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Multinational Corporations and Human Rights Violations in African Conflict Zones: The Case Study of Angola 1992-2005

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Abstract

The debate about companies in conflict zones and how they link with human rights violations has gained more attention recently in both business and International Relations. As a result of negative role played by some of Multinational Corporations (MNCs) in conflict zones, the profile of business in conflict prevention, governance and democratization has become more defined. This is due to the outcry concerning the activities of MNCs in conflict zones. The international community has vigorously campaigned for effective regimes to guide the conduct of MNCs in conflicts.

The aim of this thesis is to figure out both direct and indirect role that the MNCs played in conflict areas such as Angola where there are massive abuse of human rights. The increase in foreign direct investment has created a myriad of opportunities for expansion within developing countries such as Angola, the study wants to make intense analysis of that expansion in zones of conflict as to whether companies are a force for good or not, deriving empirical evidence of Angola.

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Declaration

I declare that this research report is my own unaided work. It is being submitted for a degree of Masters of Arts in the University of Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other university.

Signed on this 04th day of August 2006



……..

Victor Luvhengo

List of Abbreviations

BP	- British Petroleum
CSO	- Central Selling Organization
CIME	- Committee on International Investments and Multinational Enterprises
CSR	- Corporate Social Responsibility
FDI	- Foreign Direct Investment
FLEC	- Frente para Libertacao do Enclave of Cabinda
GATT	- General Agreement on Tariffs and Trade
HDI	- Human Development Index
HSE	- Health, Safety and Environment
ICCPR	- International Covenant on Political and Civil Rights
IMF	- International Monetary Fund
MNCs	- Multinational Corporations
MPLA	- Movement of Popular Liberation of Angola
ODA	- Official Development Assistance
OECD	- Organisation for Economic Co-operation and Development
PSA	- Production Sharing Agreement
UN	- United Nations
UNDP	- United Nations Development Programme
UDHR	- United Declaration of Human Rights
UNITA	- Union of Total Independence of Angola
USA	- United States of America
WTO	- World Trade Organisation

Map of Angola

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Chapter 1

1 Research Proposal

1.1 Introduction

"Companies appear to be taking the business ramifications of conflict far more seriously, yet with limited consideration of the full extent of their responsibilities. Certainly, they see conflict resolution as primarily the responsibility of government yet find themselves in context specific situations where they are nevertheless expected to work actively to protect and promote human rights. In addition to "traditional" civil and political rights, companies' human rights responsibilities are increasingly recognized. The process of managing human rights and company's economic performance in conflict zones are directly related."[1] Rory Sullivan

Towards the end of twentieth century, the role of companies in conflict zones has attracted a lot of attention from scholars of International Relations and policy makers. Furthermore, much of work on private sector operations and armed conflict has also derived from international Non-Governmental Organizations (NGOs) such as Global Witness, Human Rights Watch, International Alert, etc. There has been a growing concern over the social impact of international commerce, which has brought to the fore increasing attention to social problems such as human rights violations, corruption and transparency.[2] For the past decade, most of the undertaken studies by NGOs such as Global Witness, Human Rights Watch, and International Alert have alleged that there is a correlation between business activities in conflict situations and human rights violations.

For instance, the research done by Human Rights Watch and Global Witness in Angola alleged that diamond companies such as South African based company De Beers have

[1] Rory Sullivan, 'Human Rights and Companies in Conflict Zones,' in *Conflict, Security & Development* Vol.3 No.2, Centre for Defense Studies, Carfax Publishing, 2003, pp. 287

[2] Atie Christer Christiansen, 'Beyond Petroleum: Can BP Deliver? FNI Report 6, Fridtjof Nansens Institutt 2002, pp.8 accessible from the internet on http://www.fni.no/pdf/FNI-R0602.pdf

benefited a lot from getting access to diamonds reserves through Union of Total Independence of Angola (UNITA) rebel group while helping such a group to continue with war that had acute impact on civilians.

Companies in the extractive or mining and energy industries seem to be on the frontline when coming to this debate. They are of a particular interest, given that most of the conflicts in Africa are fueled by the proceeds from the selling of precious natural resources and contestation over control of natural resources.[3] Furthermore, the exploitation of natural resources such as oil, timber, and diamonds has fuelled conflict and generated corruption, exacting a heavy toll in lives and undermining faith in public administration in Africa[4]

It appears that the main problem is lack of capability of African states to exercise control over natural resources and to regulate activities of MNCs. Due to weak governance, some places where the natural resources are exploited are under control of the rebel groups. This gives a room for rebel groups to exploit natural resources and enter into business transactions with MNCs. This situation allows chaos and creates an environment that exacerbates conflict. Apart from the rebels, there is again an issue about extractive companies doing business with authoritarian regimes that commit atrocities to their own citizens. Authoritarian regimes normally use revenues they accrue from companies to buy

[3] Ian Banon & Paul Collier, (ed) *Natural Resources and Violent Conflict: Options and Actions*, World Bank, 2003, pp.6

[4] Dan Smith, 'Conflict-Sensitive Business Practice: Guidance for Extractive Industries,' International Alert, 2005, pp.1 accessible from the internet at: http://www.iisd.org/pdf/2005/security_ **conflict**_sensitive_**business**.pdf

weapons and creating a system of patronage, which in turn could create or exacerbate a conflict.

In an economy heavily depended on extractive industry such as of Angola, MNCs in this sector typically provide large revenues to governments and rebel groups in the form of taxes, royalties and other payments. In a country with severe governance and fiscal control problems, these payments can contribute to violence.[5] Given this situation, Jakkie Cilliers argues that the insistence by some in business that 'the role of business is to do business' is nonsensical in a country (Angola) where oil revenues will comprise 90, 5% of 2001 budget of about US $3.18 billion.[6] This brings us to the debates that corporate responsibilities in conflict-ridden countries appear to be necessary.

Given this background, it is in the interest of this research to explore such a controversial debate about companies doing business in unstable countries. This research chooses Angola as a case study. Angola is chosen mainly due to abundance of its natural resources and the role that natural resources played in the Angolan civil war. Though the conflict started in 1975, the period chosen here is 1992-2005. This period is important because it is a post-Cold War era, where countries such as Cuba, South Africa, United States of America (USA), and Russia had withdrawn from Angolan war.

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[5] OECD, 'Multinational Enterprises in Situations of Violent Conflict and Wide Spread of Human Abuses,' Working Paper on the International Investment No.2002/1, 2002, pp.3. This is a report by the OECD Secretariat, which has been prepared for and discussed by the Committee on International Investment and Multinational Enterprises.
http://www.oecd.org/dataoecd/46/31/2757771.pdf

[6] Jackie Cilliers, 'Business and War,' *in African Security Review* No 3 Vol 10, Institute for Security Studies, 2001, pp.3

It is alleged that both warring parties have resorted to exploitation of oil and diamond to fund war. Angolan case could give clear evidence on the interactions between oil and diamond companies in the civil conflict. This research is interested in studying companies in diamond and oil sectors. These are two main sectors in the economy of Angola. Among others, the main natural resource based companies that have been doing business in Angola are: Sodian, De Beers, Chevron, Elf, Texaco TotalFina, Royal Dutch, Shell, ExxonMobil, BP, Statoil, Ranger, etc. These are companies that have been mostly accused of playing a negative role directly and indirectly that perpetuated war in Angola.

1.2 Aim and Rationale

The aim of the thesis is to figure out the correlation between business activities and human rights violations by resource-based MNCs (diamond and oil) in a broader African conflict Zones while using the case of Angola. The aim of this thesis is to figure out both direct and indirect role that the MNCs played in conflict areas such as Angola where there are massive abuse of human rights. The main purpose is to provide ways and new thinking that may help enhance the positive and reduce negative effects of international business in developing regions such as Africa.

The increase in foreign direct investment has created a myriad of opportunities for expansion within developing countries, even to the countries that have been unstable such as Angola. The study wants to make intense analysis of that expansion in zones of conflict as to whether companies are a force for good or not, deriving empirical evidence

of Angola. This research aims to contribute to the intellectual debate about the character of new conflicts, which do present new actors such as MNCs, which have been partly ignored in the literature of conflict prevention, peacekeeping and resolutions. And again to provide a basis for the development of new approaches to conflict prevention and peacekeeping, which could assist policy makers, corporate decision makers and activists.

1.3 Research Questions

- Were natural resourced based multinationals (diamond and oil companies) contributed to human rights violations during the civil conflict in Angola?
- Was there any link between business activities of those multinationals and human rights violations in civil conflict of Angola?
- If yes, how have they contributed to human rights violations in Angola and what activities both direct and indirect have undermined human rights issues?
- Should natural resource based multinationals continue to invest in conflict zones?
- Are international laws adequate in ensuring companies are accountable for human rights abuses when operating outside of their home state, particularly in zones of conflict like Angola?

1.4 Hypothesis

Natural resource based multinationals are more likely to undermine their corporate ethics when they operate in places where there is political instability and weak governance such

as in Angola. Therefore, such behaviour usually makes them to contribute towards human rights violations in such places. They may contribute to human rights violations by fuelling already existing war and exacerbating a system of corruption and weak governance. An increase adoption of monitoring mechanism of companies at and international level will increase transparency on companies operations in political unstable places like Angola. Furthermore, to improve business practices, international efforts are necessary to create an external system of compliance and monitoring which ensures corporations adopt conflict-sensitive policies, which positively contribute to peace, prosperity and stability in conflict zones.[7]

1.5 Theoretical Framework

To give the theoretical framework, the study has considered postmodernist or 'critical' human security approach that is rooted in pluralist theory of international politics. This approach is base on a set of assumptions that essentially attempt to dislodge state as the primary referent of human security, while placing greater emphasis on the interdependency and transnationalization of non-state actors such as MNCs.[8] The critical' or postmodernist approach to human security, that is reflected in the work of Ken Booth, also advocates for a broadened conceptualization approach to security that goes beyond a military determination threats.[9]

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[7] Paula Richardson, '*Corporate Crime in a Globalized Economy: An Examination of the Corporate Legal Conundrum and Positive Prospects for Peace'* Carleton University, 2003, pp.2

[8] Ken Booth, 'A Security Regime in Southern Africa: Theoretical Considerations,' in *South African Perspectives* No.30, Center for Southern African Studies, 1994, pp.3

[9] Ibid

The post-modernist approach stresses quite explicitly that the state should not only be a primary referent of human security, and should encompass instead a wide range of non-state actors, such as individuals, ethnic and cultural groups, regional economic blocs, multinational corporations and non-governmental organizations and just all human kind.[10]

Based on the above assumptions, this research would like raise issues such as, should protecting human rights in conflict areas encompass these new actors such as MNCs and not only be traditional role of the state? In trying to provide answers to the above question, this study will argue that human rights issues can no longer be issues of states. The transnational actors such MNCs have become powerful actors that operate within and beyond borders of the state and have increasingly involved in areas where there is massive human rights violations such as in conflict zones or where governance is weak.

Furthermore, on post-modernist approach Claude Buderhein argues that multinational corporations operating in conflict zones are non-state actors whose potential exists should contribute to fostering conflict prevention and generating wider respect for human security.[11] This theory argues that non-state actors such MNCs should play a positive rather than negative role to bring about large-scale development or resolve the threats facing civilians in conflict zones or where governance is weak. It would be in the interest

[10] Ken Booth, op. cit.
[11] Claude Bunderhein, 'The Role of Non-State Actors in Building Human Security: the Case of Armed Groups in Civil Wars,' Centre for Humanitarian Dialogue, 2000, pp.4 accessible on the internet at http://www.humansecuritynetwork.org/docs/report_may2000_2-e.php

of this research to widely apply this theory and exploring its relevance to the contemporary world.

1.6 Literature Review

In reviewing literature, we identify authors with different views on particular issues related to multinational corporations and human rights violations in conflict zones, and make our contribution by adding relevant facts which we intend to put forward in the course of conducting this study in areas where such facts are lacking.

Currently, there has been a growing literature interested in companies in conflict zones and with more emphasis on human security issues. However, such literature is many composed of journals, there is little specific books written on this area. The main impetus for increasing attention to the issues of business in armed conflict comes from the recent research concerned with the politically economy of civil wars, (Keen, 1998, Collier and Hoeffer 1998, Berdal and Malome, 2000, Ballentine and Sherman, 2003). These authors give a good introduction on how resource wars link with business and give a very good introduction of this research.

From the work done on political economy of civil wars there has been growing body literature that suggest that multinational corporations can play indirect (and inadvertent) roles in the logic of violence and human rights as the taxes and royalties they pay enter extremely weak frameworks for public governance, (Dietrich, 2000, Cilliers, 2001, OECD, 2002, Ballentine and Nitzchke, 2004,)

The above writers argue that many contemporary conflicts have become increasingly self-financing in nature as both rebels and governments, faced with a post-cold war decline in superpower support; they have sought alternate sources of revenue to sustain their military campaigns. The exploitation and trade of in lucrative natural resources in particular has become a major source of combatant self-financing and corporations have played significant role in abating combatants to continue with massive human rights violations. This argument is basically at the centre of this research. This argument is used in this research to assist this research to explore at the nature of post-cold war were external support to many combatants seized and new methods to finance conflicts came into the picture which include MNCs.

Again, (Hodges, 2003, Ross, 2001, and IRIN, 2005) suggest that nowhere, was the humanitarian price of these war economies more evident than in Angola, where revenue from oil and diamond generated millions of dollars in profit for rival elite but resulted in atrocious loss of life and crippling poverty for country's population.

