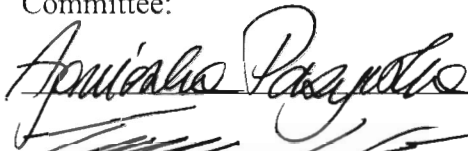


ACTUALIZING HUMAN RIGHTS NORMS IN DISTANCED SPACES; AN  
ANALYSIS OF THE CAMPAIGN TO ELIMINATE CONFLICT DIAMONDS AND  
THE CAPITAL MARKET SANCTIONS (SUDAN) CAMPAIGNS IN THE UNITED  
STATES

by

Ismael James Muvingi  
A Dissertation  
Submitted to the  
Graduate Faculty  
of  
George Mason University  
in Partial Fulfillment of  
The Requirements for the Degree  
of  
Doctor of Philosophy  
Conflict Analysis and Resolution

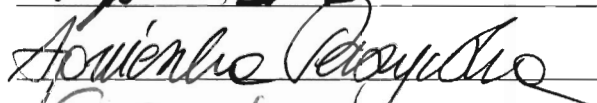
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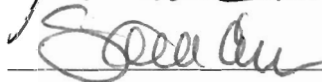
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Fall Semester 2007  
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## DEDICATION

This is dedicated to my mother Doreen who gave so much to me, my wife Angela, and my wonderful daughters Tsungai, Taremekedzwa and Rumbidzai.

## ACKNOWLEDGEMENTS

I want to thank my director, Agnieszka Paczynska for her incredible patience, constant encouragement and invaluable advice throughout the whole process.

I thank my very supportive committee members, John Dale and Terrence Lyons and their families for all the advice and for the warmth of the welcomes they gave me to Washington DC.

To the staff at the Congressional Research Services especially Ted Dagne, I am forever indebted for truly incredible helpfulness in my search for records. My former boss at Catholic Relief Services, Joan Neal and all my former colleagues, thanks for the support and encouragement.

This research project would not have been possible without the cooperation and assistance of many friends, former colleagues and professionals who were so willing to give of their time and share their experiences; Adotei Akwei, Marcel Kittisou, Bernice Romero, Ian Gary, Abdul Lamin, Leon Spencer, Colin Thomas-Jensen, Heather Nolan, Dr. Mathew Runci, John Kleiderer, Dan Griffin, Kathy McNeely, Mark Harrison, Mike Fleshman, Phil Reed, Rory Anderson and Vicki Ferguson thank you all.

## TABLE OF CONTENTS

	Page
List of Figures.....	x
Abstract.....	xii
<b>Chapter 1, Introduction.....</b>	<b>1</b>
<b>Conceptualizing the Issues.....</b>	<b>3</b>
Strange Bedfellows.....	3
Linking Violence to Mobilization.....	5
The Challenge of Free Markets.....	7
The Place of the State.....	9
Geo-politics.....	11
Deployed Discourses.....	12
<b>Structure of the Dissertation.....</b>	<b>15</b>
<b>Research Motivation.....</b>	<b>16</b>
<b>Case Selection.....</b>	<b>18</b>
<b>Dissertation Arguments.....</b>	<b>24</b>
<b>Theoretical Framework.....</b>	<b>29</b>
Institutional Opportunity Structure.....	32
Discursive Opportunity Structure.....	34
Geo-political Opportunity Structure.....	37
<b>Outcomes.....</b>	<b>40</b>
<b>Chapter 2, Literature Review.....</b>	<b>42</b>
<b>Introduction.....</b>	<b>42</b>
<b>Coalition Processes.....</b>	<b>42</b>
Capital Markets Sanctions Campaign.....	43
Conflict Diamonds.....	49
Social Movements and Campaign Coalitions.....	50
<b>Framing.....</b>	<b>55</b>

<b>State-centrism.....</b>	<b>57</b>
<b>Resources and Violence.....</b>	<b>59</b>
<b>Human Rights and Activism.....</b>	<b>62</b>
<b>Geo-politics.....</b>	<b>64</b>
<b>Theoretical Frameworks.....</b>	<b>69</b>
 <b>Chapter 3, Research Method.....</b>	 <b>71</b>
<b>Theoretical Approach.....</b>	<b>71</b>
<b>Qualitative Case Study Methodology.....</b>	<b>74</b>
<b>Research Questions.....</b>	<b>78</b>
<b>Cross Case Analysis Questions.....</b>	<b>79</b>
<b>Data and Data Collection.....</b>	<b>80</b>
Interviews.....	81
Web based materials .....	83
Documents and Reports.....	84
Media Reports.....	85
Direct Observation.....	86
<b>Analysis.....</b>	<b>87</b>
<b>Data Interpretation.....</b>	<b>89</b>
<b>Reliability and Validity.....</b>	<b>90</b>
<b>Accessing the Data.....</b>	<b>91</b>
 <b>Chapter 4, The Campaign to Eliminate Conflict Diamonds.....</b>	 <b>92</b>
<b>Introduction.....</b>	<b>92</b>
<b>The Diamond .....</b>	<b>93</b>
 <b>History of the Violence.....</b>	 <b>95</b>
Angola.....	96
Sierra Leone.....	98
 <b>The Campaign Process.....</b>	 <b>103</b>
Campaign Actors and Diversity.....	103
A Strategy Driven Campaign.....	110
The Actions.....	118
 <b>Campaign Timeline.....</b>	 <b>119</b>
 <b>Phase 1.....</b>	 <b>120</b>
Media Coverage.....	120
Diamond Industry Response.....	122
Legislative Action.....	124

International Efforts - Kimberly Starts.....	127
Campaign Initiatives.....	129
U.S. Administration.....	131
<b>Phase 2; Confrontation.....</b>	<b>131</b>
Campaign Initiatives.....	131
Media Coverage.....	133
Industry Responses.....	134
Legislative Action.....	136
<b>Phase 3; Rapprochement and Collaboration.....</b>	<b>138</b>
U.S. Legislative Campaign.....	138
International Efforts.....	139
Media.....	140
<b>Phase 4; The Campaign and the War on Terror.....</b>	<b>140</b>
The Media, Terrorism and Conflict Diamonds.....	140
International Efforts.....	144
U.S. Legislative Campaign.....	147
<b>Chapter 5, Campaign to Eliminate Conflict Diamonds.....</b>	<b>152</b>
Within Case Analysis.....	152
<b>Introduction.....</b>	<b>152</b>
<b>Institutional Opportunity Structures.....</b>	<b>154</b>
The Global Markets.....	155
The Kimberley Process.....	157
International NGOs.....	159
The United Nations.....	160
U.S. Legislative Structure.....	163
The Administration.....	165
The Media.....	166
<b>Discursive Opportunity Structure.....</b>	<b>168</b>
Publicity and Resonance.....	169
Legitimacy.....	172
<b>Geo-Political Opportunity Structure.....</b>	<b>177</b>
Africa and U.S. Geo-politics.....	178
Terrorism as Opportunity.....	181
Free Trade and Diamonds.....	186



<b>The Aftermath; Blood Diamonds and Pop-Culture.....</b>	<b>188</b>
<b>Chapter 6, Capital Markets Sanctions Campaign.....</b>	<b>190</b>
<b>Introduction.....</b>	<b>190</b>
<b>Campaign Imperatives.....</b>	<b>192</b>
Civil War, Human Rights and Religion.....	192
The China Factor.....	198
<b>The Campaign Participants .....</b>	<b>200</b>
Anti-Slavery Groups.....	201
Religious Freedom Groups.....	202
Labor.....	205
National Security Concerns Groups.....	207
Human Rights Groups.....	208
The Legislators.....	210
Individuals.....	210
<b>A Strategic Campaign Operation.....</b>	<b>210</b>
<b>The Campaign Process; a Timeline.....</b>	<b>217</b>
1997; U.S. Economic Sanctions.....	217
1998 ; Anti- Slavery Movement.....	218
1998 - 1999 Oil Corporations Accused.....	219
<i>Talisman Energy</i> .....	219
<i>China National Petroleum Corporation/PetroChina</i> .....	221
1999 – 2002 Legislative Initiatives.....	223
1999 - 2000 Disclosure and the Securities Exchange Commission.....	230
1999 – 2000 Divestment.....	232
2001 – 2006 Alien Torts Claim.....	235
<b>Chapter 7, Capital Markets Sanctions Campaign, Within Case Analysis.....</b>	<b>237</b>
<b>Opportunity Structures.....</b>	<b>237</b>
<b>Institutional Opportunity Structures.....</b>	<b>237</b>
Capital Markets.....	237
International NGO Networking.....	243
Securities and Exchange Regulation.....	243
Legislative Process.....	245
Shareholder Power.....	247
Alien Tort Claims Act.....	248
U.S. Administration.....	249

<b>Discursive Opportunity Structures .....</b>	<b>250</b>
Publicity and Resonance.....	251
Framing the Legitimacy.....	254
<i>Religious Freedom and Slavery</i> .....	255
<i>Human Rights</i> .....	257
<i>National security</i> .....	259
Discourse Counter-narrative.....	261
<b>Geo-Political Opportunity Structure.....</b>	<b>266</b>
Sudan and the U.S.....	266
China and the U.S.....	274
<b>Campaign Outcomes.....</b>	<b>275</b>
<b>Chapter 8, Cross Case Analysis.....</b>	<b>279</b>
<b>Introduction.....</b>	<b>279</b>
<b>Campaign Focus Issues.....</b>	<b>283</b>
<b>History.....</b>	<b>290</b>
<b>Mobilizing Agents and Strategies.....</b>	<b>291</b>
<b>The Conservative Contradiction.....</b>	<b>297</b>
<b>The Campaign Tools.....</b>	<b>299</b>
<b>Opportunity Structures.....</b>	<b>300</b>
Institutional Opportunity Structures.....	302
Discursive Opportunity Structures.....	304
Strategic and Economic Geo-politics .....	310
<b>Counterfactuals.....</b>	<b>314</b>
<b>Counter-narratives; Campaign targets and their responses.....</b>	<b>317</b>
<b>Outcomes.....</b>	<b>323</b>
<b>Conclusion.....</b>	<b>306</b>
<b>Chapter 9, Conclusion.....</b>	<b>328</b>
<b>Caveats.....</b>	<b>328</b>
<b>Lessons learnt.....</b>	<b>330</b>
Human Rights .....	330
Deployed Discourses.....	331
Processes.....	332
The Local and the International Dynamics.....	334

Lessons for the Field.....334

**Do Campaigns Work?**.....335

**Further research**.....343

Appendix, Research Summary.....346

List of References.....349

Curriculum Vitae.....375

LIST OF FIGURES

Figure	Page
1. Figure 1. Contextual Factors.....	326

## **Abstract**

ACTUALIZING HUMAN RIGHTS NORMS IN DISTANCED SPACES; AN ANALYSIS OF THE CAMPAIGN TO ELIMINATE CONFLICT DIAMONDS AND THE CAPITAL MARKET SANCTIONS (SUDAN) CAMPAIGNS IN THE UNITED STATES

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George Mason University, 2007

Dissertation Director: Dr. Agnieszka Paczynska

In the late 1990s and early 2000s, social justice activists in the United States initiated two coalition based campaigns aimed at ameliorating the violence associated with extractive industries in Angola, Sierra Leone and Sudan. The ideological diversity and the disparate interests of the coalition participants were an intriguing puzzle and part of this dissertation is an exploration of how it is that these widely diverse actors were able to collaborate and successfully run the campaigns despite their significant differences. I advance the argument that diversity of ideological subscription is no bar to coalition work in campaigns because a strategic basis for operationalization enables collaboration across ideological and interest differences.

I utilized a tripartite opportunity structure framework to analyze the campaign. Extant scholarship on social movements is predominantly state centric, but in these cases

the violators of human rights were other than states i.e. corporations, rebels and warlords that operated across state boundaries and were enabled by the market. To better encapsulate the range of structural opportunities I therefore delineated institutional structures rather than just state structures. The second leg of the framework emanates from the problem of separating framing from opportunity structures. The efforts of the activists through the framing of their messages as well as their mobilizing efforts were met by the counter frames of the targets and mediated by various opportunity structures that comprised the prevailing context. Rather than simply a unidirectional frame activity from the activists, I wanted to capture the competing nature of the framing processes in the public sphere. Thirdly, although the campaigns took place during the same historical time space and were motivated by the same phenomenon of violence in extractive industries, they had divergent trajectories and different outcomes. From the investigations it was fairly clear that the economic and strategic interests within the U.S. context largely determined the campaign outcomes. I therefore utilized a geopolitical opportunity structure to complete the analytical framework.

