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POLICY PAPER

November 2019

Business, Human Rights, Environment and Sustaining Peace

- Experiences from Liberia and Sierra Leone

Executive summary

This paper highlights the importance of integrating responsible governance of business operations and sustainable natural resource management in the peacebuilding agenda. It argues that current peace and reconciliation efforts in Liberia and Sierra Leone fail to adequately address the environmental, social and human rights impacts

of business operations, and to consult with civil society actors. To attain sustained peace in the region, natural resource management and the responsibilities of business actors must be integrated in these efforts.

With 1.4 billion people affected by violent conflict each year and with countries emerging from armed conflict facing a high likelihood of returning to violence, addressing the root causes of conflict is critical for promoting peaceful and inclusive societies – the focus of the UN's Sus-

KEY RECOMMENDATIONS

- UN agencies should integrate the governance of responsible business operations and sustainable natural resources management in the context of a changing climate in the UN peacebuilding and sustaining peace agenda, including in the forthcoming 2020 review of the UN Peacebuilding Architecture.
- UN member states should adopt legislation on mandatory gender-sensitive HRDD, including accountability measures, to ensure that companies conduct HRDD on their operations, value chains and investments, especially in conflict-affected settings.
- Business actors should conduct conflict- and gender-sensitive human rights due diligence in line with the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Business Conduct.

tainable Development Goal 16. The risk is palpable in Sierra Leone and Liberia where the roles and responsibilities of business as regards human rights and environment have been inadequately addressed.

The governments of Liberia and Sierra Leone have prioritised a rapid expansion of foreign direct investment and economic growth, mainly through attracting multinational enterprises with natural resource concessions and large-scale land exploitation. Much of the investments are made in sectors that tend to leave large human rights and environmental footprints, such as extractives and agro-industrial business, with little accountability for environmental or social costs.

Research has found that armed conflicts associated with natural resources are up to twice as likely to relapse into conflict in the first five years after a peace agreement has been signed. In Liberia and Sierra Leone, business interests have a history of fuelling violent conflict, as natural resource extraction and illicit commodity trade previously provided revenue and logistics to the warring parties in the subregion, as well as aggravating overall instability in the region. The mismanagement of natural resources continues to constitute a key conflict dynamic in both countries.

In order to obtain conflict-sensitive regulatory frameworks in line with international human rights standards, the United Nations Peace Building Commission (PBC) has been shown to offer an alternative in post-conflict settings. By seeking to address the factors underlying conflict, its mandate allows the PBC to take a holistic and long-term view. Examining root causes of conflict, including natural resource management, in cooperation with States and consultation with civil society actors in post-conflict situations can provide an ongoing platform for dialogue. The same approach might be employed to foster the inclusion of responsible business conduct in such settings.

Analyses of human rights situations in the context of business operations can serve as a tool for early warning of increased social tension and a return to violent conflict. Only by applying human rights norms can grievances be adequately addressed, inequalities reduced, and resilience built, and thereby both peace and development sustained.

Introduction

Responsible business practices have the potential to play a vital role in sustaining peace by providing a platform for dialogue and cooperation while simultaneously facilitating economic recovery and sustainable livelihoods in post-conflict societies. However, business practices that are not conducted in line with conflict-sensitive human rights due diligence can add to social conflict, undermining resilience and possibly contributing to renewed violent conflict.

This policy paper presents findings from a Swedwatch project initiated in November 2018 which explores the nexus between sustaining peace and the roles and responsibilities of business actors in peace-building contexts, including case studies from Liberia and Sierra Leone. With a specific focus on countries that have dedicated UN Peacebuilding Commission Country Configurations, research has focused on impacts of business operations on social cohesion in post-conflict societies.

Findings highlight the importance of integrating responsible governance of business operations and sustainable natural resource management in the peacebuilding and sustaining peace agenda. The project findings further indicate that current peace and reconciliation efforts do not adequately address the environmental, social and human rights impacts of business operations, leading to social conflict in affected communities. If left unaddressed, this constitutes a threat to sustained peace in the region.

1. The business-human rights-peacebuilding nexus

Why is the issue important?

Development, peace and security, and human rights are interlinked and mutually reinforcing. Acknowledging this interconnectedness, the Office of the High Commissioner for Human

Rights (UN Human Rights) has identified a list of human rights-related risk factors for conflict. Factors include severe socio-economic inequality, lack of access to effective grievance mechanisms, lack of meaningful consultation, lack of democratic space for an active civil society, unemployment, and unequal access to natural resources required for food production.¹

Indeed, human rights violations can be both the cause and effect of destructive conflict and as such play a central role throughout the peace/conflict continuum, from early warning, to destructive conflict, to peacebuilding. This policy paper focuses on the role of business, human rights and the environment in sustaining peace and outlines the potential of human rights violations in the context of business operations to heighten existing grievances and to build momentum towards renewed conflict.

The role of natural resources in the emergence and recurrence of conflict is both complex and crucial. Findings have shown a link between countries with abundant natural resources, relatively low rates of economic growth, social development and political stability, and violent conflict (described as the “paradox of plenty”).² This phenomenon is tied to the lack of good governance and mismanagement of natural resources. Weak regulations governing natural resources

provide opportunities for harmful exploitation and misappropriation of natural resources, which can fuel corruption. In turn, corruption and over-exploitation of natural resources promise substantial short-term gains at the expense of long-term economic and political security.³

Risk factors for conflict recurrence furthermore include a dependence on natural resources, a scarcity of natural resources and environmental change. The risk for renewed conflict is further heightened in situations of unresolved land tenure, as is commonly the case in post-conflict societies.