The United Nations (2000) report on protection of civilians in armed conflict has actually reported that "individuals and companies take advantage of, maintain, and even initiate armed conflict in order to plunder destabilized countries to enrich themselves, with devastating consequences for civilian population. Partnership with repressive and corrupt host regimes or other non-state actors that violate human rights and humanitarian

principles has become more of strategy of companies to benefit in conflict zones, (Dietrich, 2000, OECD, 2002, Ballentine and Nitzchke, 2004,)

Apart from well-published literature reviewed above, there is another view which argues that it is not corporations general absence of concern that leads them to make choices with negative repercussion for human security, but lack of information about, and lack of understanding of humanitarian and human rights principles, as participant in the conflict to uphold them (Bunderlein, 2000, Berman, 2000, Campell, 2000, Cain, 2001). This would be very interesting as this study has tried to finding out if corporations do actually contribute to human rights violations unintentional, as most of the above literature has argue that corporations are driven by existing opportunities to benefit more in conflict zones and there seems to be a general consensus, by looking at mostly of above literature.

The literature concerning the role of business in conflict prevention, peacekeeping, and post-conflict peace-building has also been considered in this study. The literature claims that due to negative role played by some multinationals in conflict zones, positive role by MNCs in conflict prevention would help to end human rights violations. Contributing to conflict prevention or management may also fit into a company's policies on corporate social responsibility (Banfield and Chapman, 2004 and OECD, 2002, HWR, 2000, UN, 1998). They went on to highlight that corporations should be careful about preventing business activity from having harmful effects on population, the environment, and help the political process aimed at promoting stability and peace. The role of multinational should enlicit in combating "elicit trafficking, corrupt resource deals, rent seeking and the

flow of resources that can stoke or be the motive of violent conflicts, (OECD, 2002, HRW, 2000, and UN, 2004).

What is clear from above literature is preventive measures that companies could adopt but there is a considerable limited attention between human rights and conflict management by companies. This research would try to depart from the preventive measures that the above literature suggests and will raise new issues. Issues like how risks could be managed in order to reduce the likelihood of conflict or human rights violations, and if they do occur, how to minimize the adverse consequences. To go further, much is needed to assess the role of companies in post-conflict reconstruction and how they could assist communities emerging from conflict situations and this study has addressed that looking at current situations in Angola.

Another literature that got attention is sanctions and corporations in conflict zones. (Smith, 2005 and Sherman, 2002) argue that although sanctions have been applied to non-state actors, it has been limited to armed groups, Security Council could extend sanctions to include private firms implicated in sanctions-busting or those which knowingly traffic in illicitly exploited natural resources.

They argue that self-regulation alone is ultimately insufficient to ensure that private sector activities do not directly or indirectly contribute to armed conflict. Voluntary measures lack rigorous enforcement and broad coverage. Smith continues to highlight that international legal framework and standards on business and conflict issues is an

important step towards conflict-sensitivity, and is likely to place companies in a good positions in the future. (Richardson, 2003, Kamminga, 2004, Vazquez, 2004) also concurred by arguing that in order to improve business practices, international efforts must create an external system of compliance and monitoring which ensures corporations adopt conflict-sensitive policies, which positively contribute to peace, prosperity and stability.

To further extend this debate, this study will further analyze whether it is feasibly to extend sanctions and international legal frameworks to corporations in conflict zones. However, presently corporations seem to favor self-regulations or voluntary practices. The study will give intensive analysis of voluntary self-regulations and legal binding obligations in order to order to come with the best recommendations using some examples of Angola.

To go further, this study will question if an international regulatory framework for companies could either require states to regulate corporate behavior within their jurisdiction or could it be directly imposed at the international level. Again, which of the two methods could be more feasibly?

1.7 Methodology

The approach adopted in this research is qualitative. The qualitative approach performs a careful "content analysis" of the primary and secondary sources (documents), which

adduce as evidence-speeches, press statements, governments reports, diplomatic massages, personal memoirs, interviews, scholarly studies etc.[12] Both primary and secondary texts has been used throughout in this research. The primary data is basically information obtained form international treaties, and policy documents. This has included UN Security Council Declaration Report papers on Angola, UNDP reports, speeches and policy documents of the government of Angola and statements issued by companies doing business in Angola. Interviews also formed part of this research. Nkosinathi Ndlovu of African Institute for Corporate Citizenship. Mxolisi Makiwana of Africa Institute of South Africa who did a project on Anti-money laundering in Southern Africa was also interviewed and other various Angolan citizens around Johannesburg. Some of the interviews were declined.

Secondary documents have been obtained ranging from books, scholastic journals and online academic information through the Internet. The extensive data was collected from University of the Witwatersrand Libraries including Jan Smuts House library, University of Johannesburg main library in Auckland Park and from Africa Institute of South Africa.

1.8 Limitations of the Study

The study would have preferred to study one or two companies in order to come up with comprehensive conclusion, but due to limited information, the study has become a general study of companies in oil and diamond sectors in Angola. There is also lack of

[12] J.E. Doughorty & J. Pfaltzgraff. *Contending Theories of International Relations: A Comprehensive Survey*, Harper and Row Publishers, 1981. pp.37

academic books and journals covering the topic of this research, therefore bulk of information has been derived from the Internet and advocacy work of NGOs. Limitation of information could be one the weaknesses of this research.

1.9 Organisation of Work

Chapter one, gives introduction to the topic outlined fundamental goals, the theoretical framework as well as the methodology. Chapter two gives historical background of MNCs in general and conflict prone Africa. Chapter three attempts to evaluate MNCs as actors in conflict zones and will analyze how they have become major actors in Africa particularly Angola. It will also look at how they correlate with human rights issues in the conflict of Angola. It argues that the investment of mining and extractive sector has not been for the benefit of the people of Angola and the investment has been a curse instead of a blessing. The focus is on oil and diamond companies. It traces the role of MNCs during the conflict of Angola particularly after the resurgence of war in early 1990's until the end of the war in 2002.

Chapter four is about how companies can apply corporate social responsibility in conflict areas and what measures companies can adopt to promote human rights, peace and development in Angola. The chapter argues that adoptions of Corporate Social Responsibilities (CSR) could play a crucial role in building peace and ending human rights abuses in Angola, especially at this time of post-conflict reconstruction era. Chapter five brings a controversial debate on why it is crucial to regulate MNCs particularly those operating in conflict zones like in Angola. The chapter argues that the

atrocities in Angola would not have occurred if there were strong international enforcement regulations that corporations could have adhere to. It will assess whether international regulatory framework is feasible. And why it should be implemented. Chapter six provides an answer to research questions and also give the summary of lessons learnt and recommendations

Chapter 2

2 Historical Background

2.1 Introduction

This chapter will attempt to set a historical background of the role of MNCs in general and it will also specifically look at their role in the post Cold War Africa. To begin with a definition, multinational corporations are large companies that conduct their business operations in several states.[13] They have one common feature, and that is the fact that they are mainly from rich countries such USA, Canada, Japan, United Kingdom, Germany, France and Italy, although in the last decade there has been emergence of MNCs from emerging markets Brazil, China, India South Africa and other middle-income economies. There are various kinds MNCs and this is mainly due to various sectors they operate in. Some are in mining, manufacturing, telecommunications and service, finance, etc. Large corporations have become more important economic actors in the global affairs than are many poor states. These are corporations that have annual turnover than most poor nations.

MNCs have a long history. The modern MNCs have its roots in the East and West Indies traders of the mercantilist era of the 16th- 18th centuries.[14] During this period, there were major merchant firms such as The Hudson's Bay Co., The East India Co., The Royal

[13] UN Committee on Trade and Development, 'Multinational Corporations in Least Developed Countries (LDC)', *Discussion Article*, 2002, pp. 2 accessible from http://www.globalpolicy.org/reform/2002/modelun.pdf
[14] Ibid

African Co. that organized long-distance trade with America, Africa and Asia.[15] The mercantilists walked all over the world in search for resources and markets. Although these were merely traders they paved a way for international business, and led colonization of Third World countries.

However, after the World War II, the growing trend of globalization has allowed MNCs to expand and pursue possibilities beyond borders among nations. Globalization can be defined as the process of the intensification of economic, political, social and cultural across international boundaries.[16] Open trade, free flows of finance, the rapid dissemination of new technology and ideas, heightened competition among national and regional economies, new accumulation of capital and wealth, abrupt shifts in production by MNCs in search for lower wages, equity investment funds hunting the most profitable 'emerging market'- all pointed to the increasingly complex and interlinked nature of globalization and the greater predominance of the market over the state.[17]

This rapid expansion of globalization after World War II was made possible by institutions of global economic governance, which emerged after the war, such as International Monetary Fund (IMF), World Bank and General Agreement on Tariffs and Trade (GATT), which in 1995 came to be known as the World Trade Organisation (WTO).

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[15] Jagdish N. Bhagwati, (ed) *Economics and World Order: from the 1970's to the 1990's*, Macmillan, 1972, pp.115

[16] S.T. Akindele, T.O. Gidado, & O.R. Olaopo, 'Globalisation, Its Implications and Consequences for Africa' Department of Political Science, Obafemi Awolowo University, 2002 http://globalization.icaap.org/content/v2.1/01_akindele_etal.html

[17] Ernest Harsch, 'Africa, Asia and Anxieties about Globalisation,' in *Review of African Political Economy* No.79 Vol. 26, Carfax Publishers , 1999, pp.119

These institutions are normally have been used as instrument to advance globalization. IMF and World Bank are expanding globalization by crafting economic policies of countries in favor of greater openness. The IMF and the World Bank play crucial roles in the enthronement of capital, this has been done through policies such as liberalization, privatization and deregulation.[18] MNCs have taken an advantage of such a process. They have continued to expand beyond borders of nations in large numbers. The developing nations such as in Africa, Asia and Latin America have also felt the presence of MNCs.

In the last two decades MNCs have continue to play an increasing role in developing countries. MNCs have become an important vehicle for the movement of Foreign Direct Investment (FDI).[19] After the post- Cold War era, in the late 1980's, FDI in developing countries by MNCs has greatly surpassed the Official Development Assistance (ODA) from developed countries. According to Robert Davies of the Prince of Wales Business Leaders, "Private sector investment in developing countries now exceeds that of governments more than ten-fold."[20] As ODA funding stagnated, more development financing demands have shifted towards the private sector, requiring greater interaction and cooperation between civil society, government, and business.[21]

[18] S.T. Akindele, T.O. Gidado, and O.R. Olaopo, op. cit.
[19] UN Committee on Trade and Development, opt cit.
[20] Ashley Campbell, 'Fuelling Conflict or Financing Peace and Development? Linkages Between MNC Investment, Development and Conflict: Case Study Analysis of BP Amaco's Social Policies and Practice in Colombia' Country Indicators for Foreign Policy, Carlton University, 2003, pp. 8 accessible from the http://www.carleton.ca/cifp/docs/cifpmnclongreportPART_11.pdf
[21] Ibid

However, though everyone could recognize the increasing role of MNCs in global affairs and especially in developing countries, this has been accompanied by mixed views. That mainly depends to whether a person is analyzing such a role at Liberal point of view or Marxist point of view. Both views could either be right or wrong. Liberals view MNCs as an important partner in the process of economic, social and human development. Liberals view MNCs as agents of development that could spread resources, knowledge and expertise that help to develop developing countries.[22] Furthermore, liberals argue that it is no accident that people in those Third World countries whose governments have been more open to the presence of MNCs have experienced significant improvements in their standard of living (e.g., Bermuda, Bahamas, Hong Kong, South Korea, Singapore and Taiwan) while many countries hostile to MNCs continue to be mired in poverty.[23]

On the other hand Marxists will argue that MNCs are particularly notorious for exploiting countries especially developing countries, causing problems regarding aspects of human rights, environmental conditions, government corruption, and economic fragility. [24] Furthermore, there is an argument that MNCs are interested in profit maximization and their paramount interest is to remain as economic giants in developing countries so as to enjoy business profits, not concerns with developing those countries.[25]

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[22] Jagdishi Bhagwati, 'Do Multinational Corporations Hurt Poor Countries' 2004, accessible from Http://www.taemag.com/doc/lib/2004.04.05-june04bhagwati. pdf

[23] James C. W. Ahiakpor, 'Multinational Corporations in the Third World: Predators or Allies in Economic Development? Action Institute for Religion and Liberty, 2003, accessible from http://www.action.org/publicat/rand1/article.php?id=59

[24] UN Committee on Trade and development, op. cit.