## Chapter 1

### INTRODUCTION

In the late 1990's through the early 2000's, social justice activists in the United States engaged in two campaigns aimed at ameliorating human rights abuses linked to extractive industries in Angola, Sierra Leone and Sudan; the Campaign to Eliminate Conflict Diamonds (hereafter "the conflict diamonds campaign") and the Capital Markets Sanctions (Sudan) Campaign (hereafter "the capital market sanctions campaign"). At its height, the conflict diamonds campaign comprised of a coalition of more than 150 human rights, humanitarian and faith organizations whose immediate goal was to stop the use of diamonds as a key funding source for violent conflict in African countries.<sup>1</sup> The campaigners' primary goal was the enactment of legislation that would restrict the importation of diamonds into the United States in line with the international Kimberley Process Certification Scheme.<sup>2</sup> After an initial and fairly acrimonious confrontation, social justice activists, legislators and diamond industry representatives joined together to lobby for market regulation, and legislation against conflict diamonds was enacted in April 2003. However, the legislation did not meet all of the demands of the activists.

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<sup>1</sup> Campaign To Eliminate Conflict Diamonds website  
[http://www.phrusa.org/campaigns/sierra\\_leone/conflict\\_diamonds.html](http://www.phrusa.org/campaigns/sierra_leone/conflict_diamonds.html)

<sup>2</sup> Oxfam America. *The Campaign to Eliminate Conflict Diamonds Welcomes The Introduction of H.R. 1415, The Clean Diamond Trade Act* 3 April, 2003  
[http://www.oxfamamerica.org/newsandpublications/press\\_releases/archive2003/art4681.html](http://www.oxfamamerica.org/newsandpublications/press_releases/archive2003/art4681.html)

The capital markets sanctions campaign targeted investment in oil extraction in Sudan where the Sudanese government was decimating local populations that were resident in the oil-bearing southern region of the country. The participants in the capital markets sanctions campaign were even more diverse than those in the conflict diamonds campaign. Campaigners sought legislatively sanctioned exclusion of foreign corporations investing in Sudanese oil from listing and being able to raise capital on U.S. financial markets. In addition, they also wanted it to be mandatory for such corporations to disclose the risks attendant on such investment to their potential investors. Two corporations were most directly involved; Canadian oil company Talisman Energy Inc, which was already registered on the New York Stock Exchange (NYSE), and Chinese state corporation, PetroChina, which was seeking enlistment on the NYSE. Besides legislative sanctions, campaigners lobbied the U.S. Securities and Exchange Commission to include human rights concerns relating to the Sudanese government's practices as material issues for disclosure to capital markets potential and existing investors in the corporations. Other activists simultaneously mounted a divestment campaign against Talisman and one group filed a lawsuit against the corporation in the District Court of New York under the Alien Tort Claims Act.<sup>3</sup> The legislative objective failed and the lawsuit was eventually dismissed. However, there was some success with the Securities and Exchange Commission, considerable divestment from Talisman, a serious reduction in the amount of capital raised by PetroChina and even though reluctantly, Talisman left the Sudanese oil business.

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<sup>3</sup> *Presbyterian Church of Sudan, et. al. v. Talisman Energy, Inc.*, Case No. 01CV9882 (S.D.N.Y. 2001)



The two campaigns are a study in norm definition and implementation; a contestation over universalistic moral claims pursued in the national arena. The phenomenon of extractive industries violence has become so widespread that scholars like Michael Klare have argued that the future geography of war will be defined not so much by the Huntington clash of civilizations as it will be by resource location and competition, especially strategic resources like oil.<sup>4</sup> Several very interesting questions arise for investigation and analysis; the make up of the actors engaging in the campaigns against extractive industry violence, how they operate, their attempts at legitimizing their claims and some of the key factors that determined the outcomes to the specific campaigns.

### **Conceptualizing the Issues**

#### **Strange Bedfellows**

Prior to these campaigns, no effective institutionalized mechanisms for confronting extractive industry violence existed nationally in the U.S., in the global market or generally in the international system. It fell to social justice activists therefore to raise the alarm and mobilize for action. Distanced issues, on which there were no direct self interest factors, meant that there were no natural and effective, interest-based constituencies for the campaigns and a wide array of actors appealing to varied constituencies got involved. As will appear in chapters 4 and 6, the actors came from

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<sup>4</sup> Klare, Michael. *Resource Wars: The New Landscape of Global Conflict*, New York: Metropolitan Books, Henry Holt and Co. 2001; Huntington, Samuel “Robust Nationalism” *The National Interest* January 20<sup>th</sup> 1999

sometimes contradictory ideological backgrounds and were driven by a wide variety of interests. The coalitions they formed ended up including some very strange bedfellows.<sup>5</sup>

That composition of differing ideological and interest actors sparked a puzzle as to how these diverse participants were able to coalesce and successfully initiate and prosecute campaigns on issues that were not of immediate self-interest to the constituencies the activists sought to mobilize. As will be discussed in Chapter 2, there is existing literature that addresses social movement operations and networking, but the current scholarship does not adequately address the how and why actors of such disparity can come together and jointly advocate on spatially and socially distanced human rights issues. In neither campaign did the actors function in networks with localized movements from the spaces of violence. Hardly any local activism was taking place in Sudan, Angola and Sierra Leone and so U.S. actors were not strictly speaking support groups for particular third world movements. As one activist engaged in both the capital markets sanctions campaign and the conflict diamonds campaign said, "...I think it would be very tough to make the case that on conflict diamonds, any efforts by those in the west were doing so in response to any appeal from African partners."<sup>6</sup> While obviously empathetic to African predicaments, U.S. activists apparently acted out of their own perceptions of what ought to and could be done on the issues. Neither were these transnational grassroots "bottom up" activists as postulated by Smith.<sup>7</sup> Although

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<sup>5</sup> Moore, Art. "Faith Under Fire; Bombs continue as activists pray for Sudan. Week-long vigil in D.C. will spotlight genocide by Islamic militants" *WorldnetDaily.com* September 13, 2002; Steve Hirsch, Why Sudan Matters. *National Journal*. 2 June 2001

<sup>6</sup> Interview with activist May 15<sup>th</sup>, 2006 Greensborough, North Carolina

<sup>7</sup> Smith, Michael Peter *Transnational Urbanism, Locating Globalization* Malden, Massachusetts. Blackwell Publishers, 2001

Sudanese refugees, Tibetan students and Sierra Leonean activists formed part of the campaigns, the campaigns were neither initiated nor primarily driven by these transnational citizens. There were indeed “African transnational” participants and activists, however as emphasized by those very transnationals, they lacked the power and influence necessary to effectively cause legislative change in the U.S.<sup>8</sup>

The compositions of the coalitions in both campaigns were surprising and the actions undertaken so innovative as to warrant concerted study.<sup>9</sup> The first point of inquiry in this dissertation is what brought these actors together and how it is they were able to collaborate given their differences. Contributing to the understanding of how disparate groups and individual actors cooperate and utilize public discourse to advance social, ideological and political goals is one objective of the research. Conceptually, the research can broaden how we think about coalition work and social mobilization dynamics.

### Linking Violence to Mobilization

The grievance that gave immediate cause for both campaigns was revelations of horrendous violence in Angola, Sierra Leone and Sudan. Reports indicated that the physical survival of local people was being threatened and/or violated through among other things; arbitrary killings, amputations, forced displacements, aerial bombardments,

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<sup>8</sup> Interviews with activists, Washington DC June 8<sup>th</sup> and 15<sup>th</sup> 2006. One activist of African descent articulated this in terms of the Africans who exist in the “here” and “there” not having “that much of clout....in terms of decision making” in the US legislative system.

<sup>9</sup> Hufbauer, Gary Clyde and Barbara Oegg. “Capital-Market Access: New Frontier in the Sanctions Debate” *Institute for International Economics Policy Brief* 02-6 May 2002  
<http://www.iie.com/publications/pb/pb.cfm?ResearchID=57>

forced labor, deliberate starvation, and rape.<sup>10</sup> The violations were geographically located within particular states but the range of actors involved in the resource chains was very international. While laborers toiled, sometimes at gunpoint in the riverbeds of Sierra Leone and Angola, the diamonds they extracted found their way onto global markets through an intricate web that included rebels, warlords, generals, international corporations and jewelers primarily in Europe and North America.<sup>11</sup> In Sudan, oil extraction was secured through a government-corporate partnership that showed no hesitation in clearing villagers from resource areas through means so brutally forceful that both human rights activists and the U.S. State Department declared them genocidal.<sup>12</sup> The oil too was destined for external consumption in Europe, North America, China and other nations in Asia. In Chapters 4 and 6, I provide details of some of the violations.

The activists faced a considerable challenge in their efforts to try and stem the violence. Warlords, rebels and governments in the sites of violence did not place human rights or democratic considerations at the top of their agendas and they were also not accessible to civil society activism locally or in the consuming states. Corporations and traders in the extractive industries understood the language of profits more readily than they did human rights talk. On the other hand, the end users of the resources, a part of the

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<sup>10</sup> See for example Greg Campbell's article "Illicit diamonds make fabulous profits for terrorists and corporations alike..." *Amnesty Magazine* 2001 <http://www.amnestyusa.org/magazine/diamonds.html>

<sup>11</sup> Campbell, Greg. *Blood Diamonds: Tracing the Deadly Path of the World's Most Precious Stones*. Boulder: Westview Press. 2002, 59

<sup>12</sup> Amnesty International and Human rights Watch *Sudan: Urgent need for continued human rights monitoring* joint press release Amnesty International Index: AFR 54/016/2003 (Public) News Service No: 075, 1 April 2003; Alley, Sabit A, "War and Genocide in Sudan" *Abolish (American Anti-Slavery Group)* [http://www.iabolish.org/slavery\\_today/in\\_depth/sudan-genocide.html](http://www.iabolish.org/slavery_today/in_depth/sudan-genocide.html) ; *BBC News Powell declares genocide in Sudan*, Thursday, 9 September, 2004

north-based consumer behemoth, were largely detached and ill informed about events taking place in far off lands. As the Financial Times put it;

"The problems of Africa are a million miles away from consumers, who think more of the images of Jennifer Lopez or the Beckhams wearing diamonds than of the images of conflict in Africa."<sup>13</sup>

Indeed the massive appropriation of the natural resources upon which the industrialized world depends, tends to be assumed as a fact of life if not an entitlement by the main beneficiaries.<sup>14</sup> Whether specifically intentioned or simply by happenstance, there appeared to be a knowledge gap between extractive violence and blissful consumption of products and thus a disjuncture between consumption and responsibility for the effects of the extractive enterprises. The campaigners therefore saw “space hides consequences” as a basic premise and a *raison de être* for advocacy. They then sought to reconnect the separated arenas of production, distribution and consumption and restore to view the hidden symbiotic interconnectedness, and from that the chain of responsibilities for northern consumers and investors.<sup>15</sup>

### The Challenge of Free Markets

Montague argues that what enables the extraction and marketing of resources is the free market enterprise’s tendency to pull resources from distant places like Congo, Angola, Sudan and Sierra Leone and other places and concentrate them in the hands of a

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<sup>13</sup> *The Financial Times*, April 12, 2004 p16

<sup>14</sup> Coronil F. *The Magical State: Nature, Money, and Modernity in Venezuela* Chicago, IL: Univ. Chicago Press. 1997, p 447

<sup>15</sup> Barnett, Clive, Paul Cloke, Nick Clarke, Alice Malpass. “Consuming Ethics: Articulating the Subjects and Spaces of Ethical Consumption” *Antipode*. 2005 p 24

small global elite primarily resident in the global North.<sup>16</sup> International trade *per se* is nothing new, but as David Becker argues, we are now dealing with “an increasingly international social order that exhibits forms of political action heretofore confined to, and studied only in the context of national societies.”<sup>17</sup> A significant part of the extractives ethics problem may well emanate from our increasingly international interconnectedness that has intensified exterritorial economic, social and cultural activities without corresponding theoretical frameworks or enforcement mechanisms for responsibility. Accountability and responsibility have proven to be problematic in a neo-liberal capitalist world order wherein decisions made and actions taken by and in the centers of power (states, multilateral institutions, and international corporations) have repercussions well beyond national boundaries, while existing forms of democratic participation and societal accountability for the decisions and actions remain territorially bounded.<sup>18</sup>

Diamond argues that the real problem subsists in the expansionist tendency of capitalist globalization without consideration for the negative impact it has on the poor and hungry; a reflection of its disregard for the traditional legitimization ethos of liberalism.<sup>19</sup> In extractive industries, spatial distance and globalized commodity chains intervened to complicate and extend the nature and range of involved parties, moral

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<sup>16</sup> Montague, Dena. “Stolen Goods: Coltan and Conflict in the Democratic Republic of Congo” *SAIS Review* 22.1, 2002, 103-118; Gilbert Rist. *The History of Development: From Western Origins to Global Faith*. Translated by Patrick Camiller. New York, NY: Zed Books. 1997

<sup>17</sup> Becker, David G. “Democracy and International Relations: Critical Theories/Problematic Practices / Critical Theory and World Politics.” *The American Political Science Review* Sep 2001.Vol.95, Iss. 3; p773

<sup>18</sup> Mundy, Karen and Lynn Murphy. “Transnational Advocacy, Global Civil Society? Emerging Evidence from the Field of Education” *Comparative Education Review*, Feb 2001 v45 i1 p85 at page 87.

