BUSINESS & PEACE SHARJAH CONSULTATION REPORT

The Sharajah Consultation took place on October 24, 2016

at the American University of Sharjah, UAE

The Business and Peace Project

CDA Collaborative Learning Projects (CDA), Peace Research Institute Oslo (PRIO), and Africa Centre for Dispute Settlement, University of Stellenbosch (ACDS) are jointly implementing a collaborative learning project that explores effective peacebuilding by private sector actors.[1] The project is funded jointly by the Norwegian Ministry of Foreign Affairs and the Carnegie Corporation of New York, and has as its overall goal a more robust understanding of the constraints and opportunities for private sector contributions to peace. The project will also generate insights to shape policies and company initiatives that seek to contribute positively to peace. The project undertakes field-based case studies that examine the impacts of private sector actors in fragile and conflict-affected areas. The project will produce nine such case studies. Analysis of the cases, and of the preliminary findings, is taking place through a series of consultations with a broad range of subject matter and context experts. The consultation held at the American University of Sharjah was one such event.

The Sharjah Consultation

CDA, PRIO, and ACDS (which did not participate in this event) convened a group of experts in Sharjah, UAE, to analyze case studies and draw out their implications. American University of Sharjah hosted the event, providing the venue and logistical support. Participants included representatives from companies, universities, research institutions, NGOs, and private consultancies. They discussed cases from Colombia, Cyprus, and Western Sahara. Written case material from Cyprus and Colombia was provided to participants in advance. The work of Kosmos Energy in Western Sahara was presented orally during the consultation.

Emerging Themes

Offshore Hydrocarbons in Disputed Waters

In Cyprus and Western Sahara, official states of war exist alongside political impasses, but neither has seen sustained violent or military confrontations for many years. In both cases, gas or oil (respectively) exploration has drawn multinational companies into the context, albeit in different ways in each case. In Cyprus, some offshore exploration blocks are in waters controlled undisputedly by the Republic of Cyprus. Other blocks are in waters claimed by Turkey. Turkish-Cypriot authorities have a legal claim to participate in the governance of Cyprus, and on this basis, do not recognize the legitimacy of actions undertaken unilaterally by the Republic of Cyprus (RoC) government. This applies to licensing

[1] To learn more about the project, its recent developments and publications, visit: http://cdacollaborative.org/cdaproject/business-and-peace/

agreements that the RoC may enter into for the exploitation of natural resources that belong to Cyprus.

In the case of Western Sahara, Morocco claims Western Sahara as a province of Morocco. Morocco currently controls and administers Western Sahara, contrary to resolutions and legal findings of several international bodies. On this basis, Morocco claims that resources in Western Saharan territorial waters are Moroccan. The POLISARIO claims to be the sole legitimate representative of the Saharawi people and the legitimate government of Western Sahara. On this basis, it claims exclusive rights to all resources in its territorial waters on behalf of the Saharawi people. In the cases of both Cyprus and Western Sahara, high-level dialogue has for years been stalemated.

Corporate Leverage, Vulnerability, and Diplomacy

Companies in both contexts have considered using their leverage and influence with the conflicting parties to push for political settlements, so that natural resource exploitation can proceed on a more secure legal footing and without risk of political crisis or economic repercussions against operators. This requires companies to expend political capital, calling on their legitimacy, credibility, and leverage to "unlock" stalemated negotiations. The cases thus raise for consideration the potential roles of companies in diplomatic efforts and peace negotiations, fostering formal peace settlements, or creating disincentives for allowing conflicts to persist.

Discussion of these cases focused on sources and forms of corporate legitimacy, credibility, and leverage as an interlocutor of one or more of the parties to conflict. Discussion established that none of these qualities is generic; they all exist in relation to other actors in the context, in specific forms, to varying degrees, and for specific reasons. For example, Kosmos' concession and potential role as a major oil producer in Morocco enabled it to engage the Government of Morocco (GoM) in discussions about the social and political conditions that Kosmos would require in order to make significant investments or operate in that market. Kosmos' leverage flowed from its rights to a potentially significant oil find (now proven to be non-commercial), and from the fact that production would bring significant economic benefits to Morocco. As a US-based company, Kosmos can credibly raise in discussions with host-states the issue of Kosmos' obligations to its shareholders to operate according to international law and certain standards of corporate responsibility. These, in turn, have clear implications for Morocco's established political positions and actions vis-à-vis the conflict with the POLISARIO.

It was noted that, for companies in scenarios similar to this one, the company's leverage with the host-state government decreases dramatically once the company invests in production infrastructure and signs revenue sharing agreements. Once these are concluded, companies naturally continue to engage with host governments, but their only significant "bargaining chip" is the prospect of exiting the context. In most cases, such a move incurs significant financial penalties and the loss of most initial capital outlays.[2] Companies in industries that involve less costly initial investments or lower 'barriers to exit' may have different forms of leverage with host states, and may not find their ability to influence host-states significantly compromised after initial investment decisions are finalized.

[2] Zandvliet (2012) notes a similar point.