Business operations can have potentially positive and negative impacts on all conflict risk factors identified above. Business and investment can be vital to peacebuilding, with natural resources especially relevant to economic recovery and sustainable livelihoods as well as dialogue and cooperation in post-conflict societies. However, business investments are frequently associated with sustaining and reigniting conflict. The natural resource sector in particular has the potential to finance violent conflict by providing easy access to conflict resources for warring parties to degrade the environment by extractive operations, violate human rights by restricting people’s access to key livelihood resources, and exacerbate inequalities by inequitably distributing resource

Swedwatch’s Project

Research conducted by the UN Environment Programme in 2009 found that armed conflicts associated with natural resources are twice as likely to relapse into conflict in the first five years. Nevertheless, research found that less than a quarter of peace negotiations that aimed to resolve conflicts linked to natural resources had addressed natural resource management mechanisms. In alignment with Swedwatch’s commitment to further explore the business-and peacebuilding nexus, Swedwatch

initiated a project to explore the role that business can play in peacebuilding and sustaining peace. Liberia and Sierra Leone, where Swedwatch has conducted research and exchange workshops together with local civil society organisations over several years, were selected as relevant case studies. In October 2018 and May 2019, Swedwatch conducted two three-day workshops on business and human rights with a focus on peacebuilding in Monrovia, Liberia and Freetown, Sierra Leone respectively. The workshops

focused on consultation to help ensure the capture of rights holders’ perspectives on the role of business actors in peacebuilding. In each workshop, 25 representatives from non-governmental organisations, National Human Rights Institutions and affected communities from different provinces participated. Findings from research, dialogue and workshops presented in this paper indicate a need for clear business, human rights and environment components in UN peacebuilding and sustaining peace strategies.

benefits.⁴ However, although it is well-known that natural resources provided revenue and logistics for conflicts in, for example, Angola, Cambodia, Liberia and Sierra Leone, this has yet to be addressed systematically.

Negative impacts of business operations invariably affect the most socially and economically vulnerable and marginalized sectors of society, especially women, children, minorities and indigenous peoples. Business impacts thus have the potential to intensify already existing inequality and further social conflict.⁵ Although infrastructure and development projects, such as large dams or extractive industries projects, are often declared to serve the “public good”, particularly in post-conflict settings, protection of rights and due process regularly fall short of fulfilling existing obligations.⁶ In cases of large-scale development projects being conducted without meaningful consultation or effective grievance mechanisms, state actors, companies and investors neglect their human rights obligations under the UN Guiding Principles on Business and Human Rights (UNGPs), the most widely recognized global business and human rights framework.

Furthermore, tensions intensified by economic operations that are not sufficiently sensitive to past or potential conflict situations can, if left unattended, reignite conflict. Therefore, the failure of companies and state actors to address human rights violations in the context of business operations, can negatively impact sustained peace. Their responsibility is particularly acute in transitional justice and reconstruction contexts, where responsible business conduct in line with international human rights standards has significant potential to make a positive contribution towards sustainable development. However, there is also a risk that they play a negative role by failing to adopt rights-respecting and conflict-sensitive approaches.⁷

It is therefore vital that business actors understand the environment in which they operate to avoid adding to social tension and undermining the cohesion and resilience of a post-conflict society. This particularly applies to business operations in the natural resource sector, which tend to have a larger environmental, social and economic footprint. Despite the uncertainties and risks involved, rising global demand for natural

resources has encouraged the extraction of natural resources in post-conflict countries.⁸ This necessitates conflict-sensitive regulatory frameworks in line with international human rights standards, facilitated by both home and host states of potential investors and business actors. Without integrated cooperation between business actors, policy makers, and international donors, investment is unlikely to contribute to sustainable peace.

The UN peacebuilding and sustaining peace agenda

While the interdependence between human rights and conflict prevention is increasingly broached in UN resolutions, too little attention is paid to the role of business both in conflict and sustaining peace. In 2018, the UN Secretary General published a report on peacebuilding and sustaining peace, which recognizes the importance of the human rights’ normative framework as a critical foundation for peace, and the sustainability thereof. The report also calls for an understanding of human rights violations as indicators for root causes of destructive conflict.⁹

The increasingly vocal recognition of this interconnection is part of recent UN efforts to enhance the focus on the prevention of violent conflict rather than responding to crises. The 2015 review of the UN Peacebuilding Architecture reaffirmed the commitment of both the Security Council and the General Assembly to the concept of “sustaining peace”. This is understood as a holistic process covering “the outbreak, escalation, continuation and recurrence of conflict, addressing root causes, assisting parties to conflict to end hostilities, ensuring national reconciliation, and moving towards recovery, reconstruction and development”.¹⁰

In addition to this enhanced recognition of the interdependence of human rights and peacebuilding efforts, the UN has also begun to address the role of business in sustaining peace. In the 2018 report on peacebuilding and sustaining peace, the UN Secretary General encourages

“the United Nations system to further develop partnerships with the private sector and the

*investment community to strengthen the peacebuilding impact of companies, set conflict-sensitive investment guidelines and explore potential contributions to United Nations peacebuilding activities. This should be undertaken in accordance with the Guiding Principles on Business and Human Rights: Implementing the United Nations Protect, Respect and Remedy Framework”.*¹¹

The Peacebuilding Commission (PBC), as the UN agency mandated to promote an integrated and coherent approach to peacebuilding across UN operations and to address the gap in the transition from conflict to sustainable peace, can play a crucial role in acknowledging the role of business both in conflict and sustaining peace. By using its convening role, the PBC is well placed to facilitate dialogue between the private sector, states and civil society on the economic, social and environmental impacts of business operations and natural resources management, both in conflict and post-conflict settings.