<sup>19</sup> Diamond, Stephen F. “The PetroChina Syndrome: Regulating Capital Markets in the Anti-Globalization Era” *Journal of Corporation Law*, Fall 2003, pg 12

duties and political action and that problematized the ethics, morality and politics of responsibility when violence was an element of the extractive process. Hettne and Söderbaum, in line with Cox, agree that the problem is fundamentally ideological in that, “the neo-liberal ideology of globalism lacks ethical content, i.e. any concern for the victims of structural change...”<sup>20</sup> There exists therefore a legitimization gap, a gap between espoused principles and the realities of market practices. It was that gap that the social justice activists in these campaigns were seeking to fill.

The actors found however that arguing the validity and desirability of human rights or religious freedom alone would not by itself prove very effective in the contestation with market forces and a very powerful neo-liberal free market discourse. Recognizing the primacy of the profit motive in the behavior of corporations, activists strove to translate norm violations into credible threats of material loss. In the case of conflict diamonds, it was selective purchasing, and in the capital market sanctions, it was the denial of access to money markets backed up by divestment efforts and legal suit.<sup>21</sup> Thus in the very markets that enabled the funding of violence, the activists found the opportunities for intervention.

### The Place of the State

While international trade and the scope of power relations goes beyond the intrastate sphere, it by no means excludes the role of the state which can be seen as one of

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<sup>20</sup> Hettne, Björn and Fredrik Söderbaum. “In Search of New Theories” *Journal of International Relations and Development* Volume 2, No. 4. Dec. 1999

<sup>21</sup> *Presbyterian Church of Sudan, et. al., v. Talisman Energy, Inc., and the Republic of Sudan*. 01 CV 9882 (AGS)

the mechanisms through which power is exercised, but one whose script continues to evolve. The state was not the campaigns' primary target for change. Northern states did not directly participate in extractive industries but they provided the enabling environment for corporations to operate and consistently and vigorously defended the freedom and maintenance of the markets in which corporations traded. Neo-liberal dominance is maintained and defended most assiduously by the U.S. state and activists found that one of their biggest obstacles was not the corporate world, but rather the U.S. administration, even in the case where industry and activists had joined together in favor of regulation.

Duffield argues that in fact there is a high level of complicity among the actors involved and that a symbiotic relationship exists between zones of stability (developed world) and instability (resource supply countries).<sup>22</sup> The same governments that championed the human rights discourse were missing from the frontlines of efforts to curb violence in extractive industries.<sup>23</sup> Unarguably, violence and mal-governance are antithetical to the upholding of human rights and the exercise of democracy, yet while northern governments initiated the human rights discourse and continue to vocally champion it, they had done little to counter trade practices that contributed to serious human rights violations in states other than their own.<sup>24</sup> This is despite the liberal discourse that espouses rights, equality and development as well as the

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<sup>22</sup> Duffield Mark. "Globalization, Transborder Trade and War Economies" in Mats Berdal and David Malone. *Greed and Grievance Economic Agendas in Civil Wars*, Lynne Rienner, Boulder. 2000

<sup>23</sup> Renner, Michael. "Pillage and plunder" *Alternatives Journal*; Sep/Oct 2004 p30

<sup>24</sup> Renner supra 4



interconnectedness of peace, democracy and rights as the dominant ideological foundation for western democracy.<sup>25</sup>

The regulatory powers of the state though provided a political opportunity for enforcing corporate accountability. Although the activities of market agents were supra-territorial, the claim makers directed their claims to governmental decision-making institutions as the repositories of state power. Because there is no international regulatory mechanism, there was and continues afoot a struggle to reign in the operations of an extra-territorial market through territorial mechanisms; thus the local level activism in tandem with the international efforts through the deployment of the human rights discourse.

### Geo-politics

In seeking to successfully make the moral claims on essentially international issues, activists confronted a contextual challenge. The cosmopolitanism of human rights had to be tempered with the reality that there is no structured international public sphere. As pointed out above, the claim making had to be effected within national boundaries. That meant that national considerations became key, and made outcomes a factor of among other things, geo-politics. Geo-politics were a constraint but the actors sought to turn the constraint into an opportunity by utilizing the language of the emerging dominant geo-political issue of terrorism. Shifts in the political environment trigger changes in the tactical choices of social movement organizations and September 11<sup>th</sup> caused one of the

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<sup>25</sup> Purdon, T. "For Bush, No Boasts But a Taste of Vindication" *New York Times* March 9, 2005:A10

most significant shifts in both the domestic U.S. environment as well as the international arena. The shift impacted each campaign differently. As discussed in detail in chapters 4 to 7, the diamonds campaign appeared to benefit while for the capital markets sanctions campaign, the war on terror became an albatross.

### Deployed Discourses

Pegg asserts that one of the most significant factors in extractive industries is the leading role played by private sector actors.<sup>26</sup> Diamonds and oil extraction exhibited this dominance and yet activists sought to deploy the human rights discourse, a traditionally state centric regime, as the imperative for action. The 1940s paradigm of universal human rights comprises in the protection of the individual from the practices of the state. That did not fit entirely with the realities of the violence being experienced in extractive industries. The enabling effects of the global market and the evolving international political, economic and power configurations pitted individuals and communities against a multiplicity of actors that transcended geographical boundaries and implicated numerous other actors as rights abusers in addition to the state. Yet human rights appeared to be the most commonly used discourse by activists in both campaigns.

In the local polity, social movement actors attempt to persuade various constituencies to join in or support their cause in order to be able to mobilize for the changes they desire. This they typically do by framing their criticism of the *status quo*

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<sup>26</sup> Pegg, Scott. "Globalization and Natural-Resource Conflicts" *Naval War College Review*, Autumn 2003, Vol. LVI, No. 4

and prescribing remedies in ways that resonate with the target audiences.<sup>27</sup> The attempt to legitimate activist goals and garner public support has been analyzed extensively by social movement scholars through the theme of framing.<sup>28</sup> Like other public social norm claimants, activists in the conflict diamonds and capital markets sanctions campaigns had multiple intended audiences including participant group memberships, casual participants, the general public, legislators and the media. Locally based cultural codes were useful in getting local populations engaged, but they would not by themselves have created the necessary links to international issues. As the issues they were pursuing were visibly distanced from the intended audience, the activists had the challenge of creating supportive constituencies and mobilizing them. They appealed to combinations of framing codes including human rights, universal religious freedom, liberalist ethos and class based international labor solidarity.

The human rights frame helped draw attention to the issue because particularly until the nineteen nineties, norms on human rights experienced a most dramatic rise.<sup>29</sup> Actors sought to capitalize on this ascendancy. As Keck and Sikkink argue, due to the global-level expansion and legitimacy of rights talk, local activism sought to align itself with the discourse as a globally sanctioned norm regime.<sup>30</sup> I sought empirical evidence of this in both documentary and interview data from the research. As it emerged, activists

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<sup>27</sup> Snow, David A, E. Burke Rochford Jr., Steven K. Worden and Robert D. Benford. "Frame Alignment Processes, Micromobilization and Movement Participation. " *American Sociological Review* 51: 1986, p464-81.

<sup>28</sup> Snow et al 1986 supra

<sup>29</sup> Donnelly, Jack. *International Human Rights* 2nd edition. Boulder Colorado, Westview Press, 1998. The post September 11<sup>th</sup> world however saw a shift in this as the issue of terrorism became the center of international attention and policy making.

<sup>30</sup> Keck, Margaret and Kathryn Sikkink. *Activists Beyond Borders; Advocacy Networks in International Politics* Ithaca, N.Y. Cornell University Press 1998

cast the human suffering from extractive industries as human rights violations even when the practices in question were perpetrated by non-state actors and thus strictly fell outside the purview of the dominant legal definitions of human rights particularly in the western world.<sup>31</sup> However, despite a world that espoused human rights, claimed moral universalism appeared contradictory to the reality of territorially defined and practiced rights. As Keck and Sikkink point out the universal disjuncture between principle and empirical reality itself also becomes a political opportunity that social justice actors utilize in an attempt to hold the world accountable to the principles it professes.<sup>32</sup>

While, the growing legitimacy of human rights talk enabled the activists to frame and reframe their causes to more effectively gain public attention and support, there had to be a delicate interplay between global norms and local cultures. As Huntington claimed, universalism is not Americanism.<sup>33</sup> Religion provided a second powerful framing tool for the activists. In fact as will appear from analysis of the data, for some of the group participants, religion was the major imperative. Interestingly an examination of the espousal of religious imperatives revealed also a growing adoption of human rights talk as part of the religious vocabulary, making human rights even more of the “taken for granted” moral basis. The growing power of religion in U.S. international relations became part of the campaign matrixes. However, not all campaigners rested their case for

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<sup>31</sup> Olesen, supra 2005, 109 and 113. Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink. *The Power of Human Rights: International Norms and Domestic Change*. Cambridge University Press, 1999. Neil Stammers asserts that the dominant view of human rights in the west is the minimalist, liberal interpretation that puts the state at the center of human rights conceptualizations, thus leaving out the important role now played by corporations. Neil Stammers, “A Critique of Social Approaches to Human Rights” *Human Rights Quarterly* 17.3 (1995) 488-508

<sup>32</sup> Keck and Sikkink 1998 supra p24

<sup>33</sup> Huntington, Samuel. “Robust Nationalism” *The National Interest* January 20<sup>th</sup> 1999

responsibility on religion and human rights. For some activists the liberal principles of fairness and justice by themselves dictated that America should not benefit from the misery of others.<sup>34</sup>

In trying to understand the two campaigns, I thus conceptualized the problem by way of three inter-related questions. What enabled such disparate actors to come together and be able to collaborate in spite of their differences? What legitimating discourses were the campaigners able to deploy in these contestations? Grievance alone does not give adequate explanation for the outcomes so what were the most significant structural factors in the campaigns' outcomes?

### **Structure of the Dissertation**

The layout of the dissertation is that this chapter introduces the issue, explains the motivation for research, the rationale for comparative study and the choice of cases. It also offers the dissertation's core arguments and lays out a theoretical framework for analysis. Chapter 2 is a survey of the extant scholarship on the phenomenon of extractive industries and violence and the rationale for northern based advocacy as a way of ameliorating the violence, the theoretical scholarship and the scholarship on the moral imperative i.e. human rights and religion in both the local and global contexts. In chapter 3, I explain the research methodology and data collection.

Chapters 4 and 6 each focus on a particular campaign covering the background to the violence, the campaign actors and the historical campaign processes. Chapters 5 and 7

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<sup>34</sup> See for example testimony of Representative Cynthia McKinney at the Subcommittee on Trade of the House Committee on Ways and Means Hearing on Conflict Diamonds October 10, 2001

comprise the within case analysis for each case focusing particularly on the enabling and debilitating factors. Chapter 8 is a cross-case analysis that focuses on the commonalities and distinctions between the campaigns and the conclusions that can be drawn from such commonalities. Chapter 9 is the concluding chapter, which looks at caveats, lessons learned and issues still remaining for further investigation.

