several lessons regarding interaction with local authorities.

1. Because local authorities control the space where companies operate, companies cannot avoid them.
2. Companies recognize that governance is not something to avoid. In fact, good governance is one way to reinforce intergroup connections and reduce intergroup tensions. The challenge is to reinforce legitimate authority rather than illegitimate authority.
3. Most importantly, companies realize that they cannot define “legitimate” governance for others. Rather companies need to know how people who live under the authority think about legitimacy.
4. We know from our earlier work with humanitarian agencies that people in different contexts have remarkable agreement about what constitutes “legitimate” and “illegitimate” authority. People agreed that legitimate authorities:
 - i. Do not coerce their own people through the use or threat of violence;
 - ii. Provide services (those most frequently mentioned were schools, roads and health care);
 - iii. Allow some form of interaction between themselves and the public so that people feel as if their ideas and needs can be heard in some ways.

Options and alternatives for working with governments include the following:

Focus on the existing parts of the government that function. Even if the company has only limited control over the effectiveness of government, it can conform to the general opinion that the government is ineffective and, thus, ignore and/or substitute for it. Alternatively, the company can choose to focus on reinforcing and building on those areas of government that are well functioning.

No authority is monolithic. Even the most repressive include individuals with different opinions and different motivations. Companies can find those people within the system who share some of their objectives with regard to support of civilians. Rather than focusing on the areas where things are not functioning, it is worth looking carefully for any areas (geographical or by function) where government is able to perform effectively. There are almost always some aspects of government that do work; some individuals who are effective; some “pockets” of administrative success. Within all governments there are committed and able civil servants who want to perform their jobs competently. Such civil servants often distinguish themselves from politicians. They, too, are frustrated by a lack of sufficient resources and the politicization of decisions. These individuals offer opportunities for collaboration between companies and government. By joining forces on projects of joint interest, both can gain.

Provide support in holding the government accountable for its own commitments. Companies must engage with the government in a constructive, transparent and committed manner.

Engaging with the government does NOT mean that the company takes sides. Rather, it shows the company's support for holding the government accountable for its own policies.

- a. Expand the network of relationships with key government officials. Managers have recognized that frequent meetings with officials provide opportunities to promote positive actions.
- b. Work with the government on its commitment to Human Rights and its provision of social services to its constituencies.
- c. Legitimize, support and strengthen existing government programs that follow logically from a company's own Code of Conduct. One such example could be a Human Rights commission.
- d. Explore avenues for influencing government spending of revenues. For example the company could establish a trust fund that would lend credibility to the seriousness of the company's long-term commitment in a country.

Support and legitimize local civil servants. There are several ways that an "outside" entity, such as a company, may be able to support and strengthen government. These are:

- a. By providing legitimacy to government officials by joining with specific governmental bodies or individuals on specific projects of joint interest (e.g. the opening of a school or clinic) and making it clear to all concerned that the government was involved.
- b. By helping to arrange/create venues in which people are able to meet with and talk to officials and, possibly, influence governmental decisions about matters that concern them.
- c. By leveraging governmental funds on activities by first providing outside funds for efforts that, to be effective, require the input of government. When this is done, credit should be given to government for what they have done.
- d. By involving government officials in communication between the company and the community concerning CR projects through, for example, providing them with an 'observer-status' during negotiations.

Engage in partnerships with civil society and authorities. Often companies are drawn into lengthy and costly activities that are unsustainable and which they are not well positioned to perform. Tri-partite partnerships between companies, NGO's and authorities are increasingly emerging and show promising results. Each member contributes core complementary competences to the project, thereby building on the strengths of each partner. For example, companies may bring technical expertise, heavy equipment, or project management skills to a partnership; NGOs bring community mobilization skills and dialogue skills; and governments provide legal and bureaucratic skills to sustain their efforts.

This approach requires a company to focus on the skills and capacities already present on site (for the implementation of core activities). When successful, such partnerships are a constructive alternative to substituting for government services, are cost efficient, create shared ownership and establish trust with local communities.

Support creative local initiatives. In many places one can find systems that function effectively on a lower governmental level. In some cases locally-run systems facilitate some of the activities the company wishes to support. For example, we heard about a “dollar-for-a-dollar” infrastructure-building scheme in which the government supported plans brought forward by a community by matching the funds these communities had been able to generate themselves. This indicated that people were motivated to take initiative within their own communities to improve services without waiting for, and depending on, central government. It also greatly expanded the pool of funds available for improvements and meant that the maintenance of facilities improved because people had invested their own money and time in construction. This model of volunteer labor and individual contributions has worked in many places.

OPTIONS FOR REVENUE AND SECURITY ISSUES

CEP has found that the two most important aspects of corporate activities that associate companies with government policies and that provide the government with increased legitimacy are related to the provision of revenues and a company’s reliance on state security providers. Specific options relating to these two issues are included below.