By seeking to address the factors underlying conflict, its mandate allows the PBC to take

a holistic and long-term view of conflict and post-conflict settings. The PBC can thus provide an invaluable perspective in discussions with governmental and other relevant actors in post-conflict settings, which are often dominated by a short-term mindset focused on imminent concerns. The mention of root causes of conflict, including natural resource management, in cooperation agreements with states in post-conflict situations can provide an ongoing platform for dialogue. For instance, although the inclusion of natural resources in the cooperation framework of the PBC with Sierra Leone remained minimal, the PBC provided a political space in which to discuss and focus sustained attention on the topic (see fact box for more details on the role of the PBC in the Mano River region).¹² Moving forward, the same approach might be employed to foster the inclusion of the role of responsible business conduct in post-conflict settings.

The interconnectedness of business, human rights and sustaining peace is also increasingly echoed across the UN human rights mechanisms. For instance, the current UN Human Rights strategy includes a work stream on “Prevent-

The role of the UN Peacebuilding Commission in Liberia and Sierra Leone

There are currently five country specific configurations of the UN Peacebuilding Commission covering the following countries: Burundi, Central African Republic, Guinea-Bissau, Liberia and Sierra Leone. The Country Configurations consider peacebuilding interventions in individual countries and develop integrated peacebuilding strategies.

The UN has played an active role in the peace processes of both Liberia and Sierra Leone, with the UN Peacebuilding Support Office providing financial support to the countries to this day. Projects funded include a project on Sustaining Peace

and Improving Social Cohesion Through The Promotion of Rural Employment Opportunities for Youth in Conflict-Prone Areas in Liberia. UN peacekeeping personnel were also deployed to both countries: The United Nations Mission in Liberia was established in 2003 and ended its mandate in 2018; the United Nations Mission in Sierra Leone was deployed between 1999 and 2006.

The cooperation framework of the UN Peacebuilding Commission in Sierra Leone included a precondition for reducing the presence of international troops that required the Sierra Leonean government to demonstrate

that its institutions and regulations could control the diamond trade. At the same time, the PBC committed to support capacity building in the management of natural resources, focused particularly on the Ministry of Mineral Resources. In March 2014, the closure of the United Nations Integrated Peacebuilding Office in Sierra Leone marked the end of more than 15 years of active UN peacekeeping operations in Sierra Leone.

Sources: United Nations Peacekeeping, United Nations Peacebuilding Commission, UN Peacebuilding Support Office.

ing violations and strengthening protection of human rights, including in situations of conflict and insecurity¹³. Meanwhile, UN Treaty Bodies increasingly include peacebuilding concerns in their recommendations to States.¹⁴ In the peer-review mechanism of the human rights records of UN Member States, the Universal Periodic Review (UPR), peer recommendations were made that successfully integrated human rights concerns in the context of business conducted in conflict and post-conflict concerns.¹⁵ Finally, in 2020 the UN Working Group on Business and Human Rights is expected to deliver a report to the General Assembly to clarify the practical steps that companies, investors and states should take to implement the UNGPs in conflict and post-conflict contexts.¹⁶

At the same time, the use of existing structures within and across the UN system to integrate human rights and sustaining peace could be more comprehensive. A study from 2018 analysing recommendations made during the state-driven UPR process found that, while several UPR recommendations implicitly address root causes and potential drivers of destructive conflict, very few recommendations explicitly reference peacebuilding, and none sustaining peace. Overall, despite their crucial role in sustaining peace, economic, social and cultural rights remain underrepresented in the UPR process¹⁷.

2. Business, human rights, environment and sustaining peace in Liberia and Sierra Leone

Brief history of violent conflict in the Mano River region

Both Liberia and Sierra Leone experienced violent unrest in recent decades. The respective civil wars ending in 2002/2003 killed hundreds of thousands of people and displaced millions. The wars were heavily intertwined and had a strong regional dimension. Neighbouring countries, including Cote d'Ivoire and Guinea, were

involved in natural resource exploitation with government or rebel groups embroiled in conflicts across their borders, hosting and financing neighbouring insurgent forces.¹⁸ In Sierra Leone, for instance, Liberians fought alongside the Revolutionary United Front (RUF), who incidentally also received financial support from then Liberian President Charles Taylor.¹⁹ While still recovering from the wars, the countries were hit by a double crisis: a devastating Ebola outbreak and a sharp decline in commodity prices²⁰ for important export products such as iron ore on the international market.²¹ Both countries remain low-income countries and continue to struggle with the aftereffects of the conflicts. Unresolved issues of inequality and exclusion of certain groups, corruption, and disputes over land and resources are dormant threats to sustaining peace. Furthermore, the wars cost a generation of youth their education and destroyed livelihood opportunities, with young people being left fighting for survival and status, making them vulnerable to recruitment into violent and criminal activities.²²