### **Research Motivation**

This study was prompted by a mix of indignation at some aspects of the global world, considerable curiosity about some of its operations and some of the mechanisms for attempting to change it. There are manifestly asymmetrical and exploitative power structures and dynamics at play between the developed and the underdeveloped world, and between resource extractive zones and consumption arenas. But there are also struggles to counter the injustices and their deleterious impacts. I was curious about how attempts at modifying these phenomena manifest themselves. From my own part of the world, the “third world,” thousands of miles removed from the sites of global power; the G8, the World Bank, the International Monetary Fund (IMF) and the corporate bases of Coca-Cola and Shell-BP i.e. the centers of power, the feasibility of effecting change appeared fairly remote. Unpalatable as it was, Castells’ assertion that in today’s world, the third world and Africa in particular, are structurally irrelevant to the shaping of globalization, had a ring of unwelcome reality to it.<sup>35</sup>

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<sup>35</sup> Castells, Manuel. *The Information Age: Economy, Society and Culture. Volume 1. The Rise of the Network Society*. Oxford, Blackwell. 1996 p15

In North America I encountered a curious phenomenon. Parallel with public espousal of human rights and liberal moral principles, ran a significant disjuncture between applicability of rights in the local sphere and similar rights for others in distanced spaces. Concurrent with powerful states' aversion to the entry of human rights into the market place in defense of "free markets", there also exists a vigorous assertion of the economic rights of corporate enterprises by governments of powerful states, directly as well as through international institutions like the World Trade Organization (WTO) and The World Intellectual Property Organization (WIPO). The AIDS drug conflict between South Africa and the Northern-based pharmaceutical industry brought this duality of standards home rather forcefully. As a San Francisco Chronicle report on AIDS drugs indicated;

High level Clinton administration officials are blocking attempts to tamper with AIDS drug patents, saying that they undermine the entire system of intellectual property protection that encourages businesses to find new drugs. "The U.S. government has . . . made it clear that it will defend the legitimate interests and rights of U.S. pharmaceutical firms," wrote State Department assistant secretary Barbara Larkin in her letter to Congress.<sup>36</sup>

Against this "ghettoized" perspective of human rights, small but spirited groups of actors struggled for universal morality and equity. Far from the state displaying the same vigor in defense of human rights, these social justice activists appeared to have a hard time of it getting issues of ethics on the agenda of both politicians and the general public. The Campaign to Eliminate Conflict Diamonds and the Capital Markets Sanctions Campaign exemplified these actors and human rights appeared to be their mantra. I

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<sup>36</sup> Russell, Sabin. "New Crusade To Lower AIDS Drug Costs; Africa's needs at odds with firms' profit motive" San Francisco Chronicle, May 24, 1999 document available at <http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/1999/05/24/MN104738.DTL>

wondered how these actors operated and what the determinants of policymaking really were, when moral issues arose over distanced but connected spaces.

### **Case Selection**

Why these particular cases and why comparative case study? According to Creswell, a case study is “An exploration of a ‘bounded system’ or a case (or multiple cases) over time through detailed, in-depth data collection involving multiple sources of information rich in context.”<sup>37</sup> For three and half years I worked as the coordinator of an advocacy campaign mounted by Catholic Relief Services, a U.S. relief and development agency. In that work I interacted with these two cases of social justice activism and wanted to more fully understand how they functioned and why they had the outcomes they did. Both campaigns had a fascinating diversity of actors, yet those actors displayed an amazing ability to collaborate and pursue common outcomes. The context within which the campaigns were taking place was complex and the outcomes proved surprising. I wanted to understand these coalition processes in the context of the world within which they were taking place. Odell says that the current world is a fairly complex global structure within which a multiplicity of processes; “market innovation, competition, collusion, equilibration, influence, bargaining, communication, conflict, learning, institutional change, regional integration and disintegration, and politics” all take place.<sup>38</sup> Studying these campaigns confirmed that observation.

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<sup>37</sup> Creswell, J. *Qualitative inquiry and research design: Choosing among five traditions*. Thousand Oaks, CA: Sage, 1998 p61.

<sup>38</sup> Odell, John S. “Case Study Methods in International Political Economy” *International Studies Association 41st Annual Convention* Los Angeles, CA March 14-18, 2000



The term “case study” is used to define processes of analysis as Yin does as well as to define a unit of analysis.<sup>39</sup> I use it in both ways. My units of analysis were the transnational advocacy coalitions for market regulation of extractive industries. These were socially constructed groups and systems around which there were boundaries even if very loose ones.<sup>40</sup> These bounded systems functioned as units in their having the capability to formulate objectives and undertake actions. The same historical events or processes could be tackled from a government or corporate perspective. I chose to understand the phenomenon from the particular perspective of these advocacy coalitions as the initiators of action.

Of course once initiated, the processes were no longer privy only to the determination of these actors and thus the processes included the resulting discursive interaction which was public in nature. Many scholars have argued for the value of the case study method in understanding processes. One reason is that social justice actors cannot be easily abstracted from their specific context without omitting relevant considerations. The comparative case methodology in addition brings the analytical advantages of affirmation as well as comparison to the strengths of empirical investigation.<sup>41</sup> As has been stated by many others, history does not ever provide exactly similar cases with perfectly matching variables. The cases were similar in several respects but they were not identical. Similarity offered support for my arguments while the differences created opportunities for explanation of the differing outcomes. Case

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<sup>39</sup> Yin, Robert K. *Case Study Research, Design and Methods* Sage Publications, Thousand Oaks, 2003

<sup>40</sup> Merriam, Sharan B. and Associates. *Qualitative Research and Practice* Jossey-Bass, San Francisco 2002 p178

<sup>41</sup> Yin *supra*

study I believe was best suited to understand both the change processes and the situatedness of the resource extraction phenomenon in its historical context through empirical investigation.<sup>42</sup>

A major reason for wanting to study the two campaigns was also their common subject matter; the violence associated with the extraction of resources from economically underdeveloped countries for consumption primarily in “the first world” and the challenges of visiting ethical responsibility on distanced consumers. The killings, amputations, forced labor and other practices that the campaigners were seeking to help bring to an end, were taking place in geographical spaces that but for the activists’ efforts were little known to ordinary U.S. citizens except for those who had encountered some of the refugees. Yet campaigners sought to mobilize the U.S. public and attain U.S. government regulation of essentially international market practices. That presented for both campaigns the formidable task of gaining the attention of U.S. constituents, waking their moral self through the creation of justificatory cognitive maps and getting people to act on universalistic “common goods” that were not of direct concern to them.<sup>43</sup>

In neither case were the activists themselves victims of the abuses; rather these were individuals and organizations driven by their moral principles. Neither campaign was to any significant degree motivated or driven by linkages with grassroots movements in the sites of violence. That set them apart from the networking model hypothesized by Keck & Sikkink in which international activism is primarily a support phenomenon to

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<sup>42</sup> Odell *supra*

<sup>43</sup> *Financial Times*, April 12, 2004 pg 16 *supra*

localized activism that is frustrated by its own governments.<sup>44</sup> The cases presented another variant of social activism, transnationalized advocacy coalition campaigns that deserved of study.

The composition of the campaign participants was a very interesting common feature. The capital markets sanctions campaign attracted white evangelicals, anti-slavery groups, conservative legislators, Jewish organizations, labor and all manner of NGOs.<sup>45</sup> The campaign to eliminate conflict diamonds coalition was a little less diverse, but still surprisingly broad.<sup>46</sup> As Akwei, Amnesty International's advocacy director put it, the campaign comprised:-

a broad spectrum of society. (it) includes faith-based organizations, unions, environmental, humanitarian and human rights organizations. These groups in turn are made up of students, retired persons, young professionals, recently engaged women and men, newly married couples and yes, mom and pop jewelry store owners.”<sup>47</sup>

If as Tamm says, it is unusual for human rights problems to bring together vastly different groups of actors to work towards a common end, these were indeed unique initiatives.<sup>48</sup> The groups and individuals that formed each coalition were not bounded by commonality of ideology. As one interviewee put it, outside of the meetings and public

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<sup>44</sup> Keck & Sikkink 1998 *supra*

<sup>45</sup> Hentoff, Nat. “Genocide: Sudan Found Guilty! A Law Punishing Slavery Now” *The Village Voice* November 1st, 2002

<sup>46</sup> Campaign to Eliminate Conflict Diamonds home page;  
[http://www.phrusa.org/campaigns/sierra\\_leone/campaign\\_clean\\_diamonds.html](http://www.phrusa.org/campaigns/sierra_leone/campaign_clean_diamonds.html) visited September 20th 2006 and Oxfam America 2003 *supra*, William J. Casey Institute Press Release No. 99-R 143 1999-12-10 *supra*

<sup>47</sup> Akwei, Adotei, Testimony Before the Subcommittee on Trade of the House Committee on Ways and Means Hearing on Conflict Diamonds October 10, 2001

<sup>48</sup> Tamm, Ingrid. “Diamonds in Peace and War: Severing the Conflict-Diamond Connection” *World Peace Foundation*, Cambridge Massachusetts, 2002

gatherings, some of the groups could not stand each other.<sup>49</sup> That led to the first investigation question: How was it that in both coalitions, the actors were able to collaborate despite such difference?

The campaigns were both manifestly innovative in their targeting and operations. As Washington Post correspondent, David Ottaway put it;

The campaign against the IPO (PetroChina initial public offering) marks a new direction in the widening involvement of church and human rights groups in various foreign policy issues. Now for the first time they have decided to focus on the behavior of foreign companies registered on U.S. stock exchanges.<sup>50</sup>

Campaigners were keenly aware that they were entering new territory. As a representative of Freedom House, a participant in the sanctions campaign put it; “This is uncharted waters for religious and human rights groups. But if American companies can't invest in Sudan, why should we be capitalizing foreign companies who do it?”<sup>51</sup> Not only was the direction innovative, but the mechanism used, legislating corporations off U.S. capital markets and convincing large institutional investors that there was serious fiduciary risk in buying stock in companies investing in countries with bad human rights practices, was new. It represented a significant intrusion into the free market paradigm and held real promise for progressing human rights beyond rhetoric in the economic sphere.

The conflict diamonds campaign was also innovative. Using lessons learnt from the Fur Trade initiative, it utilized the threat of negative economic impacts that could

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<sup>49</sup> Interview with activist May 15<sup>th</sup> 2006, Greensborough, North Carolina

<sup>50</sup> Ottaway, David. “Chinese Fought on NYSE Listing Groups Cite Oil Firm's Role in Sudan” *Washington Post*, 27 January 2000

<sup>51</sup> Nina Shea, director of the Freedom House's Center for Religious Freedom, as quoted by David Ottaway, *supra*, *Washington Post*, January 27, 2000.

result from the tarnishing of the image of a product to force corporations to seriously deal with human rights abuses. At least in part because of that threat, the campaign introduced to Washington lobbying the unusual spectacle of corporations and human rights activists advocating collaboratively for the same outcome. Whether this was a temporary fluke or the shape of the future and whether the business sector was genuine or looking out only for its profit interests, it nevertheless signified the arrival of moral considerations in the marketplace where they had not been welcome before.<sup>52</sup> The Kimberly Process, which was the international parent campaign, was itself a unique process for being the first multilateral negotiation involving governments, industry and civil society negotiating on an equal footing.<sup>53</sup> Studying these two campaigns meant therefore investigating some fairly new and unique social processes revolving around the same type of grievance.

These two processes also took place in the same historical time period, between 1999 and 2003. This held advantages in carrying out a comparative study. It meant historical context would not be an issue. As will emerge from the succeeding analysis, a most significant event was the al Qaeda attack on the U.S. on September 11<sup>th</sup> 2001. This offered a unique opportunity to explore the effect of an international policy paradigm shift on social change initiatives based on universalistic ethical norms.

There were differences between the campaigns that made them an interesting study. The conflict diamonds campaign saw the erstwhile protagonists become

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<sup>52</sup> Hufbauer, Gary Clyde and Barbara Oegg. "Capital-Market Access: New Frontier in the Sanctions Debate" *Institute for International Economics Policy Brief* 02-6 May 2002  
<http://www.iie.com/publications/pb/pb.cfm?ResearchID=57>

Hufbauer, Gary Clyde and Jeffrey J. Schott. *Economic Sanctions in Support of Foreign Policy Goals* Washington: Institute for International Economics, 1983;

<sup>53</sup> Wright, Clive. "Tackling Conflict Diamonds: The Kimberly Process Certification Scheme" *International Peacekeeping*, Vol.11, No.4, Winter 2004 p698

collaborators trying to persuade an administration loath to regulate markets for moral reasons. The schism in the capital markets sanctions campaign never got close to being bridged. That raised the puzzle as to why and what effects that might have had on the campaigns. The differences in outcome were a big part of the basis for comparative investigation. What factors aside from the make up of the protagonists might have accounted for at least the legislatively different outcomes and the trajectories of each campaign? Why would two campaigns situate in the same country, relying on the same constituency and apparently pursuing similar objectives i.e. human rights accountability by corporate and other market actors and subject to the same historical factors exhibit similar forms of mobilization and have different outcomes?

### **Dissertation Arguments**

The operational mode of both collective actions was the advocacy coalition campaign, which then became the unit of analysis. It also serves to distinguish the action type from general social movements. Among the core characteristics of social movements identified by scholars is the fact that they tend to build and reproduce dense networks that share a collective identity.<sup>54</sup> Keck and Sikkink emphasize the “centrality of principled ideas or values in motivating their formation.”<sup>55</sup> An examination of the two campaigns does not indicate formation based on shared principles so much as a strategizing for outcomes that served each actor’s principled goals. The campaigns operated through loose coalition processes that sought to achieve specific definable outcomes particularly

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<sup>54</sup> Tarrow *supra*

<sup>55</sup> Keck & Sikkink 1998 pp 1-2

the enactment of legislative instruments and divestment from targeted corporations. The loose nature of the coalitions meant that they were not backed by significant organizational structures.<sup>56</sup> From investigation this was far from being happenstance, but rather a deliberate strategic tactic for a number of reasons as will be discussed in subsequent chapters.