The case of the Italian oil giant, ENI, in Cyprus suggests that companies may also have significant vulnerabilities and may incur significant risks when they operate under these or similar conditions. Without consulting the Turkish government, ENI leased from the RoC concessions in waters claimed by both Turkey and the Republic of Cyprus. The Turkish government viewed this as a provocation. Consequently, Turkish warships threatened ENI offshore platforms, and all of ENI's onshore operations within Turkey were de-licensed by the Turkish government.

More broadly, a company's legitimacy, credibility, and leverage can come in several forms and from a variety of sources, including the personal networks of its leaders or high-level representatives, economic power, a favorable track record of behavior or participation in communities, and possibly other sources. All of these are limited and specific sources of influence, however, that enable quite different opportunities to influence the operational context, and they can wax, wane, and change in nature over time. Efforts by companies, particularly MNCs, to influence government decisions may also be perceived as inappropriate or self-interested meddling in a host-state's internal affairs. Anecdotal evidence presented in the consultation also suggests that prominent national private sector actors have less influence than politicians and political parties on public opinion within the host-state.

One participant suggested that umbrella organizations, such as business associations, may be effective in "depersonalizing" policy commitments and positions. Whereas the efforts of individual companies to influence government commitments and policies may be perceived as ways of advancing the interests of those companies, and therefore as cynical and inappropriate, umbrella organizations may be less vulnerable to perceptions or accusations of exerting inappropriate influence. As umbrella organizations may be assumed to represent the broad spectrum of interests of a particular group of economic actors, in conflict scenarios they may also face less risk than individual companies do that their actions will be politicized.

Corporate Interests and Motivations

Participants observed that private sector actors that undertake activities that have positive impacts on peace rarely, if ever, initiate such activities for the primary purpose of building peace. Rather, they initiate the activities in order to solve business problems and meet practical needs related to their profit-making activities. The Cypriot chambers of commerce, for instance, push government entities to enter into a formal cessation of hostilities because the conflict and partition of the island make it very difficult to conduct business in Cyprus. A particular difficulty, to name just one, is banking and executing commercial transactions between the two sides of the island. In a similar vein, the existence of Western Sahara's conflict creates obstacles for companies that could profit from operating there. An oil company that controls a viable resource in Western Sahara would have a strong vested interest in seeing the parties to conflict reach a political settlement. In waters off of Cyprus, some oil companies mitigate such risks by steering clear of concessions in contested waters, many of which have failed to find lessors. By the same token, in the case of the Federación Nacional de Cafeteros (FNC) in Colombia, one of the drivers of the Footprints for Peace initiative was the FNC's need for more and better coffee production among smallholders throughout Colombia's coffee zones.

This observation about corporate motivations has several implications that may be worth pursuing further as this project moves forward:

1. Corporations are unlike other peace actors, in that corporations often can meet their primary objectives without having any positive impacts on peace at all; indeed, it appears that corporations can often meet their primary objectives even as violence persists—and they may even fuel conflicts and tensions.
2. To the extent that peacebuilding involves skills and capacities that are not necessary for profit-making activities, private sector actors are unlikely to invest resources in hiring or training for these; peacebuilding actors, on the other hand, seek to acquire and enhance such skills.
3. Peacebuilding actors have a clear need for understanding and analyzing their impacts on peace (e.g., the effectiveness of their peace-related activities) through conflict analysis and processes of monitoring and evaluation. They therefore may find it worthwhile to invest considerable resources in those processes. Corporations do not have that need and are unlikely to view the investment of resources in M&E of their impacts on peace as necessary costs.
4. Policy initiatives that seek to involve private sector entities in peacebuilding are likely to be more successful if they account for the distinct needs, interests, skills, and abilities of private sector actors; and
5. Generally, ethical considerations appear to be unnecessary for the purpose of explaining corporate decisions and actions in the cases discussed during the consultation.

Convergence of Interests

In all of the cases discussed during the consultation, third party actors play a critical role in ensuring positive outcomes. These actors may be government agencies, civil society organizations or NGOs, donor agencies, or multilateral agencies. They may offer convening power, forms of legitimacy, expertise, or resources that the company does not have. Participants observed that collaborative relationships of this kind appear to be predicated on an alignment of needs and interests between the company and the other actors in the context. Where companies' needs and interests are complementary with those of other actors, companies enter into relationships and partnerships with those actors. In the words of one participant *"there is a sweet spot where the interests align."*

Context Matters

In view of the case studies and discussion, it is clear that context matters, but a key challenge for the project as it moves forward will be determining *how* it matters. The Western Sahara and Cyprus case studies describe conflict scenarios that have some general similarities. Yet, in one of these, companies have certain forms of leverage to engage in corporate diplomacy, and in the other their position is one of vulnerability and relative weakness in relation to other key actors in the context. The interests that any given private sector actors might have in peacebuilding would seem to be equally context-dependent, insofar as the constraints and problems that businesses experience grow out of the interaction between their operations and the context. By the same token, the number and nature of other actors in the context whose interests align with those of the company appear to be significant in shaping the options that are available to companies in each case.