[25] O.E. Udoufia, 'Imperialism in Africa: A Case of Multinational Corporations' *Journal of Black Studies*, No.3 Vol. 14, Sage, 1984, pp. 364

Against all this background what has recently caught attention among scholars and policy makers is the role of MNCs in areas experiencing conflict and poor governance. In a process of expansion, MNCs have not only found themselves operating in sound political environment but often found themselves attempting to operate in the midst conflict areas.[26] The natural resources based corporations are main investors than those in other sectors. MNCs in sectors such as tourism, manufacturing, supply chains of consumer goods, marketing are known to withdraw from conflict areas but MNCs in extractive sector do not. In fact some studies have shown that there has been increasing investment in areas experiencing instability and poor governance, particularly by natural resource based corporations. They have continued to operate in conflict zones, even at the added cost of managing attended risks.[27] For instance, in the last decade, several emerging economies such as Colombia, Indonesia, Algeria, Angola and the Philippines, have been able to attract high levels of direct investment despite the occurrence of conflicts.[28]

Furthermore, the following recent statistics also show the growing number of corporations investing in an unstable environment:

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[26] Suzan Pinkney, 'Mind Your Own Business: Multinational Corporations, Corporate Social Responsibility and Conflict', 2005 accessible from the internet at http://action.web.ca/home/cpcc/attach/S_Pinkney.doc

[27] Karen Ballentine & Heiko Nitzschke, 'Business and Armed Conflict: An Assessment of Issues and Options', in *Journal of International Peace and Security* No. 79 Vol.1-2, International Peace Academy, Die Frieden-Warke, 2004, pp.25

[28] Ashely Campbell, 'The Private Sector and Conflict Prevention Mainstreaming: Risk Analysis and Conflict Impact Assessment Tools for Multinational Corporations', Country Indicators for Foreign Policy, Carleton University, 2002, pp. 5
http://www.carleton.ca/cifp/docs/mncsriskassessmentreportupdated.pdf

- In the year 2000, there were 72 countries at the security risk in which foreign business operates.[29]
- Multinational companies are investing more than US$150 billion annually in nearly 50 countries which fall below the immediate point in Transparency International's Corruption Perception Index- in other words in countries which may be confidently described as fairly to very corrupt.[30]

There could be so many reasons to explain such behaviour. First, competitions among MNCs may often force them to operate in conflict-ridden regions. Second, by virtue of geography, natural resource based MNCs are bound to operate where lucrative and strategic natural resources- such as oil, gas, precious gems and minerals-are found. Increasingly, these are regions in the developing world experiencing violent instability or active combat.[31] Third, high potential returns on investment that can be made in comparison to investments in stable regions where there are lots of regulations to adhere to.

War is overwhelmingly bad for most businesses because of high uncertainty and insecurity putting at risk investment, staff, production, and trading.[32] However corporations in extractive or mining sector usually invest their resources for a long-term period for exploitations of natural resources and usually are compelled to overlook

[29] International Alert, 'The Business of Peace: The Private Sector as a Partner in Conflict Prevention and Resolution', Council on Economic Priorities, 2000
http://www.international-alert.org/publications/getdata.php?doctype=Pdf&id=239&docs=718
[30] Ibid
[31] Karen Ballentine & Heiko Nitzschke, op. cit.
[32] Philippe Le Billon, 'Thriving on War: The Angolan Conflict & Private Business' in *Review of African Political Economy* No. 90 Vol. 28 , Carfax Publishing, 2001, pp. 633

instabilities such as war. For instance, the major infrastructure invested to exploit oil, diamond, gold etc.

With such an investment in unstable regions, international business community have found itself confronted with many challenges in its areas of operation, or being blamed for contributing to the conditions that lead to violent conflict or exacerbate conflict.[33] Consequently, an increasing amount of attention has been focused on the links between conflict and the activities of MNCs, and the role corporations play in conflicts.[34] As armed conflict has become increasingly privatized, the role played by business actors in conflict zones has become more central to conflict dynamics.[35]

The role played by extractive MNCs in African conflicts in the last decade is also quite interesting. However, this is not to say that such MNCs did not play a role in the past African conflicts. It is just that during the Cold War, the major focus was on the role of superpowers (US and Russia) on African conflicts. Extractive MNCs have been always around in Africa since colonization of Africa in the late 18th century. They were particularly drawn by vast natural of the continent such as oil, diamond, gold, timber, gas, iron, etc.

The end of Cold War has shaped the character of African conflicts especially in an area of financing civil war. With the international support that warring parties enjoyed from

[33] Juliette Bennett, 'Business in Zones of Conflict- The Role of the Multinationals in Promoting Regional Stability' UN Global Compact Policy Dialogues Paper, 2001 accessible from the internet at http://www.unglobalcompact.org/docs/news_events/9.1_news_archives/2004_09_10/col_english_final.pdf
[34] Suzan Pinkney, op. cit.
[35] Karen Ballentine & Heiko Nitzschke, op. cit., pp. 23

the socialist and capitalist bloc came to a halt. The warring parties resorted to the abundance natural resources of oil and diamond to finance their capabilities to fight. The exploitation of and trade in lucrative natural resources in particular has become a major source of combatants self-financing.[36] For instance, wars in Sierra Leone, Liberia, Ivory Cost, the Democratic Republic of Congo, Sudan, and Angola.

These wars have both common features. They were all influenced and financed by vast natural resources in these countries. This was not done in the vacuum of multinational corporations as they did play supporting role to the warring parties. For instance in Democratic Republic of Congo (DRC), the country has been crippled by conflict that has been going on for the past seven years. The previous UN reports from the panel of experts showed the link between the activities of multinational corporations and armed groups guilty of massacres and other atrocities.[37] Normally warlords use natural resources to support their bloody activities with the help of MNCs. In the DRC it has been reported by Human Rights Watch in June 2005 that AngloGold Ashanti provided meaningful and financial support, which in turn resulted in political benefits to the FNI (Nationalist and Integrationist Front (FNI) and its leaders.[38] This is a group responsible for bloody activities in DRC.

The relationship between conflict and extractive companies has become a central one in Angola. The international attention to business activities in Angola has thus far focused

[36] Karen Ballentine & Heiko Nitzschke, op. cit.
[37] UN Security Council, 'UN Panel of Experts on Illegal Exploitation of Natural Resources' Final Report Annex 1, 2003, p.1 accessible from the http://www.foe.org/oecdguidelines/UNPanelFourthReport.pdf
[38] Human Rights Watch, 'D.R. Congo: Gold Fuels Massive Human Rights Atrocities' June 2005 accessible from http://www.hrw.org/english/docs/2005/06/02/congo11041.htm

on large multinational companies, such as ExxonMobil, Royal Dutch, Shell, Chevron or British Petroleum (BP) in the oil and gas industry, De Beers with regards to the diamond trade, Rio Tinto and Freeport McMoran in the mining sector[39].

In Africa and particularly Angola the companies operating in extractive business have become strong actors in that economy. These companies have particularly spread their sphere of influence or to dominate the diamond and the oil sector. It has been alleged that the role played by these companies in perpetuating Angolan civil conflict has been mostly direct, indirect, and sometime unintended.

[39] Karen Ballentine & Heiko Nitzschke, op. cit. pp.26

Chapter 3

3 MNCs in African Conflict Zones: Oil and Diamond Companies in Angolan War

3.1 Introduction

This chapter will continue to argue that MNCs have become active actors in African conflict zones such in Angola departing from the previous chapter. It will highlight that the investment of mining and extractive sector has not been for the benefit of the people of Angola and the investment has been a curse instead of a blessing. It traces the role of MNCs during the conflict of Angola particularly after the resurgence of war in early 1990's until the end of the war in 2002.

3.2 The Conflict in Angola

Angola presents a terrible, shocking paradox.[40] One of the best resource endowments in Africa has been associated not with development and relative prosperity, but with years of conflict, economic decline and human misery on a massive scale.[41] Angola has been in a conflict over the last three decades. The civil conflict started in 1975, the year of independence from the Portuguese government and it ended in 2002. The war claimed 1.5 million people out of population of 14 million and displaced 4 million people, and destroying a majority of the country's infrastructure and social fablic.[42] During these

[40] Tony Hodges, *Angola: Anatomy of an Oil State*, James Currey, 2004, pp.1
[41] Ibid
[42] Paul Kapelas, Nnkosinathi Ndlovu, & Andres Hein, 'Strengthening Developing Country Governments' Engagement with Corporate Social Responsibility (CSR): Conclusions and Recommendations from Technical Assistance in Angola' Final Report, African Institute of Corporate Citizenship, 2004

three decades, the conflict shifted from national liberation struggle, to Cold War, and to a war fuelled by exploitation of natural resources by elites on either side.[43] The main warring parties have been the Movement of Popular Liberation of Angola (MPLA), the ruling party and Union of Total Independence of Angola (UNITA), the rebel group.

For the purpose of this analysis, this research has no interest in looking at war influenced by liberation struggle and Cold War but is interested in post-cold war Angolan conflict that was more sustained by exploitation of natural resources. This is for the purpose of showing the role played by corporations in sustaining post-cold war Angolan war.

The post-Cold War Angolan war was commonly known as war economy. The definition of war economy dates back to the end of Cold War when numerous armed groups began to rely heavily on revenues from natural resources, such as oil, timber, or gems, in the absence of politically-motivated sponsorship to finance conflicts.[44] This was a common trend in the early 1990s in the most African countries, which were experiencing civil wars.

Sensing the end of affairs, as they knew it, the Angolan warring parties began an early scramble for the possession and control of the resource-rich areas of Angola.[45] This is not

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[43] Jessica Banfield & Phil Champain, 'What Role for Oil Majors in Supporting Sustainable Peace and Development in Angola?: A Survey of Stakeholder Perspectives, International Alert, 2004, pp.11 accessible from http://www.international-alert.org/publications/getdata.php?doctype=Pdf&id=24

[44] Christopher Moss Rassi, 'Fighting the War Economy with a Diamond in the Rough: Using the Kimberly Certification Scheme Model to Regulate Multinational Corporations', A Paper Presented at International Law Seminar, Case Western Reserve University, 2003 http://law.case.edu/student_life/journals/jil/notes.htm

[45] Hannelie de Beer & Virginia Gamba, (ed) 'The Arms Dilemma: Resources for arms or Arms for Resources' in *Angola's War Economy,* Institute of Security studies, 2000, pp.69

to say there was no exploitation of natural resources by warring parties before 1990, but it was not a focus. It has been well documented that the decline into renewed civil war, following the failure of the 1992 elections, was financed for the major part by natural resources- oil and diamond.[46] The MPLA had control over oil reserves and while UNITA controlled 70% of diamond territories.

3.3 The Role of MNCs in Angolan War

The best way to consider the role of MNCs in Angolan conflict is by looking at how they have contributed to sustainability of that conflict. The international economic forces such as MNCs have been able for a time being to step in and filled the role formerly played by foreign governments, such as United States of America (USA), Cuba, South Africa, Portugal and Russia in the conflict of Angola. In fact the role of MNCs has been that of fueling a conflict as the previous mentioned governments have done in the conflict of Angola. Much of the hard currency of multinationals in Angola is that they helped both the government (MPLA) and UNITA to arms procurement, the war effort, and to feed corruption.[47]

3.3.1 The Oil Industries

The oil sector is the largest in Angolan economy. It has drawn large oil multinationals since the discovery of oil in 1955 such as ExxonMobil, Royal Dutch, Shell, Chevron and

[46] Global Witness, 'A Rough Trade: The Role of Companies and Governments in the Angolan Conflict, http://www.globalwitness.org/reports/download.php/00103.pdf

[47] Richard H. Dietrich, (ed) 'Ethical Considerations for Multinationals in Angola' *in Angola's War Economy,* Institute for Security Studies, 2000, pp.228

British Petroleum (BP) etc. Initially, the discovery mainly focused on onshore oil deposits in Cabinda region but in the late 1980's major discovery was made off-shore on deep-sea water. That has furthermore attracted major oil companies around the globe to invest in oil exploration in Angola. Oil sector is the largest contributor to the Angolan state budget, representing as much as 90% of government revenues and, therefore, it has played a pivotal role in funding the war economy.[48] Oil has been a key component in the regime's ability to gain access to political and material resources beyond Angola's borders; not just to markets (as with diamonds), but also to diplomatic channels and more politically connected commercial networks that directly advance the MPLA regime.[49]

The use of foreign oil firms also offered opportunities for Angola's rulers (as in other bureaucratically weak, but mineral rich states) to use this conjunction of strategic, diplomatic and commercial interests to influence the actions of outsiders and shape the balance of forces within Angola.[50] Due to the abundance of oil that foreign corporations wanted to exploit, the government of Angola has always had a leverage to manipulate oil companies to meet political ends, which will be explained in detail in few paragraphs.

The foreign corporate presence in Angola was especially significant since only handful of major multinationals drive the economy and safeguards the government from military defeat.[51] The activities of foreign oil companies have affected the shape of the conflict;

[48] Global Witness, A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets,' London, 1999
http://www.globalwitness.org/reports/download.php/00048.pdf
[49] William Reno, (ed) 'The Real War Economy in Angola' *in Angola's War Economy,* Institute for Security Studies*,* 2000, pp.219
[50] Ibid, pp.224
[51] Richard H. Dietrich, op. cit.

the intense competition for oil concessions has led to a number of different companies seeking the favour of the Angolan state elites through dubious charitable donations, weapons deals, and other forms of assistance.[52] Mining concessions appeared to have been tied to foreign firms' willingness to play active roles in bolstering government security interests in Angola.[53]

The presence of large multinational oil firms in Angola helped to create new channels for what can be called the 'private diplomacy' of Angola's MPLA regime.[54] The private diplomacy was basically private agreement between the MPLA regime and oil companies. What does that private diplomacy entailed? Foreign firms provided their MPLA hosts with access to the diverse and increasingly commercial channels through which wealthy nations provide foreign aid, such as expert guarantee schemes, loan to foreign investors, security arrangements and diplomatic support from the investment strategies of individual firms.[55] This relationship helped the MPLA in its efforts to suppress internal challenges, such as UNITA and threat from within its own military.[56] This was possible because through the use of oil companies, the MPLA was capable of raising large amount of money through that private diplomacy. The money was easily used to buy weapons that sustained war.