A second arena of inquiry relates to the framing of the activists' messages. Conflict diamonds and oil were international issues and they were at the same time very local issues. Keck and Sikkink argue that international advocacy networks conceptualize the politics of commodification, consumption and responsible moral and political action as resting on natural or deliberately created mis-recognition or ignorance of commodity production chains and the accompanying violence. Therefore in their view what is required for responsible political action is the development of cognitive maps that connect the spatially, socially and temporally distanced actions and their consequences through the provision of explanatory knowledge.<sup>57</sup> Creating those cognitive maps was one of the major challenges for the actors especially given the diversity of their ideological professions. On one level, faith imperatives resonated with some of the constituencies, but faith was not for everyone. Oxfam, Human Rights Watch and Global Witness, major participants in the campaigns, for example disavow any faith allegiances and rest their actions on human rights and conceptions of just social orders. The Center

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<sup>56</sup> Tarrow, Sidney. *Power in Movement, Social Movements and Contentious Politics* (2nd Ed) Cambridge, Cambridge University Press, 1999

<sup>57</sup> Keck & Sikkink *Activists Beyond Borders*, 1998 *supra*

for Security Policy had national security as its agenda. For some activists, it was capitalism itself at issue. As Steil argued

Supporters of capital markets sanctions see them as much more than a tactic in a battle to achieve certain foreign policy ends. Whether on the right or the left, they tend to see capital market institutions such as the New York Stock Exchange as the centerpiece of an amoral, international “neo-liberal regime” which undermines national interests and “traditional” social orders.<sup>58</sup>

That was a rather interesting assertion considering that the prime movers in favor of the capital market sanctions approach were conservative churches and national security organizations whose broader objectives certainly do not include opposition to capitalism.<sup>59</sup>

The language of human rights however, appeared to serve to allow parties with varying ideological claims to speak on the same issue without fighting over each other’s principles. It operated as the most common ground for a unified message, but human rights did not necessarily mean the same thing to all activists. Each participant interpreted human rights to fit with their own objective. As Wilson has argued, this flexibility of human rights is one of its strengths and it makes possible for actors with contradictory policy claims to all act in the name of human rights.<sup>60</sup>

As already indicated, a cross case puzzle was why when based on the same moral imperative one campaign succeeded in its legislative endeavor and the other failed. Part

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<sup>58</sup> Steil, Benn. “The Capital Market Sanctions Folly” *Council on Foreign Relations Journal*, Winter 2005

<sup>59</sup> Hufbauer, Gary Clyde and Barbara Oegg. “Capital-Market Access: New Frontier in the Sanctions Debate” *Institute for International Economics Policy Brief* 02-6May 2002  
<http://www.iie.com/publications/pb/pb.cfm?ResearchID=57>

See also Benn Steil, 2005 *supra*

<sup>60</sup> Wilson, Richard Ashby. ‘Afterword to “Anthropology and Human Rights in a New Key”: The Social Life of Human Rights’ *American Anthropologist*. Washington: Mar 2006.Vol.108, Iss. 1; p77



of the answer I argue, lies in the economic and political dynamics as well as U.S. geopolitical interests. Despite the ascendancy of human rights talk and its rhetorical use by the U.S. government, that same government appeared to give more currency to strategic considerations and money matters than to the human rights considerations raised by activists. During the currency of the campaigns, a significant shift in the global strategic dynamics took place with the attacks on the U.S. on September 11<sup>th</sup>, 2001. That had very different impacts on the campaigns. The power of international norms and non-state actors as practiced through strategies of communicative, non-violent persuasion went up against not just economic interests but also strategic calculations during a shift from global liberalism to real-politik and unilateralism of international decision making by the U.S. and some argue, a tendency towards hegemony.<sup>61</sup> The human rights violations attendant on the extraction of both oil and diamonds were equally egregious and shocking and should have evoked the same revulsion given the similarity in the practices of the perpetrators. But the processes and outcomes differed. In fact the campaign with the greater conservative backing at a time when a conservative administration was in office is the one that failed to achieve its policy goals. That suggested that the egregious nature of the violence itself was not the main basis upon which legislative success rested. I therefore looked to other factors for explanation of outcome and these lay in the contextual and strategic sphere. Evidence pointed to the war on terror as well as freedom

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<sup>61</sup> See for example Dolan, Chris. "The Bush Doctrine and U.S. Intervention" *American Diplomacy*, Volume IX, Number 2, 2004; Michael Hirsh. "Bush and the World" *Foreign Affairs* September/October 2002

of the markets as constituting counter-discourses that turned out to be beneficial for diamonds legislation, but debilitating for legislatively enacted capital markets sanctions.

Social change is of course phenomenon whose outcome is always the result of the convergence of multiple processes, and no single factor can possibly fully explain the outcomes. However, the following arguments are made as significantly explanatory of what transpired with both campaigns;

- a) That unlike national social movements, the advocacy groups on distanced human rights issues operated through advocacy coalition processes which sought to achieve specific and objectively measurable outcomes while pursuing each their own long term objectives. A better way to understand the coalitions and their ability to operate despite the diversity of the participants is by looking not so much to central unity of principle, but rather strategy driven operationalization.
- b) That with the conflict diamonds and capital markets sanctions campaigns there was a fundamental contestation in the struggle to bring ethical responsibility into the marketplace. For legitimation of their claims, social justice activists appealed to human rights as the international moral precept, and one broad and flexible enough to encompass the messages of the diverse actors involved in the campaigns. Simultaneously, there were also counter discourses from economic agents.

- c) That for the activists, international human rights and other moral discourses formed the master frame for moral and political obligation.<sup>62</sup> However, the domestically shaped strategic, political and economic interests of the U.S. provide a better explanation of the legislative outcomes than the importance of human rights principles or religious freedoms.

### **Theoretical Framework**

Social justice mobilization is undertaken by actors in response to grievance and social stratification. As in any public claim making initiatives, the conflict diamonds campaign and the capital markets sanctions campaign exhibited both agency and structural aspects. In seeking both to understand how mobilization is undertaken and explain its outcomes, social movement scholarship has offered three theoretical perspectives; mobilization of resources (both material and non-material), political opportunity structures and framing.<sup>63</sup> Tarrow provides a definition of social movements as “collective challenges, based on common purposes and social solidarities in sustained interaction with elites, opponents, and authorities.”<sup>64</sup> According to Tilly, the challenge is directed “to powerholders in the name of a disadvantaged population living under the jurisdiction or influence of those power holders.”<sup>65</sup> The two campaigns exhibited many of

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<sup>62</sup> Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink. 1999 *The Power of Human Rights: International Norms and Domestic Change* Cambridge University Press, 1999; Olesen, Thomas. “World Politics and Social Movements; the Janus Face of the Global Democratic Structure” *Global Society* vol. 19 No 2 April 2005, p113

<sup>63</sup> Fuchs, Christian. “The Self-Organization of Social Movements” *Systemic Practice and Action Research*, Vol. 19, No. 1, February 2006

<sup>64</sup> Tarrow, supra p4

<sup>65</sup> Tilly, Charles. *Popular Contention in Britain, 1758-1834* Cambridge, MA: Harvard UP

the characteristics of social movements identified by Tarrow and Tilly, and I utilize many of the concepts from both scholarships, but there were also some distinctive features.

As chapters 4 and 6 will detail, the disadvantaged populations existed outside the polities where the power holders resided and they were spatially and socially distanced from the mobilized populations. Although no doubt, there were in the United States and in the campaigns, participants with transnational identities, existing and active both in the “here” of the U.S. society and the “there” of the spaces of violence, the campaigns were not driven by transnational grassroots in the sense theorized by Smith.<sup>66</sup> The overwhelming majority of activists and participants were U.S. citizens. Unlike social movements on national issues, these campaigners did not exhibit “deep rooted feelings of solidarity or identity” with each other nor were they backed by dense social networks.<sup>67</sup> Both campaigns pursued specific objectives and were temporal in nature. In the sanctions campaign were labor organizations, human rights NGOs, conservative religious groups, anti-slavery campaigners, an anti-China lobby and free Tibet campaigners.<sup>68</sup> The diamonds campaign also brought together diverse actors and eventually even the erstwhile antagonists in the form of industry and social justice activists.

These campaigners were not free standing moral agents driven simply by individual conscience, but rather as Adamson argues “....actors who are deeply embedded within particular ideological and geopolitical configurations in world

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<sup>66</sup> Smith, Michael Peter *Transnational Urbanism, Locating Globalization* Malden, Massachusetts. Blackwell Publishers, 2001 Especially in Cap 7.

<sup>67</sup> Tarrow supra p6

<sup>68</sup> Diamond supra p101

politics.”<sup>69</sup> Because they were confronting international level issues, the actors were doubly situate in the national as well as the broader global political opportunity structures. They were confined by both and organized such as to respond to and draw upon both these spectra. Political opportunity structure is one of the most widely used frameworks in trying to understand collective action and social movements.<sup>70</sup> As mentioned above, there are three main concepts currently utilized for understanding protest activism; mobilizing processes, political opportunity structures and cultural framing.<sup>71</sup>

Political opportunity structure is the concept that external “factors enhance or inhibit prospects for mobilization, for particular sorts of claims to be advanced rather than others, for particular strategies of influence to be exercised, and for movements to affect mainstream institutional politics and policy.”<sup>72</sup> Outcomes in particular highlight the significance of the broader structural context in which mobilization takes place.<sup>73</sup> To overcome the limitations of agency detached from the ideological and geo-political configurations of their particular historical context, I adopt what Adamson identifies as the “three types of systemic-level political opportunity structures that shape the dynamics of norm promotion in world politics namely the institutional, discursive and geopolitical

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<sup>69</sup> Adamson, Fiona B. “Global Liberalism versus Political Islam: Competing Ideological Frameworks in International Politics” *International Studies Review*. 2005, 7 p548

<sup>70</sup> Gamson, William A., and David S. Meyer. 1996. "Framing Political Opportunity." Pp. 275-90 in *Comparative Perspectives on Social Movements*, edited by Doug McAdam, John D. McCarthy, and Mayer Zald. Cambridge University Press, 1996 p275

<sup>71</sup> Tarrow, *Power in Movement* supra and McAdam, McCarthy, and Zald *Comparative Perspectives on Social Movements* 1996, Cambridge University Press

<sup>72</sup> Meyer, David S and Debra C. Minkoff. “Conceptualizing Political Opportunity” *Social Forces* 82.4 2004 p1457

<sup>73</sup> Giugni, Marco. "How Social Movements Matter: Past Research, Present Problems, Future Developments." in *How Social Movements Matter* edited by M. Giugni, D. McAdam, and C. Tilly. Minneapolis: University of Minnesota Press 1999, pp. xiii-xxxiii

opportunity structures. In the literature review in chapter two I go into a more detailed analysis of the shortcomings of existing literature in fully addressing the specific elements of these specific campaigns, but I outline the framework here.

### Institutional Opportunity Structure

In opportunity structure scholarship, activists' ability to mobilize is seen as partly determined by the opportunities and constraints offered by the political-institutional setting in which collective action takes place. Needless to say activists must discern these opportunities and constraints and act on them. What aspects of institutional politics affect the organization and outcome of collective action tends to vary depending on the type of movement and the issue at stake. The theorizing to date is mostly state centric as it is premised on actors making claims within their own polities or giving support to others doing the same. The national political opportunities and constraints are a critical factor in collective action, but they are not the only relevant factors.

In issues that are transnational, other extra-territorial factors impinge on the activism and the relationship becomes more complex. Keck and Sikkink's work focused on one such variance *vis a vis* international advocacy networks. Keck & Sikkink's model defined transnational advocacy networks as networks that bring together a wide array of nongovernmental organizations, citizen associations, and other groupings in forms of activism aimed at effecting changes at the national level and through that, changes to

global-level institutions.<sup>74</sup> They argued that transnational networks often emerge when domestic social actors are denied access to political participation at home. The model is premised on movements from non-democratic states seeking support from the international community mostly based in the north. The blockage from participation they argue, leads to a "boomerang effect," whereby repressed domestic groups in a country appeal to sympathetic international groups who then seek to bring international pressure upon the recalcitrant regime.<sup>75</sup> They further argue that governments find that repression only produces international criticism and pressure.

The genre of associations that initiated action in the United States on resource extraction related violence however were not actors denied access to the political process by their governments. They did not operate as support givers to movements in Angola, Sierra Leone or Sudan either. As will appear in subsequent chapters, while the activists were very sensitive to the perspectives of southern actors, and took the southerners' views into consideration particularly in not acting in opposition to them, the northern activists acted on the basis of their own assessments of what was right and what needed to be done.

