

Overview: The Role of Business in R2P

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For many peace and conflict scholars, and human rights advocates, raising the issue of the role of business as a part of the international discussion about the prevention and cessation of mass atrocities – captured under the name “Responsibility to Protect” (R2P) – could mean cataloging the contemporary and historical instances when the private sector has been an instigator or a perpetrator of conflict (Cilliers and Dietrich 2000; Boele *et al.* 2001; Global Witness 2009; Stewart 2011). A frequent focus of the discourse around the private sector and conflict has been the real examples of egregious behavior by companies. Corporations are indicted for engaging in a host of practices that fosters conflict: financially bolstering repressive regimes that violate human rights; investments in commercial activities that involve forcible resettlement; by-passing international laws and norms; conducting commerce – directly and through supply chains – that impoverishes communities; complicity with undemocratic elections; and cooperation with repressive security forces. Such acts are viewed as integral to the global strategies of companies to retain access to and control of markets and resources. Popular examples include the role of the United Fruit company in advocating for US support for a coup against Guatemalan President Jacobo Árbenz (Schlesinger *et al.* 2005), and claims that Shell facilitated directly or indirectly the Nigerian military in a violent campaign against local activists in the 1990s (Boele *et al.* 2001).

Commentary and analysis that paints private sector actors as purely self-interested, including from those both critical and supportive of the private sector, further reinforce this view. Popular phrases such as “the business of business is business” or “business must act to make a profit” are invoked to justify the common assertion that businesses face an imperative to choose “profits over people.” In fact, such stylized portrayals of private sector actors were never intended as faithful representations of business and the action they might take; they were developed as necessary assumptions in economic models. Assigning business a monomaniacal mission of short-term profits and maximizing investor return on investment (ROI) aligns with neo-classical economic theory: as capital

markets seek the highest ROI, no firm could stay competitive if it pursued anything other than profit-seeking behavior and maximization of shareholder value. But these are assertions crafted in the service of theory building, not as accurate representations of business behavior. Such views of business may be convenient abstractions, but they are misplaced as a basis for asserting the role of private sector actors in R2P situations.

The contributors to this book do not contest the claim that businesses may promote or facilitate conflict (and without doubt they have). The focus of this book is to bring recognition of the fact that businesses can play a constructive role regarding the kinds of mass atrocities that the international community has attempted to address in the development of the norms of prevention and intervention covered under the overall banner of R2P. We argue that theorizing, modeling, discourse, and policy deliberations on R2P have neglected this prospect, and as a result have impoverished our understanding of what can be done to address R2P issues. This book provides a first effort to explain the ways in which business can play a positive role in R2P situations. We do not claim to offer a comprehensive set of offerings, but insights and guidance on practical, realistic, and purposeful ways businesses can play a role in R2P.

A dedicated group of researchers from across a range of academic fields has pioneered the study of connections between business practices and peace over the past fifteen years (Nelson 2000; Fort and Schipani 2004; Fort 2007; Williams 2008; Forrer 2010; Oetzel *et al.* 2010; Oetzel and Getz 2012; Dai *et al.* 2013; Kolk and Lenfant 2015). The business and peace literature can reasonably claim to have established a *prima facie* case that businesses affect the peacefulness of the communities where they conduct commerce and beyond. Research continues to explore the specific actions businesses can take to promote peace and the conditions necessary for their efficacy (Oetzel *et al.* 2010; Forrer *et al.* 2012; Oetzel and Getz 2012; Dai *et al.* 2013; Katsos and Forrer 2014).

Although still in its “early days” as a field of study, the business and peace (B&P) literature has already inspired numerous organizations to embrace the concept and produce policy documents that offer recommendations on what business could, and in some instances should, do to promote peace. A small sampling of institutions that have published on the topic includes the UN Global Compact, the United States Institute for Peace, the Institute for Economics and Peace, the Hague Center for Global Justice, the Business for Peace Foundation, the One Earth Future Foundation, Peace Research Institute Oslo, and SwissPeace. Some individual corporations have begun to consider the connections between their own business practices and their effect on conflict and peace (Peace Through Commerce 2014; Business Fights Poverty n.d.). Although the “practice” cart has jumped well ahead of

the “theory” horse, the interest in B&P studies, and how B&P can inform business strategy and policy, is expanding rapidly.