Moreover, the MPLA established a condition where big companies had to establish partnership with small companies that were brokering deals for arms supplies. In the

[52] Jedrzej George Frynas & Geoffrey Wood, 'Oil and War in Angola' *Review of African Political Economy* No. 90 Vol.28, Carfax Publishing, 2001, pp.587
[53] Ibid
[54] William Reno, op. cit., pp.219
[55] Ibid
[56] Ibid

1990's Sonangol Angolan state oil company started providing equity stakes to companies with linkages in the international arms industry as an alternative means of payment in kind for arms contracts.[57] Brokering financial deals for arms supplies to the MPLA in the 1990s was related to contracts for lifting Angolan oil. This was normally part of what is known as Production Sharing Agreement (PSA), on which big oil companies are forced to make partnership with small companies. The Angolan national company Sonangol is the one that facilitates the PSA. Small oil companies were made part of PSA because of their willingness to facilitate both financial and military supports to the government.

For instance, Glencore, an oil-trading firm with experience in high-risk locations in Africa, facilitated such oil-backed loans for arms purchases.[58] The Global Witness has also reported that small companies such as Heritage Oil and Coastal Oil also have provided loans for the government to purchase weapons during the 1992-94 periods.[59] Furthermore, in the 1997-1998 periods, Glencore reportedly arranged syndicated loans worth US$900 million for the MPLA [60] The Global Witness also noted that such partners notably have been included in Block 32 and Block 33, which are operated by TotalFinaElf and Exxon respectively[61], because of the active role they played for supporting the MPLA.

[57] Jackie Cilliers, 'Business and War in Angola' in *Review of African Political Economy* No. 90 Vol.28, Carfax Publishing, 2001, pp. 689
[58] Ibid, pp. 589
[59] Ibid
[60] Ibid
[61] Global Witness, 'A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets,' 1999
http://www.globalwitness.org/reports/download.php/00048.pdf

Furthermore, the award of three blocks in 1999 to major oil firms such as Amoca, Elf, Exxon, Marathon, and Statoil procured the financial and technical capabilities necessary to explore for, and extract oil in deep water concessions.[62] The inclusion of additional firms such as Prodev (Swiss company)- 20% equity partner in Elf's block 32, Naphta (Israeli Compnay)- 5% equity partner in Exxon's block 33 and Falcon Oil (Panamian company)- 10% equity partner in Exxon's block 33 raised suspicions that these joint ventures mix oil production with arms purchases.[63]

What do these small companies have in common is that they have close links with military companies. Sources indicate that there is a very close relationship between Naphta and a private military company called Levdan (Israeli company), whose senior manager is ex-Israeli army General Ze'ev Zahrine[64]. This was the company that was proving security arrangements for the MPLA. Prodev, it is suggested that the company received its share as a 'payment' for weapons delivered, and this 'payment in kind' took place because the Angolan government did not possess the funds to pay with cash.[65] Falcone is linked with an influential individual in Luanda by the name of Pierre Falcone, who is a Brasillian but operates in France, and has been instrumental in a number financing and arms supply deals for the Angolan government.[66] The importance of such contributions was not unimportant; for instance, in the bidding process for oil blocks,

[62] William Reno, op. cit. p.227
[63] Ibid
[64] Global Witness, 'A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets,' 1999
http://www.globalwitness.org/reports/download.php/00048.pdf
[65] Ibid
[66] Ibid

companies enhanced their bids by pledging varying amounts as contributions to Sonangol's Social Bonus Fund (subject to the award of the block).[67]

Brokering arms deals was actually done given the huge competition among companies to access oil deposits. According to companies' perception, no single company would have got leverage above its competitors by pushing agendas of political transformation and peace related initiatives. Good doers were more likely to be punished by sidelining them from getting access oil deposits.

The role in arms brokering was not only done by small firms, the major oil companies also entered and benefiting in playing such roles in conflict of Angola. Former French company Elf-Aquitaine (which is now TotalElfina) was amongst the beneficiaries owing to its high-level connections in France and its association with French arms exports to Angola.[68] More than any other oil company in Africa, France's Elf has for years played a game of African politics not only to win control over coveted oil licenses, but as an arm of French diplomacy and intelligence.[69] This could be particular true, since large economic investments have major influence in foreign policy by making an oil company's home government less likely to take a strong stand against the domestic policies of the country in which investment is made.[70]

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[67] Jedrzej George Frynas & Geoffrey Wood, 'op. cit., pp. 589
[68] Jedrzej George Frynas & Geoffrey Wood, op. cit.
[69] Global Witness, 'A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets,' 1999 accessible from the internet at: http://www.globalwitness.org/reports/download.php/00048.pdf
[70] Philip Swanson, Fuelling Conflict: The oil Industry and Armed Conflict' Programme for International Co-operation and Conflict Resolution FAFO-Report 387, 2002 accessible from the internet at http://www.fafo.no/pub/rapp/378/378.pdf

Elf officials bribed politicians, interfered in elections and lured governments into ruinous oil-backed loans in an attempt to protect the company's market share. By funding the Government in Angola, Elf helped to prolong a conflict that cost an estimated 1.5 million lives and displaced millions of people.[71] On March 17, 2003 a corruption trial began in Paris that involves thirty seven defendants who were accused of obtaining U.S. $430 million from Elf Aquitaine for 'personal enrichment and political kickbacks during the late 1980s and in the 1990s.[72]

Furthermore, one of the main problems oil companies' investment in Angola was that of oil companies' payment to the government of Angola, whether through petroleum taxes or payments which is done secretly and in a corrupt manner. The major problem is that we do not know the actual payments made by the companies to the government, which discourages government accountability to its citizens and in turn assists the persistence of the government clientelist networks.[73] Oil companies are told by the government not to publish what they pay to the government. This is part of PSA. Oil companies claims they cannot publish their figures, as the government obliges them to sign confidentiality laws.[74] This practice really reflected that the nature of the relationship between the oil companies and government is basically corrupt and does not reflect business ethics.

[71] Global Witness, 'Elf Verdict Jails the Guilty, but Their Bitter Legacy Remains' press statement, 2003 Accessible from the internet at http://www.globalwitness.org/press_releases/display2.php?id=226
[72] Human Rights Watch 'Some Transparency, No Accountability: The Use of Oil Revenue in Angola and Its Impact on Human Rights' No. 1 Vol.16, 2004, pp.52 http://www.hrw.org/reports/2004/angola0104/angola0104.pdf
[73] Jedrzej George Frynas & Geoffrey Wood, op. cit. pp.589
[74] Christian Aid, 'Fuelling Poverty: Oil, War and Corruption' Christian Aid Weekly Report, 2003, pp. 20 http://www.christian-aid.org.uk/indepth/0305cawreport/fuellingpoverty.htm

Apart from corruption in companies payments, the private security companies employed to protect onshore oil explorations of major oil companies is one of the major controversy in conflict zones such Angola. This is more applicable to oil rich region of Cabinda in Angola. Oil companies are faced with other threats including kidnapping and killing of oil company staff and sabotage of oil installations.[75] This is an area that had and is still experiencing more political instability through secessionist movements such as Frente para Libertacao do Enclave of Cabinda (FLEC) that want independence of Cabinda. The Cabinda operations of oil companies also help to marginalize FLEC.[76] Private security firms for large companies such as Chevron that has invested in the region and Angolan army units keep FLEC at bay and ensure that oil will continue to flow to finance the MPLA's much larger war against UNITA.[77]

Not only are private securities forces involved but also MPLA forces were also part of protecting oil reserves in Cabinda. This was essential as government accrue most revenue from oil companies. There is normally collaboration since oil companies knew that protection of their facilities would be of great interest for the host government, since such facilities supply an important part of government revenues.[78]

Cabinda is one of the rich areas where Angola oil export comes from. This also an area where majority of local people are living in poverty despite the great wealth that oil multinationals are making out of that region. Oil company operations in the area

[75]Jedrzej George Frynas & Geoffrey Wood, op. cit. pp.592
[76] William Reno, op. cit. pp. 226
[77] Ibid
[78] Philip Swanson, op. cit.

exacerbates or create tensions between the central government and oil producing regions, especially if a disproportionate share of benefits is seen to accrue to the former and a disproportionate share of costs to the latter.[79]

3.3.2 Diamond Industries

The Angolan diamond sector is the second largest in the economy of Angola since its discovery in 1912. It has been a major export during the Portuguese colonial rule and after the years of independence in 1975. Due to oil booms in the late 1970's and 1980s in Angola the government shifted its focus from the diamond sector. From the mid-1980s when UNITA extended its guerilla operations in the north of the country, making use of logistical facilities and sanctuaries across the border in the southern Zaire, the guerilla begun to threaten the diamond mines.[80] The rebel group started to attack diamond mines, which resulted in destruction of mining equipment and closure of mining operations. As a result of widespread of lawlessness, the rebel group took almost 70% of illegal diamond territories.

In early 1990s, the Angolan diamond sector has been under the control of rebel group UNITA since the government lost control. It was an essential move by the group to beef up its efforts to proceed with the civil war. While the government bankrolled its war machine with the proceeds from oil, UNITA was able to secure control of lucrative diamond mines, generating revenues that would substitute for the loss of foreign military

[79] Ibid
[80] Tony Hodges, op. cit, pp. 172

assistance in the early 1990s.[81] Since the resumption of war in 1992, UNITA has consistently controlled 70% of Angolan diamond production, generating US $3.7 billion in revenue, enabling them to maintain their war effort.[82] Furthermore, Copper estimated that UNITA trade in diamonds earned it an estimated US $4.1 billion between 1992 and 2000.[83] Diamond companies mainly facilitated UNITA trade in diamonds without taking into account what such trade is doing to the people of Angola.

The South African-British group De Beers and its Central Selling Organisation (CSO), is the major company that had dominated the Angola diamond sector and has been accused of buying rough diamonds of UNITA. De Beers annual reports during the 1990s clearly state the company's heavy involvement in buying Angolan rough diamonds, at the height of resumed fighting and the time when UNITA controlled the majority of Angola's diamond production.[84] De Beers has admitted spending US$500 million to buy legally and illegally mined diamonds originating in Angola in 1992 in 'open market transaction.'[85] By so doing, De beers was so concern with keeping up their business going without realizing the adverse impact of such trade on the ordinary people of Angola who suffered greatly due to the continuation of civil war.

Furthermore, the UN panel of experts in Angola claimed that from 1993 to 1994 much of UNITA's military equipment was procured by a man known Watson, and that the

[81] Ibid, pp.170
[82] Hannelie de Beer & Virginia Gamba, op. cit. pp. 89
[83] Neil Cooper, 'The Business of War' in *Ploughshares Monitor*, No.3 Vol.23, 2002 http://www.ploughshares.ca/libraries/monitor/mons02h.html
[84] Global Witness, 'A Rough Trade: The Role of Companies and Governments in the Angolan Conflict', 2000 accessible from the internet at http://www.globalwitness.org/reports/download.php/00103.pdf
[85] Human Rights Watch, Angola Report 1994 http://www.hrw.org/reports/1995/WR95/AFRICA-01.htm#P41_16838

payment was in the form of rough diamonds to the De Beers sight holder company Joe De Decker.[86]

Under international pressure to avoid being tainted, De Beers reacted to revelations of the of the laxity of the official marketing system in Angola by announcing, in October 1999, that it would cease to buy any Angolan diamonds, including even those bearing government certificates of origin, expect for the output of one particular mining in the Cuango valley which it was contractually obligated to purchase.[87] The company was buying what has been commonly known as 'blood diamonds'. 'Blood or rough diamonds' is a term used to describe diamonds originating from war-torn areas that are used to fund the military action by their traders.[88] Diamonds in Angola are easy to mine and do not actually require sophisticated methods like in other countries. UNITA warlords found it easier to employ artisans for diamond digging before they could sell them to companies that would sell them to the international market.

The international trade in diamonds became a major obstacle to any possibly progress towards peace; and has played a major role in enabling UNITA to restock its munitions and maintain a flow of supplies which in turn has enabled it to disregard the 1992

[86] Action for Southern Africa, 'United Nations Report Exposes Arms-for-Diamonds Scandal' *Angola Peace Monitor Issue* No. 7, Vol. VI, 2000
http://www.actsa.org/Angola/apm/apm0607.html
[87] Tony Hodges, op. cit, pp.189
[88] Godfrey Lwanda, 'Conflict Diamonds and the African Resource Curse' in *Conflict Trends* No. 4, ACCORD, 2003, pp.21

election results and to avoid meeting its obligations under the Lusaka protocol.[89] The Lusaka protocol was part of peace initiative, which facilitated 1992 election.

Even during the sanctions of UNITA, notably, the expert panels established by the UN Security Council to monitor sanctions compliance have increasingly "named and shamed" business actors for their suspected involvement in sanctions-busting.[90] The UN imposed the first of a series of arms, travel and financial sanctions on the Angolan rebel movement, UNITA, in 1993 in an effort to weaken its war-making capacity. The UN Expert Panel's report on UNITA's sanctions-busting activities, named the company called De Decker as both arms and diamond dealer working with UNITA between 1993 and 1997.[91] This is one of the factors that have contributed for UNITA to wage war again in 1998, just after a short period of peace agreement. Furthermore, lack of understanding and government scrutiny of the functioning of the diamond trade has resulted in the absence of any serious examination of corporate culpability, allowing many diamond companies to continue to operate without fear that consumers may call their actions into question.[92] Such actions have really undermined peace throughout the late 1990's in Angola.