A further distinction is that while Keck & Sikkink reference other entities as targets, their primary focus remains the state as violator and guarantor of rights and therefore the responsible agent for enforcement of rights. The ultimate targets for change in the conflict diamonds campaign and the capital markets sanctions campaign were

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<sup>74</sup> Keck and Sikkink 1998 *supra*; See also Mundy; Karen and Lynn Murphy 2001. "Transnational Advocacy, Global Civil Society? Emerging Evidence from the Field of Education" *Comparative Education Review*, Feb 2001 v45 i1 p85

<sup>75</sup> Keck and Sikkink *supra* p12

primarily corporations and the global market system. The global system has received little attention in advocacy network scholarship and I argue that there is a need to embed the social activism within the global as well as the domestic structural systems. There is need for analysis that makes a more explicit shift from the state as the target of norm activism to the globalized market and its agents, primarily corporations and state challengers operating through the market as violators and therefore duty bearers for human rights observance. The state remains the avenue for rule making and the fulcrum for enforcement, but it is joined by other opportunities and constraints in the market and in the global arena. Rather than simply state related political opportunity structure, a more encompassing frame of institutional opportunity structure as suggested by Adamson enables the inclusion of supra-national institutions and non-state actors and I utilize that frame in this dissertation.<sup>76</sup>

### Discursive Opportunity Structure

In addition to political opportunity structure, social movement theorizing also offers framing theories which emphasize internal factors in trying to understand how discourse in the public sphere is utilized for social justice mobilization. Activists need to craft messages and disseminate them to the wider public as well as to the power holders. Those meanings however only gain currency with constituencies targeted for mobilization when they are communicated and it is the public sphere that mediates the meaning making and its dissemination. Koopmans and Olzak proposed and utilized the

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<sup>76</sup> Adamson, *supra* p548



concept of discursive opportunities as a way of bridging framing and political opportunity structure.<sup>77</sup> They defined “discursive opportunities as the aspects of the public discourse that determine a message's chances of diffusion in the public sphere.”<sup>78</sup> The discursive opportunity structure encompasses the symbolic, cultural and ideational resources from which activists draw when framing issues.<sup>79</sup> I found that it was not just the activists that were involved in framing exercises. The targets of action, were equally engaged in promoting counter frames of their own and there was therefore a discursive contestation in process. Within discursive opportunity, Koopmans and Olzak distinguished three elements that help explain how public discourse provides opportunities for mobilization; a) public visibility, b) resonance and c) legitimacy. I utilize these in my analysis.

The discursive structure though “is rife with contradictions and inconsistencies. It therefore does not provide a consistent script for actors, but rather a normative toolbox and ideational pool that can be deployed in pursuit of political objectives.”<sup>80</sup> As virtually all social movement scholars emphasize, activists exist within particular structures of meaning. In the U.S. that structure is predominantly liberal democracy with its civil rights component and human rights. Neo-liberalism at the same time touts rights, equality and progress as it undergirds global neo-liberal capitalism. Business has spread internationally in many ways all of which have increased its flexibility and enhanced capital's power at the expense of labor. Collective bargaining has been on the losing side

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<sup>77</sup> Koopmans, Ruud and Susan Olzak. “Discursive Opportunities and the Evolution of Right-Wing Violence in Germany” *The American Journal of Sociology*; Jul. 2004; 110, 1; Social Science Module pg. 198

<sup>78</sup> Koopmans and Olzak *supra* at 202

<sup>79</sup> Snow, David A. and Robert D. Benford. “Ideology, Frame Resonance and Participant Mobilization” in A.D. Morris and C. McClurg Mueller (eds). *Frontiers in Social Movement Theory* New Haven, CT, Yale University Press 1992, 174

<sup>80</sup> Adamson *supra* 554

in power dynamics as employers find they can move into new, cheaper and less regulated global labor markets where they do not have to enter into social contracts with workers. As Diamond argues, Anglo-American capitalism now operates unfettered by any ideological or strategic counter hegemony but this in a global arena that is inhabited by billions of the desperately poor.<sup>81</sup> When the economic disparities get compounded by egregious human rights abuses in the extraction of resources from the world of those world's poor, human rights campaigners have a visible and powerful script for showing up the gap between the ethical norms touted by neo-liberalism and its very damaging negative impacts. Activists endeavored to draw on and interpret these ideals to support mobilization on universalistic norms. It is in this contestation that just as human rights displaced socialism as an ideal, war on terror and nationalism appear to be evolving into the new script. While activists continue to subscribe to the universal human rights ideals, which tend to be their uniting ethos, they have had to deal with the dominant economic system, the evolving reality of war on terror and an increasing unilateralism of the U.S. i.e. the geo-political forces. For them to have any hope of success, it has meant strategizing such that included in the advocacy are those with access to a variety of legislators of different political persuasions, some aligned along the war on terror theme and those espousing human rights utilizing the war on terror language.<sup>82</sup> It all made for a vibrant public discourse.

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<sup>81</sup> Diamond *supra* 43

<sup>82</sup> Interview activist in Washington DC, July 26<sup>th</sup> 2006 by telephone

### Geo-political Opportunity Structure

A third leg to the analysis is what Adamson argues has been a largely neglected area; the geo-political opportunity structure. Western geo-political conceptions relating to resources have always been defined by a matrix of trade, war and power.<sup>83</sup> Access to foreign supplies of raw materials has been for a long time one of the factors influencing government and corporate decision making.<sup>84</sup> Geo-political interests impact on norm mobilization and examples abound such as cold war politics, the current war on terror and global neo-liberalism. For human rights advocates, their vision of a new international order ideally was one grounded on internationalism and human rights exemplified by the International Criminal Court as a step in the direction of concrete international institutionalization. The campaigns and other such international initiatives confirm the emergence of a new international order, but it is not one centered around the UN and founded on human rights alone, but rather one being crafted to suit also American strategic and economic objectives.<sup>85</sup> Global neo-liberalism with its rights and justice discourses as well as the free trade ethos has always been undergirded by U.S. leadership and power, a factor that is a reality of the context of norm mobilization.<sup>86</sup> With September 11<sup>th</sup>, U.S. national security has become prioritized and as these campaigns demonstrated, human rights talk too has attempted to harness that language of security couched in anti-terrorism for its advancement.

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<sup>83</sup> LeBillon, Philippe. "Geographies of War: Perspectives on 'Resource Wars'" *Geography Compass* (OnlineEarly Articles). doi:10.1111/j.1749-8198.2007.00010.x at <http://www.blackwell-synergy.com/doi/full/10.1111/j.1749-8198.2007.00010.x> visited February 24th 2007

<sup>84</sup> Dale, John *supra* 281

<sup>85</sup> Ignatieff, Michael. "Barbarians at the Gate?" *The New York Review of Books*. February 28, 2002. pp. 4-6.

<sup>86</sup> Ikenberry *supra*

What is geo-politics and is the concept still relevant in the context of globalization? I subscribe to the argument that globalization depends on geopolitics, and thus there is no polarity between the two. Friedman argues that “the globalization system cannot hold together without an activist and generous American foreign policy.”<sup>87</sup> Even though trade and the threat of terror differ from the traditional state based commerce or threat, there is no disputing that the U.S. undergirds the international free trade regime and is the main target of international terror.<sup>88</sup> The Middle East also remains geographically the main location of the agents threatening the U.S. Africa on the other hand is seen as a fertile breeding ground for future threats and thus the increase in U.S. attention on Africa once again.<sup>89</sup>

Even though human rights are claimed to be universal and the market is equally global, the contestation between the two nevertheless takes place within the domestic political arena and becomes subject to domestic interests and dynamics. In this lies a good part of the explanation for the difference in process and outcome in the two campaigns. Geo-political conceptualizations lead to geo-economic and geo-strategic policies; defense of the free flow of goods and defense of American security. I argue therefore that while discursive and institutional opportunity structures provide very useful tools for understanding the campaigns, a tripartite opportunity structure is a better tool for explaining the mobilization and outcomes of advocacy campaigns on distanced human

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<sup>87</sup> Thomas L. Friedman. *The Lexus and the Olive Tree*, rev. ed. New York, Anchor Books, 2000, pp.467–468

<sup>88</sup> Nye, Joseph Jr. “Limits of American Power” *Political Science Quarterly* Volume 117 Number 4 2002–03 p545; *The Economist*, “America’s World,” 23 October 1999

<sup>89</sup> White House. “President Bush Concludes Week Long Trip to Africa” Congress Hall, Abuja, Nigeria July 12, 2003

rights. The economic and cultural surmounting of traditional political boundaries implies a radical transformation in the global interaction but globalization is far from having made national politics irrelevant. There may well be what can be called the geo-politics of globalization; the protection and fostering of U.S. interests through the shaping of globalization. Idealizing human rights as a universal ethical system, one which will move humans to act in favor of the rights of people in far away places may not be practicable as the only or even main imperative for change. The only way to more fully understand when advocacy campaigns might succeed and when not is by factoring in the geo-political opportunity structure. The possible links made between diamonds and al-Qaeda financing and the Sudanese government's signing onto the war on terror may have made all the difference in the outcomes of the campaigns. As Adamson argues, norm implementation analysis must situate mobilization processes within the prevailing geo-political and global economic milieu.<sup>90</sup> Structural power, political ideology and dominant worldviews, all had a role to play in the attempts to extend and actualize international norms through mechanisms that remained politically domestic in nature while seeking to change global practices.<sup>91</sup>

Thus marrying the concepts from political opportunity structure and Keck & Sikkink's advocacy networking and situating this within the global system and as well shifting from a state focus to include the array of actors that are party to the dynamics of

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<sup>90</sup> Adamson 2005 supra 548

<sup>91</sup> Ikenberry, G. John. *After Victory: Institutions, Strategic Restraint and the Rebuilding of Order after Major Wars*, Princeton University Press, 2001

the global system, I delineated the specific actors, their targets and the processes through which actors sought to implement norms through the three legged framework.

### **Outcomes**

The Campaign to Eliminate Conflict Diamonds led to the U.S. adoption of legislation enabling implementation of the Kimberly Process, a certification system seeking to make rough diamonds that are implicated in violence traceable and excluded from world markets. Many jewelers and governments have signed onto the Kimberly process. The jury is still out on whether this is an effective system in reality. In the case of oil in Sudan, the capital market sanctions campaign prompted the adoption by the U.S. Securities & Exchange Commission of human rights violations as material issues in US capital markets, but legislative efforts to include such provisions in the Sudan Peace Act failed. Of the two corporations that were targeted, Talisman Energy sold its operations in Sudan and PetroChina despite changing its organizational make up, suffered a significant fall in the capital raised. Equally important, in July 2001, the Russian oil company Lukoil withdrew its planned share listing on the New York Stock Exchange and went instead to the London Stock Exchange citing the “political risk” now associated with an American listing due to the letter issued by the then chairman of the U.S. Securities and Exchange Commission, Unger.<sup>92</sup> To that extent, the advocates were successful.

New campaigns have since been launched including the transparency “Publish What You Pay” campaign (aimed at making governments in resource producing

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<sup>92</sup> Gaffney, Jr. Frank J. “Market Transparency At Work” *The Washington Times*, 3 July 2001

countries and the resource extraction corporations divulge their earnings for accountability especially to citizens of the resource countries) and the “No Dirty Gold” campaign (aimed at mobilizing jewelry consumers to hold gold producing corporations to account for the huge environmentally negative impact of producing gold.) Having learnt the cost of non-cooperation from the conflict diamonds campaign, leading jewelry retailers including Tiffany & Co., Cartier, Helzberg Diamonds, and Harry Winston quickly voiced support for the campaign's objectives.<sup>93</sup> The larger question remains though whether these advocacy processes succeeded in changing the power dynamics in the global market and are the way to bring the consideration of ethics and human rights into the marketplace as not only a legitimate and material concern, but one for which corporations can be made to take responsibility. Studies of these new campaigns will be an interesting research project to follow up.

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<sup>93</sup> Oxfam America, “Eight of the World’s Leading Jewelry Retailers Urge Mining Industry To Clean Up ‘Dirty’ Gold” 13 February, 2006  
[http://www.oxfamamerica.org/newsandpublications/press\\_releases/press\\_release.2006-02-12.2148390041](http://www.oxfamamerica.org/newsandpublications/press_releases/press_release.2006-02-12.2148390041)

## Chapter 2

### **LITERATURE REVIEW**

#### **Introduction**

Commentators and scholars have pointed out that each of the two campaigns broke new ground in policy advocacy but detailed studies of the innovativeness have not been made. Part of the motivation for this dissertation was to explore the new vistas of motivation, operation and outcomes in these campaigns. As laid out in Chapter 1, three aspects are relevant, a) the diversity of the actors involved in each campaign and the adoption of the coalition process as the strategic mechanism for advocacy; b) the discursive contestation and the use of human rights language by the actors as a taken for granted ethical code and the stretching of human rights to apply to non-state actors; and c) the salience of economic and geo-political factors in the processes and outcomes of the campaigns. This literature review is aimed at setting out what is already out there on these issues, on the particular campaigns as well as to point out what is new in understanding them.