Brief history of the role of economic interest and business in the conflicts

Economic interests and illicit trade in commodities played such a central role in the civil wars of Liberia and Sierra Leone and the overall instability in the region that the UN Security Council adopted resolutions imposing a prohibition on trade in all rough diamonds from Sierra Leone as well as an embargo on the importation of diamonds from Liberia, regardless of whether they originated there.²³ The UN Security Council also imposed sanctions on Liberian timber exports following findings that showed that proceeds were fuelling the conflict in Liberia and neighbouring Sierra Leone.²⁴

Liberia's Truth and Reconciliation Commission also found that economic actors and activities played a crucial role in contributing to, and benefiting from, armed conflict in Liberia. For instance, foreign timber and mining companies were able to obtain lucrative natural resource concessions and to engage in systematic



Map of Mano River region.

tax evasion. Logging companies aided the trafficking of weapons to warring factions, violently removed communities from their land, and employed security forces closely aligned with militia units that committed grave human rights abuses.²⁵

In Sierra Leone, the Truth and Reconciliation Commission found that diamonds, and other mineral resources such as iron ore and rutile, were indirect causes and fuelling elements of the war. The desire of armed groups to expand control over mineral-rich territories and to benefit from consequent revenues to fund weapon procurement, triggered further conflict.²⁶

Moreover, the mismanagement of natural resources was closely linked to issues of poor governance, corruption and poverty, all of which constituted key conflict dynamics in both countries.²⁷ While both countries went through formal reconciliation processes, in the assessment of the

UN Peacebuilding Commission, the root causes of conflict and the complexity of development challenges are yet to be fully addressed.²⁸ For peace in Liberia and Sierra Leone to be sustainable, root causes of the conflict, including the exploitation, trade and distribution of benefits from natural resources, need to be given adequate attention.

The role of business in Liberia and Sierra Leone today

With the closure of the UN Peacekeeping Mission in Liberia in early 2018, the country, and the region, continues to transition from conflict recovery to peacebuilding and sustaining peace. As reconciliation is expected to further consolidate, foreign investments have begun to resume. Indeed, multinational enterprises play a signifi-

cant role in both Liberia's and Sierra Leones' economic and development policies.

Post-war economic recovery programs, such as Vision 2030 in Liberia, have heavily focused on attracting foreign private sector investment. In fact, between 2006 and 2017, Liberia attracted over US\$16 billion in foreign direct investment (FDI). During the same time period, Liberia allocated approximately half of the country's land-mass to natural resource concessions, including mining, rubber, palm oil and forestry.²⁹ Sierra Leone, meanwhile, has made efforts to promote large-scale agriculture projects in partnership with foreign investors as part of a drive to lessen dependency on the mining sector. The recently adopted Sierra Leone National Development Plan 2019-2023 continues to highlight the importance of economic growth and foreign direct investment, stating that "creating space for FDI is very necessary for stimulating sustainable economic growth and democratic governance in Sierra Leone".³⁰

This focus on economic growth is common in post-conflict countries, particularly those that are rich in natural resources. Economically, natural resources are often regarded as "free gifts of nature".³¹ In post-conflict settings, human resources are scarce and require a longer time to develop, while natural resource extraction can provide income relatively quickly. As a result, governments regularly give out logging or other exploitation licenses without considering the potential environmental and social costs. At the same time, elites frequently seek to maximise personal profits from natural resources benefits, undermining government legitimacy.³²

However, too rapid an investment process often proves to be conflict-blind and may be detrimental to sustaining peace. Indeed, much of the investments in Liberia and Sierra Leone are made in sectors that tend to leave large human rights and environmental footprints, such as extractives and agro-industrial business. The rising number of these types of investment projects, which heavily depend on the use of land, has led to frequent conflicts over subsequent human rights and environmental impacts between companies and communities in both Liberia and Sierra Leone.³³

On a legislative level, the need to provide a framework for business operations has been addressed by both the governments of Liberia

and Sierra Leone, with a particular focus on land rights (though, to date, neither State has adopted a National Action Plan on Business and Human Rights, in alignment with the UN Guiding Principles on Business and Human Rights). The Liberia Land Rights Policy of 2013 stipulates that resettlement of communities affected by business operations on their land must result in a situation that is at least as good as the situation prior to resettlement, activities to restore an economic base need to be supported and a minimum of six months' notice must be given before resettlement.³⁴ Additionally, according to the Liberian Community Rights Law from 2009, the government can no longer award large-scale forestry concessions without the free, prior and informed consent (FPIC) of the affected communities.³⁵ Similarly, in 2015, the Government of Sierra Leone adopted a comprehensive National Land Policy that aims to establish a land tenure system that ensures equitable access to land for all citizens.³⁶

Despite these pieces of legislation as well as a commitment to a human rights approach to sustainable development in the respective National Development Plans, communities in both countries continue to experience negative impacts of business operations. This suggests that the regulatory framework developed by state actors does not yet succeed in holding business actors accountable for possible violations of their human rights obligations. Based on research by academic and civil society actors alike, preventing and mitigating potential negative impacts of business practices does all too often seem to take a backseat to the overarching goal of economic growth, seemingly handing a "carte blanche" to businesses willing to invest in the countries. This omission to hold companies accountable in the prevailing conflict-recovering contexts is at odds with the concept of sustainable development that the governments of both countries have committed to. If left unaddressed, this lack of accountability may impede the ability to sustain resilient societies and peace in the countries, and possibly the region.