[89] Global Witness, 'A Rough Trade: The Role of Companies and Governments in the Angolan Conflict', 2000 accessible from the internet at http://www.globalwitness.org/reports/download.php/00103.pdf
[90] Karen Ballentine & Heiko Nitzschke, opt cit. pp.24
[91] Global Policy Forum, 'De Beers Come Clean to be Clean' 2000 http://www.globalpolicy.org/socecon/tncs/debeers2.htm
[92] Global Witness, 'Elf Verdict Jails the Guilty, but Their Bitter Legacy Remains,' press statement, 2003 http://www.globalwitness.org/press_releases/display2.php?id=226

3.4 The Impact of Corporate Misconduct on Human Rights and Development of Angola

The role that MNCs played in the conflict of Angola was clearly stated from the previous discussion. Now, what are the impact such roles on human rights and development of the Angolan people? Companies' involvement in corruption, lack of transparency and the purchase of military equipment by both side of the conflict undermined the ability of the people of Angola to build their own stable communities.[93] It could be argued that human rights of Angolan people have been undermined in favour for corporate profits and political elite's interests during the civil war. It has been well documented in the previous discussion that the multinational companies in both oil and diamond sector have undermined their business ethics and as a result, have contributed to massive human rights violation of which the MPLA and UNITA were major perpetrators. The MNCs have helped both MPLA and UNITA with efforts to sustain war. War has had adverse effects on the people of Angola. It has undermined the political, economic, and social rights of Angolan people.

To start with, conceptual definition and origins of human rights is very essential. Human rights are fundamental principles that allowed individual to lead dignified lives, free from abuse and free to express independent beliefs.[94] The origins of human rights originated just after the World War II when the United Nations was established. UN set a commission for human rights in 1948 and the United Declaration of Human Rights

[93] Child Rights, 'Angola- a Tangle Web: Many Complex Actors' A Partnership Report, 2000, pp.10 http://www.child-rights.org/PolicyAdvocacy/pahome2.5.nsf/file/WVAngola.pdf

[94] Rory Sullivan, op. cit. pp. 289

(UDHR) was adopted. UDHR calls on every individual and organ agent of society to play their part in securing observance of the rights contained within the declaration.[95] MNCs as organs of the society have actually undermined their part in securing observance of human rights as mentioned in UDHR in Angola.

The Angolan people have been systematically abused in favour of corporate profits and personal gain by the warlords of both warring parties. War has actually benefited both oil and diamond companies and the MPLA regime and brought misery to the people of Angola. It has been estimated that close to half million people have lost their lives from 1992-2002 and close to four million were internally displaced.

Leading diamond companies such as De Beers rationales used to justify the buying of outside goods' (unofficial diamonds) in countries such as Angola must be weighed in the balance with the possible and severe implications that such a purchase can have, including the destruction wreaked by conflict, the suffering of millions of people, the deaths of hundreds thousands, the billions of dollars of lost development and the high cost of conflict resolution.[96] It appears a company like De Beers did not consider its business activities impact on Angolan war until it withdrew from Angola in the year 2000, following international pressures.

The abundance of oil therefore created opportunities for the so-called 'rent seeking behaviour' by politicians who find themselves with privacy to large amounts of

[95] Ibid
[96] Global Witness, 'A Rough Trade: The Role of Companies and Governments in the Angolan Conflict', 2000 accessible from the internet at http://www.globalwitness.org/reports/download.php/00103.pdf

unscrutinised income[97], and also offered an opportunity for corrupt business deals between MPLA politicians and oil companies. If oil companies do not reveal how much money they are paying the national government, then it is impossible for citizens in Angola to find out where this money is going and why it is not being used to their benefit.[98] Moreover, when oil and mining companies fail to disclose payments to governments, it is easier for government officials to steal and difficult for citizens to hold officials accountable.[99] Oil companies make themselves complicit in the disempowerment of ordinary people by failing to tell them what resources are worth.[100] However, what is clearly more amazing is that these are the same companies that publish information when they operate in the developed world. Furthermore, the absent of strong state institutions to counter corruption created a situation were both companies and political elites interact in an irresponsible manner. That was done by means of plundering of natural resources from the use of public interest.

According to Angolan national law, ownership of Angola's oil and presumably the wealth it produces belongs to its citizens.[101] Contrary, what is clear visible is that oil and diamond wealth has only been to the benefit of companies and the warlords. Although Angola earns from $3 billion to $5 billion from oil each year - an estimated 87 percent of

[97] Christian Aid, op. cit., pp.21
[98] Global Witness, 'Elf Verdict Jails the Guilty, but Their Bitter Legacy Remains' press statement, 2003 http://www.globalwitness.org/press_releases/display2.php?id=226
[99] Thomas.I. Palley, " Publish What You Pay: Confronting Corruption and the Natural Resource Curse' Open Society Institute, 2003, pp.1 http://www.soros.org/initiatives/washington/article.../publishpay-20030304?skin=printtab1
[100] Simon Taylor, 'Corporate Secrecy Oils the Wheels of Poverty' International Herald Tribune, 2002
[101] Christian Aid, op. cit.

state revenue - three-quarters of the population are forced to survive in absolute poverty on less than $1 a day.[102]

Lack of transparency undermines Angolan citizens ability to enjoy their right to information as enshrined under article 19 (2) of the International Covenant on Political and Civil Rights (ICCPR) that states, everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers either orally, in writing or in print, in the form of art, or through any other media of his choice.[103]

The massive corruption, together with the lack of corporate transparency and accountability by oil multinationals such as France's ElfAcquitaine, the UKs BP-Amaco and the US's Chevron and Exxon/Mobil, whilst the country relies on humanitarian assistance, has ensured that remained at lowest rungs of humanitarian development.[104] Corruption leads to a violation of human rights in at least three respects: corruption perpetuates discrimination, corruption prevents the full realisation of economic, social, and cultural rights, and corruption leads to the infringement of numerous civil and political rights.[105] Corruption really aggravated social inequalities and upsets the equilibrium of all services in Angola because resources that were supposed to be channeled into social services ended up in the hands corrupt elites who continued to misuse funds.

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[102] Simon Taylor, op. cit.
[103] International Covenant on Civil and Political Rights, Art. 19(2)
[104] APIC, 'Angola: Oil Report, Peace Monitor, 01/08/00
[105] Peter Eigen Chaiman, 'Corruption is a Human Rights Issue' The 2004 Business and Human Rights Serminar, Transparency International, 2004
http://www.bhrseminar.org/2004%20Documents/Peter_Eigen_09.12.04.doc

Social services such as health and education are in a state of decay, resulting in widespread illiteracy and appalling health conditions.[106] Health and education, which are pillars for every society, suffered a major blow in the time of conflict. 60 percent of hospitals and clinics were destroyed during war, taking a devastating toll on the health care system.[107] Educational expenditure remained minimal in the years of conflict and that could explain that prevalence high rate of illiteracy in the present Angola.

Presently in global politics the word security has drastically changed to embrace human security, which is now the core for human rights. Poverty is one aspect that is a threat to human security and has been prevalent in Angola. Approximately 70 percent of Angolans live in poverty and the ranked 164th out of 175 countries in the United Nations Development Programme (UNDP) 2003 Human Development Index (HDI).[108] Oil wealth has not ended poverty, more people have gone without many basic necessities, even as their oil has generated large sum of profits.

3.5 Conclusion

In conclusion what clearly comes out is that The MPLA would not have been able to carry on with conflict without the presence of MNCs. The oil multinationals supported corrupt system to function and could not want to publish what they paid to the government in exchange of exploring oil resources. The experience of Elf-Aquitaine and

[106] Tony Hodges, op. cit., pp.1
[107] Human Rights Watch, op. cit. pp.66
[108] Ibid, pp.65

the other smaller oil firms demonstrates that specific firms may gain a competitive advantage vis-à-vis their competitors by brokering and financing arms supplies, providing security protection or by becoming associated with such deals. The award of such war-related strategies was the acquisition of exclusive oil concessions and contracts.[109]

Oil companies have themselves denied any complicity in the war and have portrayed themselves as 'neutral' bystanders amidst political turmoil.[110] Most of these companies take a view that their activities are not political in nature, and are more victims than the accomplices of belligerents.[111] However, specific oil firms gained a competitive advantage owing to the conflict: by being associated with private security interests (Heritage Oil), by being able to rely on support of home government officials with clandestine links (Elf) or by meditating financial deals for arms purchases (Glencore).[112] These companies know that they could face loss of competitive advantage if the decided to be transparence and that action would have rewarded contracts their competitors.

It is quite explicitly that some diamond companies such as De Beers benefited by accessing diamond from illegally occupied territory of UNITA. De Beers took advantage weaker state institutions that could not govern the whole country because of war. Such business transaction between De Beers and the rebel group had an adverse impact on the ordinary people of Angola.

[109] Jedrzej George Frynas & Geoffrey. Wood, op. cit. pp.601
[110] Ibid, pp.603
[111] Philippe Le Billon, op. cit., pp.633
[112] Jedrzej George Frynas & Geoffrey. Wood, op. cit, pp.603

The disparity between the enormous profits made from mineral resources in Angola by foreign corporations, and the social and economic state of the country is an uncomplimentary reflection of the role of foreign actors working in the country, and reveals once again the international community's inability to avoid responsibility for the problems of a country that they profit from economically.[113] The role of financial resources generated by foreign companies plays a significant role in the prolonged existence of the Angolan conflict. This situation was also exacerbated by lack of strong state institutions to regulate both political elites and multinationals operating in Angola. The behaviour of oil and diamond companies in Angola has raised interest on issues pertaining corporate responsibility especially in conflict-ridden places.

[113] Child Rights, op. cit, pp.30

Chapter 4

4 Corporate Accountability in Angola: Ethical Considerations of MNCs in Angola.

"The bottom lines of private corporations could no longer be separated from such key goals of the United Nations as peace, development and equity" [114] United Nations General-Secretary Kofi Annan

4.1 Introduction

Given the discussions in the last chapter it has been clearly stated that good corporate behaviour was mainly undermined by MNCs operating in both oil and diamond sectors. Contrary to their stated ethical positions, many of the corporations in Angola failed to recognize the business activities impact on the Angolan war economy. Their business activities have played a role on sustaining the war. This chapter attempts to discuss issues pertaining to ethical behaviour of companies operating in conflict environment such as in Angola. The chapter argues that adoptions of Corporate Social Responsibilities (CSR) could play a crucial role in building peace and ending human rights abuses in Angola, especially at this time of post-conflict reconstruction era.

CSR is defined as socially minded behaviour such as respecting human rights, refusing to pay bribes, caring for the local communities, and adhering to environmental standards.[115]

[114] UN, 'Security Council Discusses Role of Business in Conflict Prevention, Peacekeeping, and Post-Conflict Peace Building" , 2004 accessible at http://www.un.org/News/Press/docs/2004/sc8058.doc.htm

Furthermore, the World Bank defines CSR as the commitment of business to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve their quality of life, in ways that are both good for business and good for development.[116] What is clearly common in these two definitions is that they both highlighting that business has to be responsible and should strive to have positive impact in areas they operate.

CSR is a new concept emerging from the general consensus that business community needs to conduct their business in a responsible manner. The field of corporate responsibility has evolved to include the overall impact of business on society as a whole.[117] In this new field of CSR companies are expected to evaluate their business impact on a society, so that they could minimize negative impacts of their business operation. For instance, paying bribes, environmental degradation, and exploiting workers, etc. These are issues that may contribute to human rights violations.

The concept CSR is based on the recognition that businesses are part of society, and that they have the potential to make a positive contribution to societal goals and aspirations.[118] CSR is not about companies becoming social organizations but about companies striking the balance between bottom line and responsible operation. Even though it is commonly

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[115] Michael Klein & Tim Harford, 'Corporate Responsibility: When Will Voluntary Reputation Building Improve Standard' Public Policy for the Private Sector Paper, World Bank, 2004, http://rru.worldbank.org/Documents/PublicPolicyJournal/271-klein-harford.pdf

[116] World Bank, 'Corporate Social Responsibility, Public Policy and the Oil Industry in Angola' Summary Report, 2003, pp.6

[117] Richard H. Dietrich, op. cit. pp.238

[118] Paul Kapelas, Nnkosinathi Ndlovu, & Andres Hein, 'Strengthening Developing Country Governments' Engagement with Corporate Social Responsibility (CSR): Conclusions and Recommendations from Technical Assistance in Angola' Final Report, African Institute of Corporate Citizenship, 2004

known that business would always strive to achieve their bottom line, there is a general consensus that such desire of bottom line should be accompanied by corporate responsibility.

4.2 CSR in Conflict Zones

In recent years, there has been a growing convergence among the agendas of CSR, human rights, and conflict management around the conduct of extractive industry companies in conflict-prone or war-torn countries.[119] Such industries are known for contributing to human abuses by undermining issues of CSR. As Bennett argues that the extractive sector holds tremendous potential for progress in terms of companies recognizing and assuming news roles and responsibilities in ways that do not take companies to far in the direction beyond their basic business concerns.[120] CSR especially in conflict zones is about corporations understanding the overall business impact on the society as a whole and how business could be a force for good and not add to fuelling conflict. This also helps in ensuring that companies are more conflict sensitive. Being sensitive to conflict means that corporations need to understand the overall business impact on the society as a whole and how their business activities have escalated war conflict areas such as Angola.