#### **Coalition Process**

The ideological diversity of the campaign participants is laid out in Chapters 4 and 6 and has also been pointed to by a number of commentators. Stricherz for example



described the capital market sanctions coalition participants as “strange bedfellows.”<sup>1</sup> There has not been any scholarly study of this diversity and the ability of the actors to function successfully despite difference has not been analyzed. In this dissertation I seek to lay out the extent of diversity and carry out an analysis of the coalition operations. I argue that collaboration in diversity was enabled by the strategic basis of operation in each campaign. What we already know about each campaign is discussed below.

### **Capital Markets Sanctions Campaign**

Interdiction against international economic transactions with governments that fall foul of U.S. policy is a long-established U.S. practice going as far back as the *Embargo Act* of 1807. So sanctions as such were not a new phenomenon and there is considerable scholarly literature on the subject.<sup>2</sup> Sanctions can be defined as "...the deliberate, government-inspired withdrawal, or threat of withdrawal, of customary trade or financial relations" normally with another state. In that sense they have seen increasing use by the U.S. in the last few decades.<sup>3</sup> Hufbauer for example points out that since World War II, no country in the world has used economic sanctions as much as the U.S.<sup>4</sup> The efficacy of trade sanctions has been and continues to be hotly debated between those who see them

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<sup>1</sup> Stricherz, Mark. “Christians Push for More Progress in Sudan,” *Christianity Today*, 9 Sept. 2002; Tamm, Ingrid J. “Dangerous Appetites: Human Rights Activism and Conflict Commodities” *Human Rights Quarterly* 26 (2004) 687

<sup>2</sup> Hufbauer, Gary Clyde and Jeffrey J. Schott. *Economic Sanctions in Support of Foreign Policy Goals* Washington: Institute for International Economics, 1983; and also Hufbauer, Gary Clyde and Barbara Oegg. “Economic Sanctions: Public Goals and Private Compensation” *Chicago Journal of International Law* Chicago: Fall 2003. Vol.4, Iss. 2; pg. 305

<sup>3</sup> Rennack, Dianne E. and Robert D. Shuey, “Economic Sanctions to Achieve U.S. Foreign Policy Goals: Discussion and Guide to Current Law” *Congressional Research Services*, June 5, 1998 quoting Hufbauer, Gary Clyde, Jeffrey J. Schott and Kimberly Ann Elliott, *Economic Sanctions Reconsidered: History and Current Policy*. Washington, DC: Institute for International Economics, 1990 (second edition). P. 2.

<sup>4</sup> Hufbauer 2003 *supra*

as a better alternative to war and those like Higgs and Twilight who assert that sanctions are totally ineffectual and counterproductive.<sup>5</sup> Arguments against sanctions include their tendency to impact the poorer or less powerful sectors of the population who are the most vulnerable and not the elites who control both economic and political power as was exemplified by the UN imposed Iraq sanctions after the first Gulf war.<sup>6</sup> Other problems involve the difficulty of enforcement as well as the more self interest based losses incurred by the imposing economies.

Use of sanctions tends to always be contentious especially when they are initiated by Congress rather than by the executive. The highly celebrated South African sanctions were the scene of a contentious clash between Congress and the executive. President Regan imposed limited sanctions as a way of heading off stronger action by Congress, but Congress thought otherwise and passed the *Comprehensive Anti-Apartheid Act* (CAAA) of 1986 over the President's veto.<sup>7</sup> Trade sanctions although contentious, are therefore familiar territory. The introduction of sanctions into capital markets however was something new and for free market economists, a very bad idea.<sup>8</sup> As Newcomb, Elshihabi and Bechky assert, this was "a significant new front in the political battles over extraterritorial sanctions."<sup>9</sup> The Administration was dead set against capital markets sanctions as will appear in the succeeding chapters. Newcomb *et al*'s article is valuable in

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<sup>5</sup> Higgs, Robert and Charlotte Twilight. "Economic Warfare and Private Property Rights; Recent Episodes and their Constitutionality" *Journal of Private Enterprise*, September 1, 1987

<sup>6</sup> Gordon, Joy. "The accusations against the oil for food program: the Volcker reports" *Arab Studies Quarterly* (ASQ) 28.3-4 (Summer-Fall 2006): p19

<sup>7</sup> Executive Order 12532; Levy, Philip I. "Sanctions on South Africa: What did they do?" *Yale University Economic Growth Center Discussion Paper* No. 796, February 1999 pg 8

<sup>8</sup> Hufbauer, Gary Clyde and Barbara Oegg. "Capital-Market Access: New Frontier in the Sanctions Debate" *Institute for International Economics* May 2002

<sup>9</sup> Danforth Newcomb, Saamir Elshihabi, Perry Bechky. "Congress turns to capital markets to support sanctions" *International Financial Law Review*. London: Sep 2001. Vol.20, Iss. 9; pg. 38

pointing to the significance and importance of capital markets as well as to the power contestation between the executive and Congress over them, but the authors did not carry out a study of how this contestation panned out.

While Newcomb *et al* were fairly neutral about the desirability or otherwise of the use of sanctions on U.S. capital markets, Steil was sharply critical of the campaigners' efforts as economically counterproductive and misguided even from the perspective of achieving protection of human rights.<sup>10</sup> As will be detailed in Chapter 6, the business sector's opposition to the campaign was based partly on arguments about the ineffectiveness of sanctions as a policy tool, but even more so in their running counter to the free market ethos. Steil's analysis was also useful for pointing to the contestation as being more about fundamental system issues than just Sudan.<sup>11</sup> Steil does not take this point further, but Diamond approaches the contestation as a form of new class struggle.

Diamond's argument was that the capital markets sanctions initiative was a response to an emerging legitimation gap in the phenomenon of globalization which he defined as the spread of Anglo-American capitalism.<sup>12</sup> In his analysis, Anglo-American capitalism has for centuries been able to operate without any significant challenges from the lower classes. This he argued, was possible due to capitalism's ability to generate a tacit ideologically based legitimacy amongst the population; that although its actual results may be unjust and it may produce unequal social outcomes, neo-liberal capitalism is still the best system possible as it holds the promise of participation and material

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<sup>10</sup> Steil, Benn. "The Capital Market Sanctions Folly" *The International Economy*. Washington: Winter 2005. Vol.19, Iss. 1; pg. 52

<sup>11</sup> Steil *supra*

<sup>12</sup> Diamond, Stephen F. "The PetroChina Syndrome: Regulating Capital Markets in the Anti-Globalization Era" *Journal of Corporation Law*. Iowa City: Fall 2003. Vol.29, Iss. 1; pg. 39

improvement for all. However, capitalism went global and without the challenges from communist paradigms, capitalism ceased to pay attention to the detrimental effects of its operations on the global poor for whom the promise of participation or the hope for improvement simply does not exist.<sup>13</sup> To Diamond therefore a new form of struggle between capitalism and the underclass is emerging on a global scale and it is fractured along class rather than regional lines. The opposition to the PetroChina initial public offering was to Diamond, an example of this class fracturing. He makes therefore a strong argument for the campaign being a principle based movement and his thesis requires detailed analysis since I argue differently.

Diamond focused on the role of labor in the capital markets sanctions campaign and the relationship between class, as manifested in the division between labor and capital and new social movements of which the capital markets sanctions campaign would be one.<sup>14</sup> The traditional focus of American labor unions as he pointed out, was the protection of American jobs rather than the well being of the universal working class. That factor, added to the ascendancy of a consumer society led to the obscuring and in many ways, obliteration of class-consciousness.<sup>15</sup> However, deindustrialization and economic globalization weakened American labor. Weak or less developed states in the third world compete for investment and offer corporations cheaper labor and less regulation, and that freed corporations from geographical boundedness to North America. Corporate mobility in turn deprived American unions of their main means of action; the

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<sup>13</sup> Diamond supra 42-43

<sup>14</sup> Diamond supra

<sup>15</sup> Vincent Serravallo, Book Review. *Social Service Review* 78: 2004 514

threat to withdraw labor. That has caused a philosophical and practical crisis for American labor and forced it into a rediscovery of class not as a national phenomenon, but as a global divide between labor international and the corporate world.

That is a persuasive argument and accords with scholars like Aronowitz who argue that class still matters, but they view class not as located in grid structure, but rather in social practice.<sup>16</sup> For Aronowitz social practice is not only based on relations of production but also on social power relations structures and these then serve as fronts of resistance to the powerful class; currently corporations. This is a historical process "by which class may become a force in shaping our collective destiny."<sup>17</sup> The oppressed or disenfranchised constitute a class alliance that constantly changes as a matter of historical contingency. From this perspective, the pitting together of traditional labor in the form of the AFL-CIO with religious organizations, and human rights movement organizations in the capital market sanctions campaign would be considered variants or components of class. The power class is similarly contingent and would currently include corporations and multilateral institutions such as the IMF, World Bank and World Trade Organization. These agents all pursue the same goal: significant alteration of social relations.<sup>18</sup>

So then as Clawson argues, in the light of its progressive loss of power to capital, U.S. labor has needed to re-invent itself and organize in new ways, borrowing from social movement practices.<sup>19</sup> Part of that re-invention he suggests, included abandoning labor's

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<sup>16</sup> Aronowitz, Stanley, *How Class Works: Power and Social Movement*. New Haven, Connecticut, Yale University Press, 2003

<sup>17</sup> Arronowitz supra 23

<sup>18</sup> Serravallo supra 515

<sup>19</sup> Clawson, Dan *The Next Upsurge: Labor and the New Social Movements*, Ithaca, NY, and London: ILR Press, 2003.

traditional protectionist stance and its aligning with international progressive social movements. The capital markets sanction campaign would be then a manifestation of this new class struggle. This too would make the capital markets sanctions campaign a principled and long term movement.

Contrary to Diamond, I argue that for a number of reasons the capital markets sanctions coalition process was a strategy driven mechanism and not a principled social movement and even less a class struggle. First, an analysis of the participants will show that except for labor, the participants were not opponents of capitalism. As documented in Chapters 6 and 7, a number of the campaigners openly disavowed any anti-capitalist intentions. Secondly, the very nature of the participants belies their being party to an anti-capitalist movement. As Hertzke's study shows, the strong evangelical presence in U.S. foreign policy advocacy is by no means a class struggle, but rather a universalistic freedom of religion movement.<sup>20</sup> Nothing could be further from the intentions of the religious groups and the conservative security think tanks like the Casey Institute that were part of the campaign, than an assault on capitalism and the formation of a new class to counter corporate power. On the other hand; that issues of human well being should be seen through the lens of religion and a particular religion for that matter, made mainstream human rights participants very uncomfortable.<sup>21</sup> Each had their own objectives and I argue that the loose nature of the coalition and its basis on strategy rather than principle, is what allowed these groups to collaborate.

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<sup>20</sup> Hertzke 2004 supra and Allen Hertzke, "Freeing God's Children: The Unlikely Alliance for Global Human Rights" *Annual Paul Henry Lecture address, University of Oklahoma Calvin College*, November 11, 2004 <http://www.calvin.edu/henry/schedule/hertzke.pdf> (visited November 5th, 2006)

<sup>21</sup> Interview with activist July 26<sup>th</sup>, 2006

I take no argument with Diamond and others' analysis of the evolution of capitalism and the erosion of the power of labor. However, I find that their analysis is based on an extrapolation of labor's re-invention as part of labor international as the formation of a class struggle. The new social movements that they see labor as aligning with have, in their conceptualization, been aligned with laborite intentions without an analysis having been carried out as to these actors' motivations and objectives.

### **Conflict Diamonds**

There is considerable literature too on boycotts, but the campaign to eliminate conflict diamonds purposely shied away from boycotts, seeking instead domestic trade regulation of a commodity based on an international multilateral process. That was something new for the U.S. There have been substantial accounts of the links between diamonds and violence and the Kimberley Process but little analysis of the U.S. based Campaign to Eliminate Conflict Diamonds. Tamm's article on the two campaigns appears to be the only effort to date focusing specifically on the Campaign to Eliminate Conflict Diamonds.<sup>22</sup> To her, the two campaigns were separate efforts that overlapped little in goals, methods and participant organizations, but she felt that a comparison of the two could shed light on shared challenges and lessons learnt for future activism on sanctions against commodities extracted in circumstances of violent conflict. Tamm points to the diversity of the involved actors but she does not go into the details of the make up of those actors nor does she discuss the principles driving these actors. Missing

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<sup>22</sup> Tamm, Ingrid J. "Dangerous Appetites: Human Rights Activism and Conflict Commodities" *Human Rights Quarterly* 26 (2004) 687 at 696

from her study also is the role of labor in the campaigns. Thus in so far as literature on the composition of the activists, their goals and the process of the campaign to eliminate conflict diamonds, there is little scholarship so far.