3. Reflections and learning from Liberia and Sierra Leone

Human rights impacts of business operations

As indicated in above sections, foreign investment improperly conducted has the potential to negatively impact the human and environmental rights of affected communities. Representatives of National Human Rights Institutions (NHRIs) and non-governmental organisations (NGOs) in Liberia and Sierra Leone consulted by Swedwatch argue that in current peace and reconciliation efforts, not enough attention is being paid to the human rights impacts of foreign investments, such as social conflict in business affected communities. They contend that without improved investment practices and responsible natural resource management, it is difficult to guarantee the sustainability of the region's natural resources.³⁷

The use of natural resources, in turn, is fundamental to many local livelihoods, such as subsistence farming, in this resource rich region. In

Sierra Leone, for instance, agriculture accounted for 61.3 per cent of Sierra Leone's GDP in 2015.³⁸ At the same time, research over the last decade has shown that countries with a large agricultural sector and relatively small industrial and service sector, such as Liberia and Sierra Leone, are more prone to social tension and conflict. Consulted civil society representatives describe how large-scale investment projects have resulted in a broad range of negative impacts on their use of and access to natural resources. Impacts experienced by communities include water pollution and subsequent water scarcity and health problems, the desecration of sacred places, as well as loss of cash crops and farmland, and subsequently livelihoods. These impacts disproportionately affect socially and economically vulnerable groups, particularly women and children (see text box below) and are likely to increase social conflict.

Negative impacts commonly described by business-affected communities include instances of land grabbing by large-scale agricultural and extractive investments, which constitute the most prevalent foreign direct investment projects in both Liberia and Sierra Leone. Conflicts between communities and companies here revolve around disputes over land rights, (compensation for) land use, and relocation and forced eviction of

Women, business and conflict

Business-related impacts affect women, men, girls and boys differently due to the unequal distribution of resources, opportunities, and power. Women may also face additional barriers in seeking access to effective remedies. Even if women can access grievance mechanisms, they are frequently unable to enforce suitable remedies, because these remedial mechanisms typically adopt gender-neutral processes or operate within existing patriarchal norms. In addition, women tend to be excluded from decision-making processes and

consultations, for example within the extractives, agribusiness and energy sectors, where access to land and resources, compensation and benefits are negotiated. Gender-based inequalities tend to grow in conflict-affected settings. For instance, while women head 40 percent of households in peacebuilding settings, only 11 percent of landholders in conflict and post-conflict countries are women. Women also tend to experience a disproportionate impact on their human rights in conflict-affected settings. In Liberia and Sierra

Leone, for instance, women have reported that they were forced to trade sexual favours for access to work opportunities.³⁹ Moreover, the adverse impacts on women's human rights in conflicts are commonly not meaningfully addressed in peacebuilding and transitional justice responses because women's experiences are frequently not adequately considered.

Sources: UN Working Group on Business and Human Rights, UN Environment.

communities. The frequent use of customary law and other traditional forms of ownership rights can aggravate these conflicts as traditional forms of ownership are commonly not recognised by companies, for instance in their compensation schemes for the use of land.

Moreover, disputes over land rights can be accompanied by unforeseen social consequences. Community members consulted by Swedwatch describe how land grabs by foreign investors across Liberia resulted in heightened tension between neighbouring communities who depend on land for their livelihoods. Indeed, landowners in communities unaffected by the operations of companies have, on occasion, charged farmers in affected communities higher fees to rent land. This has resulted in increasing levels of insecure livelihoods due to loan payments both by monetary and non-monetary means, such as crops or a regular share in the harvest, which in turn have created situations of uneven dependency between community members. Interviewees agreed that resulting social tensions are likely to decrease the resilience of a community as a social construct, thereby increasing the likelihood of a recurrence of conflict.⁴⁰

Civil society actors in both Liberia and Sierra Leone made it repeatedly clear that foreign investments provide a very welcome opportunity to improve the lives of the local population. At the same time, the expectations of rights holders are straightforward: they expect to see the benefits of those foreign investments, such as employment and education opportunities. When business operations are conducted in ways that have detrimental impacts on the environment and human rights of the population, rights holders reserve the right to call for improved business models. Improved business models would include mainstreamed human rights due diligence mechanisms that are sensitive both to the conflict-affected settings the business in question may operate in and the gendered impact business operations have on the women and girls in affected communities.

Access to information

In addition to environmental impacts of business operations which may violate the human rights of affected communities, the processes of award-

ing natural resource concessions both in Liberia and Sierra Leone do not generally respect existing regulations. They thus remain problematic from a human rights perspective. A report by the Liberia Extractive Industries Transparency Initiative found that only 33 out of 160 cases of natural resource contracts awarded between 2012 and 2015 had complied with applicable Liberian laws and regulations.⁴¹

Meanwhile, the process of concluding such agreements does not appear to be transparent or involve external bodies with expertise on the economic, social, and cultural implications of projects.⁴² Despite established requirements for environmental impact assessments and for the promotion of community development agreements through consultations with affected groups, consulted communities frequently cited a lack of transparency. This experienced lack of transparency ranges from a lack of publicly available information on the scope and expected social and economic impacts of a project, disclosure of impact assessments that is often too short-notice to allow communities to make informed decisions, to the lack of meaningful consultation with affected communities, and the use of overly technical terminology in concession and contract terms.⁴³

Furthermore, a lack of access to information is compounded by rights violations including insufficient compensation for loss of cash crops, land or homes, lack of access to effective grievance mechanisms, lack of respect for cultural values in host communities, and discrimination against women and other vulnerable groups in land deals.⁴⁴