The development of the business and peace literature has happened quickly enough that it is generating more questions than answers. This volume focusses on one such example: the role of private sector actors in mass atrocity crimes – war crimes, crimes against humanity, and genocide and ethnic cleansing. The role of business in preventing or stopping mass atrocities has not been the subject of extensive discussion in either policy or research communities. B&P research has not yet explored what business can do regarding R2P situations, and the R2P community has given the role of the private sector scant attention.

In part, this reflects the fact that both the political discourse and the body of research around mass atrocity crimes is a relatively new and developing discussion. In addition, it reflects the fact that one of the major evolutions in the international response to mass atrocity crimes, the Responsibility to Protect, has been in practice – and largely in discourse – an exclusive franchise for governments and international organizations. R2P involves an amalgam of issues touching on state sovereignty, international intervention, and the definition of atrocities – all issues that have been considered to be within the exclusive province of state actors.

The result of both the focus on state concerns and the general tendency to assume that private sector actors are contributors to conflict (and not peace) means that the role of business has largely been excluded from the R2P debate. To dismiss the notion that business could contribute to preventing mass atrocities, and deter and avoid R2P situations is testimony to either a lack of real knowledge about business, or a penchant for letting ideological determinism trump practical opportunism. The role of business and R2P has been neglected for too long and deserves serious attention by scholars and practitioners.

The logic of why private sector actors should be interested in R2P extends itself quite neatly from the argument that there are well-recognized economic, legal, and corporate social responsibility (CSR) rationales for why and how private sector actors should be interested in supporting peace and the prevention of mass atrocities (Seyle and Aloyo 2015). The most familiar reasoning is economic: the kind of instability associated with mass atrocity crimes is incredibly destructive to economic activity. For example, the role of economic development and a healthy private sector is one of the strongest predictors of stability (Miguel *et al.* 2004). In the case of Kenya, which is covered at length in Chapter 5 in this book, its gross domestic product (GDP) dropped by nearly 20 percent following the post-election violence in 2007 and 2008 (Owuor and

Wisor 2014). The economic arguments for stability are clear: if a business can effectively invest in the prevention of mass atrocity crimes, it can appropriate the commercial advantages of political stability.

Second, there are legal reasons for business interest in R2P. National and international law proscribe companies from contributing to mass atrocities, as described in part by Vesselin Popovski in Chapter 8 of this volume. Several international laws bar support for mass atrocity crimes, most notably the Geneva Convention of 1949. These laws certainly apply to the directors and executives of corporations conducting business globally, barring them from contributing to mass atrocity crimes and the violations of R2P in the same way that they apply to any other individual (Scott and Rhodes 2014). More broadly, shareholder actions can provide a legal basis for structuring corporations to actively promote R2P principles if sufficient groups of shareholders can be motivated to support this.

Third, in an environment where businesses are increasingly asked to demonstrate their social commitments, shareholders and the public may encourage companies to do what they can to avoid contributing to problems and reward them when they can demonstrate their successes. The same negative influence private sector actors can have on democracy and social and economic justice that some commentators lament can be used to promote peace, and businesses can also take direct action to protect individuals and support the prevention or cessation of mass atrocity crimes. Several contributors to this volume provide specific illustrations of how these actors can support R2P, including Patrick Obath and Victor Owuor's discussion of the role of the private sector actors in supporting peace in Kenya, or Kirsten Martin's and Jill Shankleman's respective chapters discussing how telecommunications companies and extractive companies can take action to contribute to atrocity prevention. To the extent that these activities generate public goodwill, they can contribute to recognition of businesses and good corporate citizens.

We argue that business is deeply embedded in society and therefore has the potential to influence events, conditions, and attitudes that could help prevent mass atrocities. Which businesses, under what set of circumstances, at what point and time, and under what type management team and board of directors, could do what is an open question – and the topic of this book. R2P is significant because it is not a generic field of inquiry, such as the study of business and peace or business and atrocity prevention. It is a specific norm adopted by the UN General Assembly (UNGA) and defined by the UNGA and the UN Secretary-General in associated writing (UN General Assembly 2005; Ban 2009; Ban 2010).