[119] Karen Ballentine & Heiko Nitzschke, op. cit. pp.22
[120] Julliete Bennett, 'Business in Zones of Conflict- The Role of the Multinationals in Promoting Regional Stability' UN Global Compact Policy Dialogues Paper, 2001 http://www.unglobalcompact.org/content/Dialogue/PolicyDialogues2002/ZonesOfConflict/Reg_Stability.htm

Angola's abundance of high quality oil and diamonds has drawn the world's most powerful foreign corporations to its shores.[121] As shown in previous chapter the foreign corporations have triggered the conflict and played a part in prolonging the conflict in Angola. Given that situation, it is very important that corporations in Angola should adopt CSR that would promote corporate ethics, which could help the country not return to the conflict that had severely undermined human security. Both oil and diamond companies in Angola appear to have taken a notice to this new concept. This is due to the pressure coming from international community, such as UN, World Bank, IMF, and human rights groups.

4.3 Corporate Responsibility: What are the Roles of Oil and Diamond Companies in Supporting Peace and Development in Angola?

Angola has been under reconstruction from the civil war that ended in 2002. Since the end of the civil war, the country is still battling with consolidating peace and no legitimate party has been elected yet to rule in a democratic manner. For Angola to achieve sustainable peace the country also need business actors who could play a very positive role in the reconstruction. This is imperative, given negative roles that oil and diamond companies played in the civil war of Angola. In other words, corporate practice in supporting peace is crucial in Angola.

[121] Richard H. Dietrich, op. cit.

There is a general of consensus that business has a role to play in a sphere of activities that remained dominated by civil society and government actors.[122] Activities such as conflict prevention and resolution, protecting citizens, and social welfare are predominately known for civil society organisations and governments. These issues are particularly important for companies doing business in conflict prone as Angola. In Angola, companies have paid insufficient attention to the ways in which they can impact on existing or potential conflict in the country result that their activities have often inadvertently augmented rather than diminished tensions.[123] This was particularly due to the fact that companies paid little attention to adherence to issues of good ethical behaviour and corporate governance.

The government and NGOs have already shown a strong involvement in conflict transformation but business is still lagging behind although it is also one of the stakeholders affected in a conflict of Angola. Stability is crucial for their business and security of their investment in Angola. This alone should motivate both oil and diamond companies to use their influence in bringing peace and development. While business engagement cannot substitute for government action, the business community's strength and influence provide it with the capacity to act independently and to put pressure on a government to seek early resolution of a dispute.[124]

[122] Committee for Conflict Transformation Support 'Engaging the Private Sector in Conflict Transformation: An Overview of Possibilities and Challenges' *CCTS Newsletter* 19, 2005 http://www.c-r.org/ccts/ccts19/private.htm
[123] Jessica Banfield & Phil Champain, op. cit. pp.5
[124] Rory Sullivan, op. cit. pp. 289

A question may arise. Why should business be the part in conflict prevention and resolution in Angola? Sustainable development should encompass all stakeholders of the society. Companies cannot afford to continue with the notion that business of business is business especially those operating in conflict areas. When a company enters a conflict zone, it becomes part of the conflict.

In recognizing that they were also part of the conflict, MNCs need also to ensure that they are accountable even in post-conflict phase. The issue of corporate accountability is crucial in countries that are either emerging from, or are in conflict, and where structures of government accountability and transparency are at best fragile, and at worst non-existence.[125] This is what currently comprises the state of Angola. Angola is just emerging from a conflict and its governance structure is very weak and corruption is prevalent. Given the past negative role of MNCs, emergence of strong viable government of Angola will depend on how MNCs are willing to change their dubious character of the past. How could companies participate in ensuring peace building and ending human rights abuses? There are two ways two ways to answer this question: transparency and good governance and by investing in social projects.

4.3.1 Transparency and Good Governance

Since 2003, the Angolan oil industry has been the chief target of an international campaign involving governments and civil society in both north and south, and major oil

[125] Global Witness, 'A Rough Trade: The Role of Companies and Governments in the Angolan Conflict, Accessible from http://www.globalwitness.org/reports/download.php/00103.pdf

corporations, to establish a framework for more transparency in the extractive industries.[126] In the past, The British NGO, Global Witness in its report entitled 'A crude Awakening', criticizes the Angolan government for its handling of oil revenue, and accuses the oil companies in Angola of lack of transparency.[127] Transparency remains one important aspect that needs to come first on oil companies in Angola, given the large revenue they make to the government. The published reporting of payments from oil companies to the Angolan government could give the population an opportunity to hold their government accountable for its misuse of oil revenue.[128] As Jackie Cilliers will argue that the insistence by some in business that the role of business is to do business' is nonsensical in a country where oil revenue will comprise 90.5% of the 2001 budget of about US $3.18 billion.[129] If oil companies were required to publish all their payment to government, and government to disclose their payments from companies, then Elf system could never have come into being.[130] Furthermore, if oil payments are made public, the citizens of Angola could pressurize the government to invest more on development and corruption could be curbed.

Transparency in the diamond sector is still more crucial for consolidating peace and should continue to be maintained by diamond companies under Kimberly Process. There is a clear role that De Beers and the CSO should to continue take a lead in transformation

[126] Michael Klein & Tim Harford, op. cit.
[127] Richard H. Dietrich, op. cit. pp. 242
[128] Kirsten Hegsvold Andersen, 'Resources and Conflict in Angola: An Economic Conflict Analysis' Department of Economics, University of Oslo, 2003 accessible from the internet at http://www.prio.no/cscw/wg3/Resources%20and%20Conflict%20in%20Angola.pdf
[129] Ibid
[130] Global Witness, 'Elf Vedict Jails the Guilty, but Their Bitter Legacy Remains' press statement, 2003 http://www.globalwitness.org/press_releases/display2.php?id=226

because given the scale of their involvement in, and control of the industry, no progress can be made without their willing participation.[131]

The UN panel report on UNITA's sanctions has found that steps by De Beers in 2000 not to purchase UNITA's diamonds directly or from third parties, and its subsequent withdrawal from the diamond market in Angola have made it more difficult for UNITA to sell its diamonds; a clear inference that De Beers were buying diamond of UNITA origin.[132] De Beers's withdrawal in buying rough diamonds is one of the reasons that might have contributed to the defeat of UNITA or that made difficulties for UNITA to defeat the MPLA.

One of the important areas to ensure transparency would be through building strong partnership with other stakeholders of the society in Angola. High-quality, frequent and meaningful engagement with all stakeholders in order to build relationships and to determine priority issues around these categories is essential mechanism for enabling business to become conflict-sensitive and to fulfill its peace building potential.[133]

Oil companies in Angola acting alone to encourage host governments to be more transparent or to spend more money on health and education and less on the military could face competitive disadvantage compared to oil companies that do not try to

[131] Global Witness, 'A Rough Trade: The Role of Companies and Governments in the Angolan Conflict, http://www.globalwitness.org/reports/download.php/00103.pdf

[132] Action for Southern Africa, 'United Nations Report Exposes Arms-for-Diamonds Scandal' Angola Peace Monitor Issue No. 7, Vol. VI, 2000
http://www.actsa.org/Angola/apm/apm0607.html

[133] Amanda Blakeley, CSR in the Oil Sector in Angola: World Bank Technical Assistance Study, World Bank, 2003, pp.7
http://siteresources.worldbank.org/INTPSD/Resources/Angola/Angola_CSR_Report_-_FINAL3.pdf

influence host government.[134] What is needed is a collective action among companies with the partnership of international organizations such UN, IMF, and the World Bank.

4.3.2 Investing in Social Projects

To date, conflict prevention is most usually defined broadly, to include issues relating to the structural drivers of conflict: inequitable economic development, poverty, and neglect human rights.[135] If peace is to be consolidated in Angola, the living conditions of people of Angola need to improve; otherwise the country would face a threat of war again. Again in a way of supporting peace, corporations could also invest part of their profits in reducing inequalities in areas where they operate in Angola. Companies in Angola cannot afford to make huge wealth when people are on the sea of poverty. Over the long term, only the private sector is capable of growing new enterprises, opening investment opportunities, and providing employment and enduring economic security.[136]

Oil sector is one most the most biggest and important sector in the economy of Angola. Oil production in Angola is the second largest in Africa just after Nigeria. Within this industry, about 15 largest foreign companies, including Chevron, TotalFinaElf, Texaco, BPAmoco, ExxonMobil, Occidental, Royal Dutch Shell, have invested about US8 billion in Angola in 2001.[137] Some part of profits from such investment needs to be channeled to social projects that could benefit local populations.

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[134] Philip Swanson, op. cit. pp.43
[135] Jessica Banfield & Phil Champain, op. cit. pp.5
[136] Allan Gerson, 'Peace Building: The Private Sector's Role' *The American Journal of International Law*, No. 102 Vo.95, 2001, pp.103
[137] Richard H. Dietrich, op. cit.

There is a sign of hope as companies have started investing in some social projects in Angola. Since 2003, the World Bank reported that the activities covered a wide variety of issues from such areas as general medicine and public health, HIV/Aids prevention, micro-credit, community development, staff training, education, humanitarian assistance, and the attainment of or progress towards ISO 14000 certification, etc.[138]

For example, Shell social investment in Angola existed in the form of one-off contributions-for instance to a game park, and the UN World Food Programme project for Angolan refugees at the Namibian border.[139] Even though this social investment projects are good, much effort needs to done to give such social investments ownership to local populations of Angola. The problem with such corporate social investment is that the normally they are conducted in a top-down approach model. Such model could imply that there is a little community ownership on decision-making process.

Playing a pro-active role by oil companies would not only benefit people of Angola, but also to the benefit of the companies. The oil industry would actually benefit greatly in a peaceful environment in Angola. Oil production would no longer face military attack, a comprehensive development of onshore oil resources would no longer be delayed and Angola's economic development would provide a more sympathetic business environment to operate in.[140]

[138] Paul Kapelas, Nkosinathi Ndlovu, & Anders Hein, op. cit.
[139] Jessica Banfield & Phil Champain, op. cit. pp.17
[140] Jedrzej George Frynas & Geoffrey Wood, op. cit. pp.603

4.4 Conclusion

In an almost 18 oil companies interviewed by the World Bank in Angola in 2003, the Bank has found out that companies have well-developed official statements of corporate CSR philosophy which include, *inter alia,* references to ethical business practices, high standards for Health, Safety, and the Environment (HSE), and the pursuit of long-term profitability through good corporate citizenship and sustainable business practices.[141] In an interview with Nkosinathi Ndlovu of Africa Institute for Corporate Citizenship also concurred that oil companies seem to have good corporate responsibility statements. However the there is still a gap between corporate statements and applicability of such CSR especially in the area of full transparency.

The companies need to support full transparency in Angola for the country to continue experiencing peace and development. The oil companies who work in Angola, such BP-Amoco, Elf, Total, Chevron and Exxon and the diamond traders like De Beers, should be open with international community and the international financial institutions so that it is clear these revenues are not siphoned off but are invested in the country.[142] The international oil and diamond companies need to realize that they have a role to play in assessing the social impact of their activities and insuring that their business operations have some positive benefits on the well being of the operating country. That could be very possible if companies are adhering to issues of CSR. In the meantime, some people are arguing for international regulatory framework instead of relying on voluntary CSR.

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[141] Amanda Blakeley, op. cit. pp.11

[142] Global Witness, 'A Crude Awakening: The Role of the Oil and Banking Industries in Angola's Civil War and the Plunder of State Assets,' London, 1999
http://www.globalwitness.org/reports/download.php/00048.pdf

Chapter 5

5 Moving Towards a Regulatory Framework for Companies: Preventing Corporate Misconduct in Angola

"While multinational corporations would prefer to comply through voluntary initiatives, the public interest can only be fully served through stronger regulation."[143] Peter Utting, UN Research Institute for Social Development (UNRISD)

5.1 Introduction

Is creating an international regulatory framework to regulate MNCs necessary in conflict prone countries such as Angola? The answer is definitely yes. For instance, Angolan war was also sustained by business activities; Angola is a weak state with weak domestic institutions to regulate MNCs, let alone its natural resources, and corruption is prevalence, stemming from both government officials and business people.

This chapter argues that the atrocities in Angola would not have occurred if there were strong enforcement regulations that corporations could have adhere to. In this chapter I will again argue that since we expect a country in conflict to be in a state of collapse, weak governance institutions and regulations, moving towards international regulatory framework become a viable option to prevent MNCs negative role, which has been the case in Angola. This chapter would be a way of teasing out the controversial debate around self-regulatory mechanism of corporations, which has been arguably ineffective in Angola. This chapter wants to highlight the important of international regulatory

[143] UN Committee on Trade and development, op. cit.

framework to solve business misconduct in conflict zones by giving empirical evidence of Angola.

Furthermore, one of the main reasons behind regulating MNCs is due to the argument that private corporations have become increasingly powerful in recent decades, and that the result of this increasingly power has been a deterioration of human rights.[144] The liberalization of world trade and the process has greatly strengthened the comparative position of companies.[145] The increasing powers of corporations are mainly accompanied by the abuse of power and influence.