The practice thus constitutes a violation of the UN Guiding Principles on Business and Human Rights as well as the right to access to information according to the UNECE Aarhus Convention⁴⁵ (see fact box on page 11 for more details). Clearer requirements for concession agreements, at the very least in line with the Aarhus Convention, should be established to ensure that consultations with affected communities are meaningful and grievance mechanisms effective.⁴⁶

With regard to meaningful consultation, civil society representatives consulted by Swedwatch identified traditional forms of leadership as a crucial factor in the negotiation of concession agreements. In Liberia and Sierra Leone alike, com-

munity engagement with new local government structures remains irregular with traditional institutions and local structures, such as chiefs, often benefiting from greater legitimacy.⁴⁷ The Paramount Chief regularly acts as the custodian of the land, holding the land rights for and on behalf of communities as well as the responsibility for arbitrating any land disputes. This can add to the complexity of concession negotiations. Communities regularly perceive consultations as inadequate, as agreements appear to be based on arrangements made exclusively between companies and local chiefs. According to consulted community members, women in particular frequently experience consultations as insufficient, with chiefs ignoring their voices, needs and rights. In the context of business operations, communities' trust in traditional forms of leadership in many cases seems to have been eroded. Indeed, on occasion community members described the role of the chief in concession negotiations as "serving as a mouthpiece of companies against the interests of their communities".⁴⁸

Shrinking space for civil society

The situation for civil society actors putting the spotlight on negative human rights impacts of investments projects is deteriorating in both Liberia and Sierra Leone.⁴⁹ Criticism of business operations is a sensitive issue for governments focused on attracting investors in a post-conflict setting, and civil society organisations are not

consulted by government actors on their assessment of the impact of business operations on the environment or human rights of the local population.⁵⁰ Instead, civil society organisations investigating negative impacts of investment projects increasingly find themselves being framed as anti-development and anti-investment.

Local NGOs have faced intimidation by companies and by local authorities, including defamatory articles in media outlets close to companies,⁵¹ while community leaders opposing large-scale economic projects have faced judicial harassment. In 2015, a court ordered several land defenders accusing an international company of land-grabbing in Sierra Leone to pay fines on the grounds that their accusations amounted to conspiracy and incitement. This prompted an intervention by several UN Special Rapporteurs.⁵²

Furthermore, an increasing number of reports detail attacks on members of local communities who speak out to protect the rights of affected communities, arguing that development dependent on foreign investment is not sustainable.⁵³ Attacks on community members have included instances of the use of teargas on protesters demonstrating against investment projects.⁵⁴ The work of local civil society organizations has also been hindered, for instance by preventing their representatives from visiting communities affected by business operations.⁵⁵

These cases illustrate a global trend of shrinking civic space with increasing restrictions being imposed on civil society organisations since the early 2000s. Obstructive policies include laws

UNECE Aarhus Convention

The Aarhus Convention, or Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters, is a UN Convention linking environmental and human rights issues. The Convention guarantees that citizens have access to environmental information, the right to have

their voice heard in environmental decision-making, and the right to access to justice if their rights are violated – thereby empowering individuals and civil society organisations to influence public policies and ensure that they are able to contribute to the protection of the environment. The Convention stipulates that governments must

provide information on the potential impact of proposed activities and alternatives, informing the public in an adequate, timely and effective manner and should also provide an independent grievance mechanism.

Sources: United Nations Economic Commission on Europe.

that curtail the foreign funding of domestic civil society groups, cumbersome registration processes for civil society organisations, public criticism of advocacy work as well as intimidation and arrests.⁵⁶

It is essential that companies operating in high-risk environments understand the human rights risks connected to shrinking civic space and act accordingly. Companies operating in high-risk settings are expected to include human rights defenders as a vulnerable group in their conflict-sensitive human rights due diligence processes, while also ensuring that their voices are heard in consultations, in line with the 2019 UN Human Rights Council resolution on the contribution of environmental human rights defenders to the enjoyment of human rights, environmental protection and sustainable development.⁵⁷

Conflict risk and regional stability

It is worth noting that all the negative human rights impacts of business operations experienced by communities consulted by Swedwatch fall into the category of conflict risk indicators identified by UN Human Rights. Conflict risk indicators experienced by consulted community members include inequality in access to food and natural resources required for food production, such as land, lack of access to effective grievance mechanisms, lack of consultation, and lack of democratic space for civil society.⁵⁸

An additional risk factor identified relates to the violation of the right to education and the right to work. Consulted civil society actors argue that access to education can serve as a preventative measure against the radicalisation of young adults, who feel increasingly marginalised by business operations reinforcing land insecurity in their rural communities. In the absence of alternative forms of employment or education, peer pressure might cause these youths to join armed groups. The same applies to the importance of providing employment opportunities for young adults, who might otherwise be tempted to re-join armed groups. Equally, the effects of successful reintegration of former combatants on social cohesion and the creation of resilient societies are crucial and have been detailed elsewhere.⁵⁹

Consulted civil society representatives are furthermore concerned about increased levels of insecurity caused by the lack of access to information on the scope and impacts of business operations. This lack of information feeds misconceptions and misunderstandings, which in turn erodes trust and thus heightens conflict potential within and between communities. If left unaddressed, it is likely that the factors outlined above will strengthen momentum towards social conflict.