- **Options and alternatives for managing revenue**

Analyze the risk of revenues being used to pursue warfare. Companies often assume that their presence in a country and provision of a revenue stream to the government leads to economic development. Experience shows that there is no guarantee this happens. Therefore, the potential impacts of revenues must be considered prior to the investment decision, perhaps during the Social Impact Analysis.

Be open about the revenues paid to government. Some companies follow a selective transparency approach. For example, in discussions with the World Bank and the IMF companies have mentioned the amount of revenues and fees that they paid to the government. This allows international financial institutions to compare this information with the official government data.

Engage with government in relation to regional benefits deriving from resource related revenues. Tax-credit schemes have proven to be effective agreements in which the company directly helped implement a regional infrastructure plan paid for by taxes to the government. Commitment to infrastructure development is best done in partnership with other companies where possible.

Collaborate with other companies and international institutions e.g. World Bank Group and IMF to promote development-oriented revenue management strategies. This could occur through training and capacity building of local and national government to enhance the distribution of project benefits. Companies can also apply some of the advocacy and organizational support skills of the community relations team to support local community organizations in their own demands for increased government services.

Advocate for an infrastructure fund prior to development. Opportunities for negotiating commitments from government on revenue management should be explored at an early stage when the company does have some ability to exert influence through, for example, asking questions and making proposals to government. Companies could seek collaboration with other developers in order to negotiate with government, particularly at federal/provincial/local level for acceleration or upgrading of infrastructure investment.

Some companies have negotiated “Tax Credit Funds” with the Treasury. Part of the taxes that the company would pay to the tax authorities can be allocated by the company to upgrade infrastructural projects according to a regional action plan. Such initiatives have been successful in assuring communities that taxes are used for the purpose they are intended for.

- **Options and alternatives for the managing security dilemmas**

State security providers are typically relied upon as a “last resort.” When companies call upon police or military forces, they have no control over behavior, while at the same time they are often held accountable for it by external stakeholders. This highlights the importance of addressing conflict **before** it turns violent, rather than managing conflict after violence has broken out.

One objective of the Corporate Engagement Project is to help companies to establish cordial relations with local stakeholders so that the company does not get into a position of needing to rely on state security forces. All options, ideas and alternatives that are explained in other issue papers contribute to this idea. One additional option is:

Advocate for, or offer, human rights training to the army. If the ICRC has a presence in the country it is particularly well positioned to provide training in International Humanitarian Law to the military. Alternatively, some companies have sent army officials to international Human Rights courses where they were able to meet the military from other countries and exchange experiences.

SPECIAL RISK: SUBSTITUTION OF GOVERNMENT SERVICES

Company-provided services such as hospitals and schools often substitute for governments providing these services for their own citizens. Although the provision of services makes sense from a company perspective and provides a level of quality of services to those who lacked these services before, substitution has several potential negative consequences:

- § **It frees up money for governments to conduct warfare.** When corporations establish social service systems for communities where they want peaceful relations in the midst of broader conflict, these systems can substitute for supports that would ordinarily have been supplied by community leaders or government, thus freeing up these internal resources for the pursuit of warfare.

§ **It undermines the legitimacy of governments.** Substitution for government responsibilities also feeds into the popular sense that ‘the government’ is useless, corrupt and does not function the way it should. It may undermine the legitimacy and efforts of local civil servants that, with the very limited means they have, are genuinely trying to serve community interests. If companies repeatedly stress that the benefits from the company’s presence come from the company rather than from the government this can further serve to undermine legitimacy. As well, company staff perpetuate this notion by lumping all government officials together and characterizing them as incapable and inefficient.

§ **It undermines the government’s responsibilities.** In its turn, the government expects that if it does not provide services, the companies will be compelled to provide them. This attitude is equally prevalent among opposition groups. For example, in some countries rebel forces have told outside agencies that “if they can take care of the population, we, the rebel force, will take care of the fighting.”

§ **It causes conflict after the company leaves.** Companies typically support the provision of high-quality level social services in the areas where they work. The continuation of such services after the company leaves is often impossible and may even cause conflict between local residents and a government that is not able or willing to continue the provision of these services. Among the reasons why sustainable solutions are not in place when companies leave are:

- Companies have a policy to hand over the hospital or clinic to the government when the government is “ready.” The government may never reach this level of “readiness” either because they do not have the means or because they feel the areas already “benefited enough” from the presence of the company.
- Companies have the intention to hand over their clinics and schools to the government upon departure but lack a clear strategy on how to make this a realistic option. For example, they assume that the government allocates a budget for schools, or maintains an entry road without verifying if, and how, this can be made possible.

§ **It reinforces dependency.** In one village where an oil company had a presence for over forty years, the company brought in piped water, electricity, roads, rehabilitated schools and many other benefits. The community now finds it normal for these services to be provided by the company. While it is the responsibility of people themselves to take care of their own future, provision of the services by a company may cause intergroup conflict or schisms between the company and the community. For example, in one community people advocating self-sufficiency were accused of “being on the company’s side” by members of their own community. Another community was very upset with the company when they learned that they had to start paying a consultation fee in a company-supported clinic while this is the common practice in the rest of the country.