5.2 The International Law and MNCs in Zones of Conflict.

To start with, what is the position of international law on MNCs that contribute to human rights abuses, especially in conflict zones like in Angola? The international law does regulate MNCs directly but does indirectly through nation states. Under international law, states usually enter into international treaties that also include business treaties such as business and corruption. Instead such treaties do not purport to impose obligations directly on corporations.[146] Such obligations are never imposed by treaty itself, only by the domestic legal provision- be it statutory or constitutional- that gives the treaty domestic legal force.[147]

[144] Carlos Vazquez, opt cit. pp.37
[145] Menno. T. Kamminga, op. cit.
[146] Carlos Vazquez, 'Human Rights Obligations of Corporations Under International Law' International Law Workshop, Georgetown University Law Center, 2004, pp.16
http://repositories.cdlib.org/berkely-ilw/fall2004/4
[147] Ibid, pp.25

The fact that such treaties are not directly applicable to non-state actors (as MNCs) is a reflection of the oft-misunderstood proposition that states have been the subjects of international law.[148] By so doing the international law is failing to recognize the fact that non-state actors such as MNCs have become powerful actors in the domain of international relations. Again, the classical model appears to disfavor states by subjecting them to international obligations and responsibility, and to favor non-state actors by leaving them unregulated.[149]

Moreover, in international law, there is no general rule that states that companies are responsible for their international wrongful acts.[150] Kamminga asked a very fundamental question that 'why should individual and opposition groups have fundamental international legal obligations while companies that may be much more powerful have practically none.'[151] Today, in the era of increasing globalisation of capital and cross-border operation of all major corporations, concerned citizens are again raising the issues of international norms and rules.[152] While more and more economic activity takes place on an international basis, global society has been slow to build a new rule-based global economic system.[153] Transnational corporate or investment rules and regulations, drafted

[148] Carlos Vazquez, op. cit. pp.16
[149] Ibid, pp.39
[150] Menno T. Kamminga, 'Corporate Obligations under International Law' The Paper presented at 71st International Law Association Conference, Berlin, 2004
[151] Ibid
[152] James A. Paul & Jason Garred. 'Making Corporations Accountable' *A Background Paper for the United Nations Financing for Development Process*, Global Policy Forum, 2000
[153] Ibid

by an inter-governmental process, could offer a stronger approach to corporate accountability.[154]

International norm that operate on corporations but are not backed by sanctions are very likely to be violated. There is a need for international law to move in the direction of imposing obligations directly on corporations.[155] International initiatives discussed above showed that they are not effective means to ensure that corporations operate in an unharmful way to the society where they operate, especially in conflict zones. The reality is that without legal ramifications to change their practices, MNCs have little reason or incentive to codes of conduct, or abide by such codes if they already in place.[156]

In the absence of international regulatory framework, the prevailing view that controls MNCs is through CSR, which is basically a voluntary mechanism. This approach is most strongly and supported by the corporate sector. As a common preference, MNCs prefer to carry on their business without any regulatory oversight. I will start by highlighting some of the voluntary international initiatives that attempt to regulate MNCs. I will argue that those initiatives are creating a room for the establishment of international regulatory framework, which could a positive signs to prevent corporate misconduct in places like Angola.

[154] Ibid
[155] Carlos Vazquez, op. cit. pp.50
[156] Christopher M. Rassi, op. cit.

5.3 Some of Current Existing International Initiatives that Strive to Regulate MNCs

5.3.1 The OECD Guidelines for Multinational Enterprises

The OECD guidelines for MNCs were firstly adopted in 1976 and were revised in the year 2000 of which 33 governments are members. The *guidelines* adopted by the Committee on International Investments and Multinational Enterprises (CIME). The adhering governments are home to the majority of MNCs in the world today. The new revision reinforces the economic, social and environment elements of the sustainable development.[157] The *guidelines* are recommendations addressed by governments that corporations are supposed to adhere when doing their business operations in foreign countries. The *guidelines* outline following issues among others that corporation should pursue: striving for transparency, applying proper regulations on employment and industries relations, respect the environment, combating bribery, respecting consumer interests, etc. The principal rule is that business should respect national laws and regulations and practice responsible corporate conduct across all operations.[158]

The *guidelines* aim to ensure that the operations of these enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate

[157] Patricia Feeney, 'The Relevance of the OECD Guidelines for Multinational Enterprises to the Mining Sector and the Promotion of Sustainable Development, 2002 accessible from http://www.dundee.ac.uk/cepmlp/journal/html/vol10/vol10-6.html

[158] Anne Huser, 'Doing Business in Conflict Zones: Implementing the OECD Guidelines for Multinational Enterprises, pp.2

and to enhance the contribution to sustainable development made by multinational enterprises.[159]

How are these *guidelines* implemented? According to the implementations procedures, adhering governments shall set up National Contact Points (NCP) to undertake promotional activities, handle enquiries, and facilitate dialogue between parties concerned on all matters covered by the *guidelines*.[160] The NCPs are supposed to maintain a strong communication with CIME in terms of implementations of the *guidelines* by reporting annually. CIME serves as a secretariat to the *guidelines* and is responsible for periodic reviews and for assisting the NCPs with interpretation and clarification when necessary.[161]

5.3.2 Are OECD *guidelines* related to MNCs in conflict areas?

The crucial question is how relevant are the *guidelines* to companies in conflict zones. As a general debate on corporate social responsibility has evolved, MNCs have experienced increasing scrutiny of their activities in troubled areas.[162] However the *guidelines* themselves did not make any reference or addressed issues concerning companies operating in conflict zones.

Conflict situations are not mentioned in particular, but the foreword states that corporations are agents for positive change throughout the developed as well as the

[159] OECD, 'The OECD Guidelines for Multinational Enterprises' Revision Paper, 2000
[160] Anne Huser, op. cit, pp.1
[161] Ibid, pp. 3
[162] Ibid, pp.1

developing world. And again, there are some aspects that are particularly relevant even for companies operating in conflict zones. For example the *guidelines* do highlights issues such as corruption, disclosure, the environment and human rights.

To look at how the *guidelines* are relevant in conflict areas, firstly there is an issue of respecting local legislation by companies in host states. This is important for companies operating in conflict zones because countries at war may have limited enforcement.[163] The *guidelines* impose on companies not to take advantage of the fog of war or a power vacuum, but to respect national legislation even if enforcement capacity is absent.[164]

One other thing that the *guidelines* emphasized is transparency. Transparency is of immense importance when operating in conflict zones because it may prevent illegal or irresponsible conduct related to any issue, be it corruption, tax evasion, trading in illicit goods, human rights abuses or violation of any laws and regulations.[165] In the case of Angola, lack of transparency especially in oil sector has been distractive to that country.

Corruption and bribery is also mentioned in the *guidelines*. Corruption is one of many destructive effects typically resulting in conflict. Countries plagued by conflicts often lack functioning democratic institutions and free press, which under normal circumstances deal with or reveal corruption.[166] The *guidelines* emphasized that

[163] Ibid, pp.5
[164] Ibid
[165] Ibid, pp.6
[166] Ibid

companies should not, directly or indirectly, offer, promise, give, or demand a bribe or other undue advantage to obtain or retain business or other improper advantage.[167]

Finally, one can argue that the main problem with the *guidelines* is that they do not target MNCs directly, but mostly target the adhering members to make corporations more accountable. The other major flaw is that the *guidelines* become less important if MNCs are operating in non-member countries especially developing countries such as those in Africa.

5.3.3 UN Norms on Business and Human Rights

The UN norms have been drafted in 2003 and were supposed to be examined for adoption by UN Commission on Human Rights in 2004 but are still yet to be further reviewed as a result of opposition from corporate lobby. UN norms states that transnational corporations and other business enterprises, as organs of society are also responsible for promoting and securing the human rights as set forth in the UDHR. The main aim of the norms is to bring business community to be accountable on aspects of human rights.

They also noted that the new international human rights issues and concerns are continuing emerging and that transnational corporations and other business enterprises often are involved in these issues and concerns, such that further standard-setting and

[167] OECD, op. cit.

implementation are required and this time and in the future[168] This is particularly relevant companies operating in conflict areas like Angola, to ensure that MNCs do not violate human rights with their activities.

The norms recognize that transnational corporations and other business enterprises have the capacity to foster economic well-being, development, technological improvement and wealth as well as the capacity to cause harmful impacts on the human rights and lives of individuals through their core business practices and operation.[169]

The norms are also more applicable to companies in conflict zones as similar to OECD *guidelines*. For example, the norms states that transitional enterprises and other business enterprises shall recognize and respect applicable norms of international law, the public interest, development objectives, social, economic and cultural policies including transparency, accountability and prohibition of corruption, and authority of the countries in which they operate.[170]

Transnational corporations and other business enterprises shall not offer, promise, give, accept, condone, knowingly benefit from, or demand a bribe or other improper advantage, nor shall they be solicited or expected to give a bribe or other improper advantage to any government, public official, and candidate for elective post, any member of the armed forces, or other individual or organization.[171] Furthermore, transnational corporations and other business enterprises shall refrain from any activity,

[168] UN, Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights' Doc.E/CN.4/Sub.2/2003/12/Rev.2 (2003)
[169] Ibid
[170] Ibid
[171] Ibid

which supports, solicits, or encourage states or any other entities to abuse human rights.[172]

Their suggestion in terms of implementation is one that can ensure effective compliance or enforcement. The norms want to provide effective means of monitoring rather than relying on self-regulatory means of corporations. It states that transnational corporations and other business enterprises shall be subject to periodic monitoring and verification by the United Nations, other international and national mechanisms already in existence or yet to be created, regarding application of norms.[173] This monitoring shall be transparent and independent and take into account input from stakeholders (including non-governmental organizations) as a result of complaints of violations of these norms. [174]

The rejection of the norms by corporate lobby posses many questions as to whether companies are ready to reform the way they operate particularly in developing countries. One of the arguments by business community was the claim that the UN Norms would represent a fundamental shift in responsibility for protecting human rights –from governments to private actors, including companies-effectively privatizing the enforcement of human rights.[175] However business should not be so naïve to recognize that they have a role to play in protecting human rights. The issue is not about privatizing human rights issues but ensuring that business as one of stakeholders in a society is operating in a responsible manner.

[172] Ibid
[173] Ibid
[174] Ibid
[175] Carlos Vazquez, op. cit

5.3.4 Kimberly Process

In a concerted response, the international community led by the UN, initiated certain measures and steps culminating in the adoption of what is known as Kimberley Process for the certification of Rough Diamonds.[176] The Kimberly Process was named after its first meeting in 2000 in Kimberly, South Africa. The main objective of the Scheme is to eliminate or reduce the role of such diamonds in fuelling conflicts in Africa by eradicating trade in conflict diamonds to cut off the source of funding for the purchase of arms and ammunition by the rebels.[177] Rebel groups in Africa used rough diamonds to finance the rebellions and wars against legitimate governments and to inflict unspeakable brutalities against innocent, civilian populations.[178]

Collaboration between UN, diamond dealers and companies, diamond producing countries and other stakeholders has introduced Certificate of origins that identifies legitimate diamonds from illegal ones. According to the Process, diamond dealers and companies need to buy rough diamonds accompanied by certificate from the producers. Diamond dealers and companies are needed to produce that certificate when trading their diamonds on the international market. More than 50 nations have already signed the Kimberly Process measures around the globe.

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[176] Mohammed. B. Umar, 'The Kimberley Process: What Prospects Exist for Sustainable Peace and Development in some Conflict Regions of Africa.
http://www.dundee.ac.uk/cepmlp/car/html/car7_article12.pdf
[177] Ibid
[178] J.D. Bindenagel, 'Conflict Diamonds: The Kimberly Process Certification Scheme' Conference Paper, Chicago Council on Foreign Relations, Chicago, 2003, pp.3
http://www.ccfr.org/remarks/pdf03/conflict%20diamonds.pdf

It is clear that the creation and implementation of the Kimberly process was significant step in addressing the important humanitarian and security problems associated with conflict diamonds.[179] International action to restrict UNITA's diamond trade does seem to have been relatively successful in limiting the supply of funds to the organization (from $700 million in 1996 to $100 million in 2002), and may have contributed to its recent defeat.[180] One could simply point it out that Kimberly process was a success in Angola because of effective measures that do not rely on voluntary measures.

5.3.5 NGO's Initiatives

This is a new trend in the field of International Relations whereby NGOs such as Global Witness, Human Rights Watch, Amnesty International, International Alert, etc. are criticizing openly unethical acts of corporations especially in conflict prone areas, so that corporations may ensure compliance. It also involves NGOs articulating standards of corporate behaviour by NGOs and monitoring compliance, enabling the ultimate "enforcement" of such standards through consumer boycotts and more generally through shaming techniques.[181] The Kimberly Process also came into being through the efforts of NGOs. Starting from the year 2000, it was a collection of NGOs, such as Global Witness, World Vision, Amnesty International, Oxfam, Catholic Relief Services, Partnership Africa Canada, and Human Rights Watch- who deserve credit for bringing the problem of

[179] Global Witness & Partnership Africa Canada, 'Implementing the Kimberly Process: 5 Years on- How Effective is the Kimberly Process and What Needs to be Done? Global Witness Publishing, 2005, pp.1
[180] Neil Cooper, op. cit.
[181] Carlos Vazquez, op. cit. pp.18

conflict diamonds to the world's attention and highlighting the misery that was a product of the conflict diamonds trade.[182]

The problem with this approach is that the stipulated standards are again to be implemented by such states that are corrupt without international obligation. Some of the critic is that most human rights NGOs are based in developed countries and obtain their resources from in such countries.[183] Their long-term survival depends on the willingness of such countries to fund their operations.

5.4 Moving Towards International Regulatory Framework for Corporations in Conflict Zones: Why is Necessary in Conflict-ridden Countries such as Angola?