The experience of consulted community members of a break of social cohesion within communities caused by business operations, particularly in the natural resource sector, which removes community members from their livelihood resources, is echoed in recent peace research findings. The 2016 Social Cohesion and Reconciliation (SCORE) Index for Liberia states that less than four out of ten surveyed are satisfied with state service delivery and only five out of ten have confidence in national institutions.⁶⁰ A conflict mapping exercise in the same year by the Liberia Peacebuilding Office found that land and property disputes, corruption, and border/boundary disputes were perceived as the most likely causes of conflict and potential drivers of instability, alongside perceived “mismanagement of public funds and natural resources, reflected by the inequitable distribution of the benefits of said resources”.⁶¹ Meanwhile, the UN Integrated Peacebuilding Office in Sierra Leone expressed concern in 2009 that many of the conditions for conflict that existed before 1992 remained unchanged and were aggravated by concerns about unfair distribution of benefits, opaque processes and inefficient and unsustainable practices.⁶²

The role of environmental and social impacts of business operations and natural resources management as drivers of social tension and conflict are likely to intensify in the context of a changing climate. Liberia and Sierra Leone, and in fact the entire Mano River region comprising Sierra Leone, Liberia, Guinea and Côte d’Ivoire, are highly dependent on agricultural production and as such particularly climate sensitive. This high reliance on climate-sensitive activities renders the region vulnerable to climate change, which is expected to manifest in higher tempera-

tures, and more extreme weather events such as heavy rains, and rising sea levels. Livelihoods are predicted to be particularly affected. Experts also predict that saltwater and freshwater fisheries are likely to suffer as sea temperatures increase and coastal ecosystems are damaged while higher temperatures will negatively impact rice cultivation and can result in crop and livestock losses.⁶³ They expect intensified food insecurity, increased competition over natural resources and decreased income for large parts of the population in the region. Climate stress is thus likely to increase the business-related impacts of environmental degradation, scarcity of renewable resources, and population pressures and to contribute to a higher risk of renewed conflict.

In this context, maintaining current efforts to accelerate economic growth by relying on concession agreements without attention to the unequal distribution of benefits and risks of natural resource exploitation is likely to increase fragility. Furthermore, historically, informal cross-border trade of agricultural and manufactured goods and livestock forms the backbone of many locals’ livelihoods and deepens cross-border connections in the intertwined Mano River region.⁶⁴ As outlined above, the region’s civil wars were equally heavily intertwined, with communities and governments hosting and financing neighbouring insurgent forces, in part relying on conflict resources. Although levels of cross-border violence have decreased dramatically since the end of the civil wars, several reports of cross-border activity have recorded the presence of regional mercenaries in neighbouring countries.⁶⁵ Social fragility fostered by the unequal distribution of benefits and risks of natural resource exploitation may thus spill over to neighbouring countries of the intertwined Mano River region.

Equally, many of the natural resource deposits are located near national borders, emphasising the need to address transborder social and environmental impacts in light of the region’s history of conflict. Smuggling and the illicit trade of lootable resources, specifically diamonds, fuelled and prolonged the civil war in Sierra Leone, through the cross-border exchange of diamonds for weapons with Charles Taylor of Liberia. Rebel groups in Côte d’Ivoire, meanwhile, illegally exploited and exported diamonds, gold,

and cocoa to finance recurrent violent conflicts between 2002 and 2012.

Consequently, the UN Peacebuilding Commission as recently as early 2019 noted that fostering regional conversations including the sharing of good practises and lessons learned on peacebuilding and development challenges, such as issues of land tenure, in the countries of the Mano River Union constitute a critical element in sustaining peace in the region.⁶⁶ Furthermore, an integrated transboundary approach to natural resource management will be required to govern the extraction and distribution of natural resources, monitor the impacts and limit the risk of interstate conflict.⁶⁷

Conclusions

The need for responsible business conduct is critical in transitional justice and reconstruction contexts where conflict-sensitive and responsible business conduct in line with international human rights standards has particularly great potential to make a positive contribution. It is therefore crucial that the obligations and responsibilities of business actors are included in peace agreements, particularly when natural resources can be counted amongst the root causes of conflict.

The general tendency for post-war reconstruction to emphasize investments in order to promote economic growth and development is noticeable also in Liberia and Sierra Leone. Efforts to accelerate economic growth without attentiveness to the unequal distribution of benefits and risks and consequent social conflicts, however, are likely to undermine the resilience of post-conflict societies, and thus increase fragility. In both Liberia and Sierra Leone, the operations of investment projects that heavily depend on the use of land have led to frequent conflicts over human rights and environmental impacts between companies and communities. These conflicts undermine the social cohesion and resilience of societies and consequently hinder sustained peace.

Equally, natural resource management should constitute a central element of peace agreements and reconciliation efforts, particularly when natural resources are amongst the root causes of a conflict, as was the case in Liberia and Sierra Leone. Lessons learned include the importance of addressing natural resources in a manner suitable to their role in conflict, to establish institutions and mechanisms to address natural resources in the future, to protect resource rights and to regain trust of the population by recognising both customary and statutory tenure rights.⁶⁸ Without the implementation of these policies, the risk of renewing conflict increases. In 2009, the UN Integrated Peacebuilding Office in Sierra Leone expressed concern that many of the conditions for conflict that existed before 1992 remained unchanged and were aggravated by concerns about unfair distribution of benefits,

opaque processes and inefficient and unsustainable practices.⁶⁹

The case studies of Liberia and Sierra Leone explored here, with their history of cross-border trade, cross-border conflict and transborder social and environmental impacts of natural resource exploitation, demonstrate the necessity of a transboundary approach to natural resource management. Such a transboundary approach enables the effective governance of natural resource exploration and distribution, the adequate monitoring of impacts and social conflicts and thus limits the risk of interstate conflict.