As a result, contributors consider that both the practice of atrocity prevention without reference to the larger policy discourse and the ongoing policy and normative discussion that the term R2P specifically refers to are relevant here. Contributors to this volume have looked at the role of the private sector through both lenses, and this volume hopes to contribute to the analysis of atrocity prevention directly, and also to the conversation happening at the international level about R2P as a contribution to atrocity prevention.

Chapter Summaries

The contributors to this volume have engaged with the idea that the private sector can contribute positively and in a non-coerced manner to the prevention of mass atrocities, and also engaged with the question of what this may mean for the overall discussion of R2P. The initial chapters by Edward C. Luck (Introduction) and Victor MacDiarmid and Tina J. Park (Chapter 1) provide an initial engagement with the idea of how private sector actors may fit with the discussion around R2P. Luck provides an introduction based on his experiences in the UN, and points out the way that the UN discourse unintentionally left the private sector out of the conversation and practice around R2P, and identifies some of the places where private sector actors may be engaged. Park and MacDiarmid's chapter follows this introduction with an overview of the history of R2P in policy and practice, and highlights some of the current debates and contentious issues that may be affected by a greater appreciation of the role of the private sector. Chapters 2–5 make the discussion about the role of the private sector concrete by offering several different perspectives on how private sector groups can contribute, or have contributed, to atrocity prevention and cessation in different ways and historical contexts. Fort and Westermann-Behaylo (Chapter 2) lay out the logic and evidence for private diplomacy from the private sector as a contributor to peace and atrocity prevention, while Lempereur and Herrington (Chapter 3) underscore the human element of business. Their chapter provides several case studies drawn from World War II, the Rwandan genocide, and the 2008 Mumbai terrorist attacks where individual business leaders used their resources and role as business leaders to contribute to the protection of individuals. In Chapter 4, Claes argues that the discourse around R2P has underappreciated the impact of private sector actors, and suggests that private sector groups can be particularly impactful in “upstream” phases of violence, where they can contribute to disrupting patterns that can lead to later mass atrocities. In Chapter 5, Obath and Owuor provide a specific example of just this

kind of engagement, when they detail how Kenyan companies, both individually and organized through business associations, responded to post-election violence in 2007–2008, and the threat of a repeat in the 2012/13 elections, with a series of organized activities that may have contributed to the peaceful elections in 2012–2013. Chapters 6 and 7 look at specific sectors that may be particularly impactful in preventing or stopping R2P violations. Shankleman in Chapter 6 looks at the extractive industry from the lens of the direct interest that extractive companies should have in R2P, the role they may play in addressing R2P violations, and some of the limitations and barriers to engagement that this sector may see. In Chapter 7, Martin examines the role of telecommunications companies and argues that because of the central role of telecommunications in organizing collective action, telecommunications companies may have a specific impact in preventing (or facilitating) R2P violations. Finally, the concluding chapters by Popovski and Bellamy offer some engagement with the question of what this set of arguments means as a whole for the practice of atrocity prevention or the support for the norms of R2P. Popovski reviews the arguments for private sector engagement in atrocity prevention and R2P discourse, and argues that the responsibility in the term “responsibility to protect” should apply to more than just states, and that examples like those in this volume can pave the way for an expanded discussion about what actors are invoked in preventing or addressing R2P violations. He provides a taxonomy for thinking about what roles non-state actors can play in R2P situations. Finally, Alex J. Bellamy provides an overarching review and summation in which he lays out the practical and political limitations of a state-centric approach to R2P, and uses the cases provided in this volume to make an argument for increasing appreciation for the role of private sector actors in addressing R2P. The volume concludes with a brief “agenda for action” that lays out some specific recommendations for next steps.

We do not claim that we can predict what any given business may do as it relates to R2P issues. But we also argue that there is no validity in the claim that business cannot play a positive role in promoting peace and addressing R2P issues. Contributors have established the case that businesses have and can act to prevent atrocities, and have connected specific cases to the conversation around R2P. With such precedents and insights, collectively, this book presents a strong rationale for accepting the mandate to understand the roles business might play under a broad range of conditions and circumstances. The examples and arguments advanced here offer some initial guidance for what might be possible and what is imaginable. That is a good start. We hope it is the first in a long and fruitful discussion on the topic.