How could moving towards international regulatory prevent corporate misconduct in conflict-ridden countries such as Angola? Given the background of some of the international initiatives discussed above, it seems to be quite clear that there is already a strong foundation that has been laid for international regulations. Unless an international legal framework is strengthened to stop the deadly complicity of private commercial actors, warlords and governments benefiting from war economies will continue to thrive.[184]

Firstly, international regulations are needed to beef up national structures to regulate MNCs in Angola. A country in conflict situation cannot provide viable controls on MNCs

[182] J.D. Bindenagel, op. cit. pp.3
[183] Carlos. Vazquez, op. cit. pp.19
[184] Philippe Le Billon, op. cit, pp.634

operating on its shores. Depending on the laws of a particular country, host governments theoretically could impose requirements unilaterally on MNCs based within their jurisdiction.[185] This is quiet problematic, because in a case of Angola, it is quiet clearly that the very host government happened to be a corrupt regime that has actually continued with human rights violation in partnership with the oil multinationals. Moreover, due to lack of proper regulations some MNCs operated illegitimate territories, which was under the rebels group. In Angola, UNITA faction managed to enter into business deals with some diamond companies such as De Beers and De Decker. Enforceable sanctions are needed to regulate the transactions between MNCs and rebel groups, if war economies such that occurred in Angola are to be curtailed or effectively reformed.[186] Enforceable sanctions are not only needed to regulate business transactions between MNCs and rebel groups, but also with corrupt regimes such as MPLA.

Others observe that, even if the host state has adequate laws on the books to protect its citizens' welfare, they often lack the resources to enforce those laws effectively.[187] Still Vazquez argues that in many developing countries, government corruption will result either inadequate laws or ineffective enforcement of adequate laws.[188] This has been the case in Angola. An accountability gap then occurs if the host states are either unable or unwilling to hold companies to reasonable minimum standards.[189] Furthermore, developing countries cannot always be counted on to protect the interests of their citizens

[185] Philip Swanson, op. cit. pp.42
[186] Christopher Moss Rassi, op. cit.
[187] Carlos Vazquez, op. cit. pp.13
[188] Ibid
[189] Menno T. Kamminga, op. cit.

in circumstances because the governments such countries are often dysfunctional.[190] The international regulatory framework could have been so crucial in such a situation. Armed conflicts and repressive or neglectful governance will continue as long as businesses sustain flows of resources without being held accountable to host populations.[191]

Secondly, international regulatory framework is necessary to force MNCs to adopt CSR. Contrary to their stated ethical positions, many foreign corporations in Angola failed to recognize their business activities impact on the conflict. Due to weak governance most oil and diamond companies did not even bother to adhere to corporate ethics. Embracing this behaviour was largely due to the fact that CSR remains on voluntary basis and do not bind corporations. This of course somehow makes compliance difficult, as there are no binding regulations. Voluntary codes are often vague statements of principle that cannot provide reliable guidelines for behaviour in concrete situations.[192] Moving towards international regulatory framework could be one of effective mechanism to ensure compliance in conflict-ridden countries such as Angola. Although many corporations have adopted codes of conduct and social responsibility policy, few include human rights standards, most lack implementation measures and independent audits that verify their stated achievements.[193] Furthermore, Corporations do not adopt codes unless faced with public pressure and negative publicity.[194]

[190] Carlos Vazquez, op. cit. pp.55
[191] Philippe Le Billon, op. cit, pp.634
[192] James A. Paul & Jason Garred, op. cit.
[193] Jackie Cilliers, 'Business and War' *African Security Review* No 3 Vol. 10, ISS, 2001
[194] James A. Paul & Jason Garred, op. cit.

Thirdly, international regulatory framework is necessary because corporations adopting ethical codes of conduct are likely to consider themselves to be at competitive disadvantage if they actually put codes into practice in Angola, especially oil multinationals. This is one of the reasons why oil companies in Angola had to enter into brokering arms deals. There was huge competition among companies to access oil deposits. No company wanted to be excluded because of practicing corporate ethics. Any attempt to force the oil companies to make oil companies' payments public would have to be imposed internationally, as no company will relinquish it competitive edge in order to comply for transparency.

Furthermore, if there is going to be a 'level playing field', which prevents good performers being undercut by bad performers, then an international regulatory framework for an essentially transitional business will ultimately be necessary.[195] For instance, When BP wanted to publish all their payments to the Angolan government, the government threatened to suspend the company from doing business in Angola. In 2001, BP stated that in addition to maintaining a dialogue with the Bretton Woods institutions over the situation in Angola, it would publish key financial data regarding its operations.[196] Such a great movement was blocked and business continued as usual. The establishment of common standards for business engagement in fragile, corrupt and war-torn societies where governance is weak and predatory is necessary to prevent such instances.[197]

[195] Geoffery Chandler, 'Oil and Himan Rights' Oil, Gas and Energy law Intelligence, 2004 http://www.reports-and-materials.org/Chandler-Oil-and-Human-Rights-Oct-2004.pdf
[196] Atie Christer Christiansen, op. cit. pp. 12
[197] Geoffrey Chandler, op. cit.

Fourthly, Multinationals often argue that the laws of their country of origins or stock market listing bind them, and that the obligation is on those governments and institutions to regulate, restrict or limit their activity.[198] It seems unlikely that home countries would altruistically impose regulations to their corporations for the benefit of foreign nationals, placing their corporations at a disadvantage compared to local businesses or MNCs based elsewhere.[199] One must bear in mind that MNCs are part of governments' national interest in foreign countries. They are normally used for both economic and political influence in foreign countries. The furtility or impropriety of relying on home country law and institutions to protect the human rights of host country nationals should shift a focus on international regulation and institutions as a form of protection.[200] Parent countries are unlikely to put their corporations on competitive disadvantage by enforcing them to tight regulations. That never happened in Angola. Parent countries never paid attention on misconduct of their corporations and Angola suffered.

5.5 Conclusion

Finally, the regulation of corporate activities involved in war economies offers a major avenue for conflict prevention and peace building.[201] There is a clear need for a regulatory framework and instruments of enforcement to influence the behaviour of

[198] Richard H. Dietrich, op. cit. pp. 240
[199] Carlos Vazquez, op. cit. pp.13
[200] Carlos Vazquez, op. cit. pp. 16
[201] Philippe Le Billon, op. cit. pp. 1

businesses in relation to conflicts.[202] Some of the atrocities committed in Angola would have been prevented if there were clear regulatory framework for companies investing in that country. Furthermore, the Kimberly process on conflict diamonds is a major step towards an international regulatory trade regime over commodities involved in war economies.[203] It has been a success story. The funds stemming from selling conflict diamond has been curbed in Angola. More needs to be done in other natural resources. The oil sector also needs a regulatory regime to curb war economies.

Le Bellion outline three major areas that regulatory framework could revolve around: first, prohibition of corporate activities benefiting from the violation of human rights and humanitarian laws, secondly, prevention of corporate investment in conflict-affected areas likely to aggravate hostilities and their humanitarian impact, and lastly, promotion of greater transparency and accountability in terms of fiscal transfers and security arrangements.[204]

Cilliers also argues that international community should examine the establishment of a legal regulatory framework for businesses in war – including a permanent UN sanction monitoring mechanism, an investigation and international warrant capacity under Interpol, and a universal jurisdiction held by the International Criminal Court (ICC).[205]

[202] Ibid, pp. 2
[203] Philippe Le Billon, op. cit, pp.634
[204] Ibid
[205] Philippe Le Billon, op. cit., pp. 634

However, the question remains, will there be a willingness and coordination among various stakeholders, such as corporations, host and parent governments, NGOs, and governmental organizations? However moving towards international binding regulations for corporations is necessary to curb war economies. Moreover it is necessary to governments such as Angola experiencing weak governance institutions to regulate multinationals.

Chapter 6

6 Conclusion

MNCs have become major actors in global affairs. A process of globalisation accelerated their rapid expansion in global affairs. This rapid expansion of globalization after World War II was made possible by institutions of global economic governance, which emerged after the war, such as IMF, World Bank and GATT, which in 1995 became WTO. MNCs have taken an advantage of such a process. They have continued to expand beyond borders of nations in large numbers. The developing nations such as in Africa, Asia and Latin America have also felt the presence of MNCs.

However, their influence has not only gone to places that are experiencing sound political stability. They have also gone to places in developing countries that are experiencing political instability. The focus of MNCs in areas experiencing political instability has been on natural resource based corporations. These corporations are known to invest in such areas. With such an investment in unstable regions, international business community have found itself confronted with many challenges in its areas of operation, or being blamed for contributing to the conditions that lead to violent conflict.[206] Consequently, an increasing amount of attention has been focused on the links between conflict and the activities of MNCs, and the role corporations play in conflicts.[207]

[206] Juliette Bennett, op. cit.
[207] Suzan Pinkney, op. cit.

Mainly, this study focused on MNCs that are natural resource based, locating them in a country experiencing a civil war. Specifically, the study focused on the role of oil and diamond companies during the Angolan civil war and how their business activities contributed to human rights violations.

What clearly comes out from the research is that Angolan natural resource based multinationals particularly those in diamond and oil sectors had adverse influence by contributing to the sustainability of that civil conflict. In such a process, Angolans have been forced to endure human sufferings. The human suffering included, loss of life, the collapsed of the economy that accelerated poverty, deteriorates health care and education. The Angolan people have been systematically abused in favour of corporate profits and personal gain by the warlords of both warring parties. During the years of conflict, Angola has been characterized by a state of rapacious national elites to pillage the country's resources with the assistance of several multinational corporations, such as Elf, De Beers, Chevron, Glencore, Statoil, etc.

The presence of oil companies in Angola played a supporting role to the MPLA regime towards its efforts of defeating UNITA rebel group. The activities of foreign oil companies have affected the shape of the conflict; the intense competition for oil concessions has led to a number of different companies seeking the favour of the Angolan state elites through dubious charitable donations, weapons deals, and other forms of assistance.[208] The relationship between oil companies and the government was basically corrupt. There was no transparency. Oil companies do not reveal figures of their payment

[208] Jedrzej George Frynas & Geoffrey Wood, opt cit. pp. 587

to the government. Corruption leads to a violation of human rights in at least three respects: corruption perpetuates discrimination, corruption prevents the full realisation of economic, social, and cultural rights, and corruption leads to the infringement of numerous civil and political rights.[209] Corruption really aggravated social inequalities and upsets the equilibrium of all services in Angola because resources that were supposed to be channeled into social services ended up in the hands corrupt elites who continued to misuse funds.

Due to weaker institutions of governance, some places where the natural resources are exploited are under control of the rebel groups. This gives a room for rebel groups to exploit natural resources and enter into business transactions with MNCs. This situation allows chaos and creates an environment that exacerbates conflict. UNITA rebel faction has been able to carry on with waging war since 1992-2002, through illegal exploitation of diamond on illegally occupied territories. The control of 70% of diamond territories made it possible for UNITA to enter into trade or business transactions with some diamond dealers and companies such as De Beers. Much of the revenue accrued was crucial for buying weapons and supporting war related activities of UNITA.

Even though companies in Angola claim that good corporate standards are core to their business activities, they are unlikely to be implemented especially in conflict zones where there are not strong institutions of governance. Weak institutions are one of the factors that contribute to corruption in collapsed states. In fact high-rise of corruption in Angola made both MPLA officials to enter into corrupt business deals with oil companies.

[209] Peter Eigen Chaiman, op. cit.

It is quite clear those business activities by MNCs in areas where there are human rights abuses especially in conflict zones could directly and indirectly contribute to human rights abuses if they are not regulated.

What is the way forward? The main challenge among oil and diamond companies in Angola is to manage the direct and indirect impacts to maintain transparency in all dealings with the government and local community. Furthermore, moving towards international regulatory framework could be a viable option to prevent negative role of MNCs in areas experiencing instabilities. The international community needs to establish regulations regarding transparency of financial exchange between corporations, rebel groups and governments.[210] Such international framework needs to be accompanied by effective regulations such as sanctions to ensure compliance. International norm that operate on corporations but are not backed by effective regulations such, as sanctions are very likely to be violated. Moreover, regulations should ensure that MNCs are signed up to the binding human rights agreements and follow the codes of conducts concerning their operations in conflict countries.[211]

The success around curbing conflict diamonds in Angola was due to the international regulatory body in a form of Kimberly Certification Process. The body combined voluntary mechanisms with enforcement mechanisms such sanctions, which have been effective. Voluntary measures alone are not effective because companies are unlikely to

[210] Child Rights, op. cit. pp. 52
[211] Ibid

implement them unless they are faced criticisms faced with public pressure and negative publicity.

Given the background of some of the international initiatives discussed in chapter 4, it seems that there is already a stronger foundation to establish common international rules, although those initiatives are governed by voluntary measures. It shows that there is a growing consensus that corporations need to be regulated internationally. Such a consensus needs to be put forward to come up with enforcement mechanisms to govern corporations.

Presently in the absence of international binding rules of MNCs, both diamond and oil companies need to ensure that adherence to their corporate social responsibilities in Angola. That could also help in ensuring transparency, which is still a major problem in Angola. There is a need for companies to ensure that their business operation is conducted in a responsible manner especially where governance is weak such as in Angola. The most emerging issue coming from the research is that, days are gone where MNCs are just merely business actors. MNCs should strive to place themselves political, economic and social context of the country in which they operate. Business actors have a role to play and do have a capacity to be a force for good.

Governments, NGOs and civil society have shown to play positive role that uplift human security issues on issues related to conflict prevention and post-conflict reconstruction, but business society seem to be lagging behind in such issues. Even if they are operating

in places surrounded by conflict or in war torn countries. However, given the limited resources of governments, one could argue that business has a very crucial role in conflict prevention and resolutions because of their large pool of profit they make. Some part of profit they make could sponsor peace deals and for humanitarian welfare. Finally, MNCs in extractive sector have become strong actors in conflict zones; the positive role of such MNCs in conflict zones such as Angola is crucial for sustainable peace and uplifting of human rights.

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