A human rights approach to business operations and economic and development policies constitutes a crucial element of sustaining peace. The integration of responsible governance of business operations and sustainable natural resource management in the UN peacebuilding and sustaining peace agenda and in peace efforts may here play a crucial role. Analyses of human rights situations in the context of business operations can serve as a tool for early warning and early-targeted action. Only by applying human rights norms can grievances be adequately addressed, inequalities reduced, and resilience built, and thereby both peace and development sustained.⁷⁰

Recommendations

To UN Agencies:

- Integrate the governance of responsible business operations and sustainable natural resources management in the context of a changing climate in the UN peacebuilding and sustaining peace agenda, including in the forthcoming 2020 review of the UN Peacebuilding Architecture.
- Liaise across UN pillars to initiate and support drafting processes of conflict-sensitive National Action Plans on Business and Human Rights.
- Take steps to promote conflict prevention by closely monitoring the human rights situation, including economic, social and cultural rights, in the Country Configurations of the Peacebuilding Commission and beyond.
- Uphold the values of the UN by monitoring shrinking space for civil society, speaking out against human rights violations in a business context in conflict-affected settings and speaking out strongly in support of civil society space.

To UN Member States:

- Adopt legislation on mandatory gender-sensitive HRDD, including accountability measures, to ensure that companies conduct HRDD on their operations, value chains and investments, especially in conflict-affected settings. This should be done in accordance with the guidance issued by the UN Working Group on Business and Human Rights on Gender dimensions of the Guiding Principles on Business and Human Rights.
- Ensure that conflict-sensitive human rights due diligence is made a priority for businesses operating in conflict-affected settings. This includes engaging productively with the UN Working Group on Business and Human Rights, particularly regarding business conduct in conflict-affected settings.

- Ensure that National Human Rights Institutions have the capacity and resources to effectively fulfil their mandate to promote and protect human rights, including the handling of complaints and providing human rights education and law reform recommendations.
- Develop policy measures to implement the right to information, meaningful participation, and access to remedies concerning the prevention of destructive conflict relating to the environment, including by adhering to the standards of the UNECE Aarhus Convention.
- Integrate human rights concerns in the context of business conducted in conflict and post-conflict concerns in peer recommendations of the UN human rights mechanism of the Universal Periodic Review (UPR).

To the Private Sector:

- Conduct conflict- and gender-sensitive human rights due diligence in line with the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Business Conduct.
- Conduct Environmental and Social Impact Assessments (ESIAs) based on the highest international standards as a mainstreamed element of business operations in the context of a changing climate.
- Implement processes of meaningful and effective engagement and consultation of communities during the negotiations process of concession agreements. When indigenous communities are affected by business projects, respect their right to free, prior and informed consent (FPIC) in alignment with the UN Declaration on the Rights of Indigenous Peoples and ILO Convention No. 169 on Indigenous and Tribal Peoples.
- Enhance transparency on business operations as well as relations with government by making

information on operations public and available to affected communities, for instances by including documentation in local languages.

- Contribute to resilient societies by ensuring equal employment opportunities for men and women as well as educational and training opportunities for local youth throughout business operations.

To National Human Rights Institutions (NHRIs):

- Provide capacity-building support for responsible government agencies on human rights concerns in the context of business operations, with a particular focus on the gendered impact of business.
- Provide a platform for dialogue for an open exchange between NHRIs and NGOs on strategies promoting and protecting the human and environmental rights of communities affected by business operations.
- Raise awareness with policy makers on business and human rights violations as potential risk factors for triggering conflict or the recurrence of conflict.
- Use opportunities provided by the international human rights mechanisms, such as the Universal Periodic Review (UPR) to engage in conversations with the domestic government on legislation governing responsible business conduct.
- Actively promote and monitor the effective implementation of international human rights standards, such as the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Business Conduct, including the conduct of national actors abroad.

To Non-Governmental Organisations (NGOs)

- Conduct capacity building measures for local civil society organisations and communities on international business and human rights standards, guidelines and complaint mechanisms.
- Engage in national, regional and international cooperation with business, human rights and peacebuilding communities on successful means of engagement with the private sector and government agencies on the issue of business, human rights and the environment in conflict-affected settings.
- Use opportunities provided by the international human rights mechanisms, such as the Universal Periodic Review (UPR) process and relevant Treaty Bodies, to engage in conversations with domestic governments on legislation governing responsible business conduct.
- Integrate business, human rights and peacebuilding approaches throughout relevant work streams. Reiterate the crucial role of the full enjoyment of human rights in creating resilient and peaceful societies and emphasize the role business conduct can play in this regard.
- Integrate a gender-sensitive perspective on business, human rights and peacebuilding throughout relevant work streams to further explore impacts on women and girls and to ensure that those impacts are understood, recognised and addressed by all relevant actors.

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Author: Hannah Peters
Layout: Birgersson&Co, Åse Bengtsson Helin
Publisher: Alice Blondel
Published: 21st November 2019
ISBN: 978-91-88141-27-9

This report has been financed by the Government of Sweden. Responsibility for the content lies entirely with the creator. The Government of Sweden does not necessarily share the expressed views and interpretations.

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