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8 John Forrer and Conor Seyle

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Introduction: The Private Sector, the United Nations, and the Responsibility to Protect

Edward C. Luck

Despite all that has been written about the Responsibility to Protect (R2P), some very large gaps persist in our understanding and scholarship. One of the more prominent and consequential omissions is a striking lack of attention by scholars and practitioners alike to the role of the private sector. There has been remarkably little appreciation of the actions that the private sector has or could take in response to, as well as in the prevention of, mass atrocities. So this book project has sought to provide fresh insights on the reasons for this oversight, on how it could be overcome, and on how the skills and capacities of the business community could be tapped to prevent and ameliorate future mass atrocities. The chapters that follow provide a promising down payment on that research and analysis. No doubt the work of these authors will spur others to build on their initial findings, opening some promising new directions for policy and practice.

During my five-year tenure as the first UN Special Adviser on the Responsibility to Protect, it was painfully evident in crisis after crisis that there was anything but a surfeit of tools to prevent, limit, or end mass atrocities, or of actors to wield them. As the Secretary-General and I repeatedly told the Member States, we intended to pursue a strategy that was “narrow but deep”: narrow in terms of limiting its scope strictly to the four crimes agreed by the 2005 World Summit (genocide, war crimes, ethnic cleansing, and crimes against humanity) and their incitement, but deep in terms of employing every possible legal tool and partner to get the job done.¹ In such circumstances, expanding the R2P tent to include additional prevention and protection partners was naturally accorded a high priority.

Yet there seemed to be one blind spot: the private sector. We developed a more inclusive and dynamic model for pursuing the responsibility to protect, and, for the first time, included the private sector. I added

¹ See, for instance, *Implementing the Responsibility to Protect* (United Nations 2009 A/63/677, p. 8, para. 10(c)).

references to collaborating or partnering with the private sector to several of the Secretary-General's annual reports on R2P from 2009 to 2012, but the United Nations (UN) had neither a history nor an inclination nor protocols for integrating business into efforts to address such highly political matters.² So, given the limits of time and institutional culture, the shift in doctrine was more evident in theory than in practice.

This introductory chapter seeks to frame the discussion of the private sector's place in implementing R2P in a conceptual, cultural, and institutional context, largely from a UN perspective. It sketches the historical evolution of R2P and of relations between the UN and business communities, noting that these were parallel processes that neither intersected nor fed off of each other. The chapter begins by addressing some of the conceptual and institutional hurdles that need to be overcome if the potential contributions of the private sector to atrocity prevention are to be fully realized. It concludes that the United Nations is not the best venue through which to pursue this, given the sorry history of relations between the business community and the world body, and the practical, not normative, nature of this pursuit. It argues for the kind of fresh approach favored by the authors in this volume – one that begins with the business-like question of what can we do to prevent mass atrocities in our societies that could have devastating economic, as well as human, consequences for generations to come?

Conceptual Hurdles

The initial conception of R2P was very much the product of its times. It was shaped by changing assessments of the nature of conflict and by the challenges to traditional United Nations security doctrine posed by the turbulent events of the 1990s. The regional and sectarian instabilities of the post-Cold War world compelled the world body to devote greater attention to intra-state and transnational conflicts. The collective failure to respond to the horrendous genocide in Rwanda and the war crimes, ethnic cleansing, and crimes against humanity in the Balkans led to substantial soul-searching about doctrine, practices, and principles, as well as about capacities, will, and authority.³ Growing concern about

² Ibid., p. 9, para. 11(b); p. 16, para. 32; and p. 26, para. 59; *The Role of Regional and Sub-regional Arrangements in Implementing the Responsibility to Protect* (United Nations 2011 A/65/877-S/2011/39, p. 4, para. 12; p. 7, para. 22; p. 8, para. 24; and pp. 8–9, para. 26); *Responsibility to Protect: Timely and Decisive Response* (United Nations 2012 A/66/874-S/2012/578, pp. 12–13, para. 46).

³ See, especially: *Report of the Independent Inquiry into the Actions of the United Nations During the 1994 Genocide in Rwanda* (United Nations S/1999/1257 1999) and *The Fall of Srebrenica* (United Nations A/54/549 1999).