### **Social Movements and Campaign Coalitions**

Part of my argument is for some distinction between the campaigns and existing social movement scholarship while acknowledging significant commonalities. The campaigners in these two cases were civil actors engaging on issues that had an international dynamic and there has been some scholarship on international civil actors. Some scholars have conceptualized of global civil actors as “the new superpower” in reference to their visible presence and ability to effect policy change.<sup>23</sup> When the landmines campaign brought together more than 1,300 NGOs in over eighty-five countries and saw their collaboration with governments and UN bodies, some scholars conceptualized them as the “Third Force” i.e. in addition to nation states and the corporate/market world.<sup>24</sup> Studies have tended to emphasize the growing power of these actors.<sup>25</sup> However as Keane points out, even though there has been a tectonic increase in the number of global networks and they are highlighted when they engage in spectacular

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<sup>23</sup> The concept of “a new superpower” as quoted here is taken from Jody Williams’ triumphant exhortation after the success of the Landmines Ban Treaty campaign. States have been superpowers and corporations are also very powerful. Williams was suggesting that the growing global civil society was offering yet a new and third axis of power that could mobilize and help determine public policy. See Llyod Axworthy *Navigating a New World* Canada, Vintage, 2004, 407

<sup>24</sup> Florini & Simons. “What the World Needs Now” in Florini, Ann M *The Third Force; the Rise of Transnational Civil Society*, Tokyo; JCIE 2000

<sup>25</sup> Sikkink, Kathryn. “Human Rights, Principled Issue Networks and Sovereignty in Latin America” *International Organization* 47:1991; 411 – 441; Audie Klotz. *Norms in International Relations: The Struggle Against Apartheid* Ithaca, Cornell University Press, 1995; Richard Price. “Reversing the Sights: Transnational Civil Society Targets Landmines” *International Organization* 52;(3) 1998; 613



eye catching events, their exact nature and operations have not been studied in depth.<sup>26</sup> Florini and Simons confirm this lack of exact knowledge on the operations of networks including the significance of their actions.<sup>27</sup>

Questions remain about the where, when, how and why the social actors' mediation and target responses take place and whether the actions may or may not be effective. While some celebrate the emergence of the new superpower, others like Laxer and Halperin question both the conceptual basis and empirical reality of a global civil society.<sup>28</sup> Smith on the other hand postulates a transnational grassroots activism, driven by new constructions of cultures where actors belong to and hold interests in both their resident spatial sites and their originating spaces.<sup>29</sup> The realities of these two campaigns make evident though that mobilization was by U.S. activists of primarily U.S. citizens.<sup>30</sup> Whether the agents that seek to pursue social justice are defined as global civil society as Keane argues,<sup>31</sup> transnational social movements or transnational advocacy networks in Keck and Sikkink's terms<sup>32</sup> or simply non governmental organizations, Laxer and Halperin argue that the debate tends to be largely abstract.<sup>33</sup> There is in their view little concrete analysis of actual agents as they engage in the struggles for democracy, peace

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<sup>26</sup> Keane, John. *Global Civil Society?* Cambridge University Press, Cambridge, 2003, 5

<sup>27</sup> Florini & Simons 2000 *supra*, 3

<sup>28</sup> Williams, Jody. *Nobel Lecture Les Prix Nobel*. The Nobel Prizes 1997, Editor Tore Frängsmyr, [Nobel Foundation], Stockholm, 1998; Laxer, Gordon and Sandra Halperin *Global Civil Society and Its Limits* Palgrave MacMillan, New York; 2003

<sup>29</sup> Smith 2001 *supra*.

<sup>30</sup> Interviews with activists; Washington DC, June 1<sup>st</sup> 2006, Washington DC, June 15th 2006 and Greensboro, NC, May 15th, 2006

<sup>31</sup> Keane 2003 *supra*

<sup>32</sup> Keck and Sikkink 1998 *supra* 219

<sup>33</sup> Laxer and Halperin 2003 *supra* 5

and social justice.<sup>34</sup> This study seeks to add to our understanding of civil action on internationalized moral issues by examining two specific advocacy coalitions and focusing not so much on who the actors were, but rather on how it is such diverse actors could form coalitions and make them work and achieve some of the results each of them desired.

Social movement study has substantially been made through the lens of political opportunity structure, resource mobilization and cognitive framing.<sup>35</sup> Although not strictly conforming to the definition of social movement, the conflict diamonds campaign and the capital markets sanctions campaign share substantial characteristics with social movements and so these analytical frameworks have significant relevance.

Eisinger defined opportunity structures as

elements in the environment (that) impose certain constraints on political activity or open avenues for it. The manner in which individuals and groups in the political system behave, then, is not simply a function of the resources they command, but of the openings, weak spots, barriers and resources of the political system itself. There is in this sense, interaction, or linkage, between the environment, understood in terms of the notion of a structure of political opportunities and political behavior.<sup>36</sup>

Resource mobilization and political opportunity structure theories take the stance that analysis of social movements that is based simply on moral causes and effects is not very

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<sup>34</sup> Laxer and Halperin supra 14, and Olesen supra 2005, 128

<sup>35</sup> McAdam, Doug, John D. McCarthy, and Mayer N. Zald. *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings*. Cambridge University Press, 1996; Tarrow, Sidney. *Power in Movement: Social Movements, Collective Action and Politics*. Cambridge University Press; 1998; McCarthy, John D. "The Globalization of Social Movement Theory." Pp. 243-59 in *Transnational Social Movements and Global Politics: Solidarity Beyond the State*, edited by Jackie Smith, Charles Chatfield, and Ron Pagnucco, Syracuse University Press; 1997; Keck, Margaret E and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* Ithaca, N.Y.: Cornell University. Press, 1998,

<sup>36</sup> Eisinger, Peter K. "The Conditions of Protest Behaviour in American Cities. *American Political Science Review* 67: 11- 28

useful because grievances are not sufficient causes of contention even if they are necessary components. McAdam for example argues that there are always more strains and grievances in society than movements mobilized around them and so while grievances always exist in society, levels of mobilization fluctuate widely.<sup>37</sup> The opportunity structure proposition then is that availability of resources and political opportunities are better explanatory indicators of social movement organizing.<sup>38</sup> Thus political opportunities available in a polity are more responsible for shaping the form and timing of social movements than grievance. Political opportunity structure and resource mobilization concepts have indeed provided critical contributions to understanding social activism and many of these concepts are found in the operation of the activists in the two campaigns under study.<sup>39</sup> Part of the reason the activism in the two campaigns was all centered in the north can best be understood in terms of propositions by Tarrow and McAdam that activism is possible when there is openness in the institutionalized political system and potential for activists to influence elites.<sup>40</sup> These theories therefore provided an important framework for understanding both the capital markets sanctions campaign and the campaign against conflict diamonds. The U.S. and other open political systems offered the opportunities for activism which the sites of violence did not.

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<sup>37</sup> McAdam, D. *Political Process and the Development of Black Insurgency*. Chicago: University of Chicago Press 1982; McAdam, Doug, John D. McCarthy, and Mayer N. Zald, eds. *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings*. New York: Cambridge University Press; 1996

<sup>38</sup> Crossley, Nick. "Even newer social movements? Anti-corporate protests, capitalist crises and the remoralization of society" *Organization*. London: May 2003. Vol. 10, Iss. 2; pg. 288

<sup>39</sup> Tarrow 1998 *supra*; Snow, David A. and Robert D. Benford. "Ideology, Frame Resonance and Participant Mobilization" in A.D. Morris and C. McClurg Mueller (eds). *Frontiers in Social Movement Theory* New Haven, CT, Yale University Press 1992; p174; McAdam, McCarthy and Zald 1996 *supra*.

<sup>40</sup> McAdam, Doug. "Conceptual Origins, Current Problems, Future Directions." In John D. McCarthy, and Mayer N. Zald, eds. *Comparative Perspectives on Social Movements: Political Opportunities, Mobilizing Structures, and Cultural Framings*. New York: Cambridge University Press, 1996; 23 -40

Whether enabled by opportunities or resources however, McAdam *et al* argue that social actors initiate action and act on the basis of their grievances and in the context of their particular historical context.<sup>41</sup> For Olesen, when social movements engage in politics both at the national and global levels, they come face to face with deeply vested interests that take the form among others, of states, multilateral institutions and corporations.<sup>42</sup> Analysis of social activism that does not therefore take into account both issues of existing structures and the grievances that motivate the actors miss a vital component of the dynamics of social change.

I take the perspective that power embedded in structures and norms matter and they create both opportunities and constraints on the ability of social actors to mobilize public support and effect social change. I find that the new social movement approaches such as those of Castells and Touraine, that cast social movements as historically specific responses to the totalizing and hegemonic cultural forms defined by neo-liberal capitalist markets add very useful theoretical frames.<sup>43</sup> The logics of action are based on current grievances but in the context of present historical dynamics. International human rights, religious freedom and even security concerns can be seen as providing the grievances as well as the basis for discursive opportunities for social movement coalitions to mobilize on distanced moral issues.<sup>44</sup> The reality however is that the actors do not write the script by themselves and also no global political structure exists and thus contestation over

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<sup>41</sup> Crossley *supra* 2003

<sup>42</sup> Olesen, Thomas. "World Politics and Social Movements; the Janus Face of the Global Democratic Structure" *Global Society* Vol. 19 No 2 April 2005, 109

<sup>43</sup> Buechler, Steven M. "New Social Movement Theories," *Sociological Quarterly*, 36 (3), 1995; 441-64, and also Touraine, Alain. *The Voice and the Eye*, Cambridge: Cambridge University Press; 1981

<sup>44</sup> Meyer, John W, John Boli, George M. Thomas and Francisco O Ramirez. "World Society and Nation State" *American Journal of Sociology* Vol. 103 No 1, 1997, Olesen *supra* 2005 113-4

global issues takes place within the framework of the national public sphere and is constrained by the existing institutions.<sup>45</sup>

### **Framing**

Laxer and Halperin attribute action and change primarily to agency; committed individuals motivated by principled ideas and values.<sup>46</sup> Such scholarship far from situating norm promotion within the context of power structures claims that norms could transcend cultural and political contexts to achieve mobilization and change because they are grounded in the “basic ideas of human dignity common to most cultures.”<sup>47</sup> Their emphasis is on the skills of actors and their repertoire of mechanisms such as information, leverage and accountability politics wherein skilful framing creates resonance with constituency cultural regimes.<sup>48</sup>

The literature on framing points to the importance of the cognitive dimensions in mobilizing individuals for social change.<sup>49</sup> As Gamson indicates, frames are meant to provoke people to think about a social issue in a new way and to take certain kinds of action as a result.<sup>50</sup> This entails a shift from automatic to deliberative cognition that often is the result of strong motivation prompted by dissatisfaction with the status quo or by the moral salience of a particular issue. Hertog and McLeod posit that social actors

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<sup>45</sup> Goodwin, Jeff and James Jasper “Caught in a Winding, Snarling Vine: The Structural Bias of Political Process Theory” *Sociological Forum* Vol 14, No 1, 1999 27

<sup>46</sup> Keck & Sikkink 1998 supra pg 30; Finnemore, Martha and Kathryn Sikkink “International Norms Dynamics & Political Change” *International Organization* Vol 52, No 4, 1998, p898

<sup>47</sup> Finnemore & Sikkink 1998 supra pg 907

<sup>48</sup> Keck & Sikkink 1998 supra 16; Khagram, Sanjeev, Kathryn Sikkink and James V. Riker. *Restructuring World Politics: Social Movements, Networks and Norms* St Paul, University of Minnesota Press; 2002

<sup>49</sup> Brysk, Alison. *From the Tribal Village to Global Village: Indian Rights and International Relations in Latin America*. Stanford University Press; 2000; Clark, Ann Marie. *Diplomacy of Conscience: Amnesty International and Changing Human Rights Norms*. Princeton University Press; 2001

<sup>50</sup> Gamson WA. *Talking Politics*. New York: Cambridge University Press; 1992

frame political issues by choosing from among specific cultural and symbolic resources that are consistent with a broad societal, ideological perspective.<sup>51</sup> Actors try and frame issues as a "strategic means to attract more supporters, to mobilize collective actions, to expand actors' realm of influence, and to increase their chances of winning"<sup>52</sup> This was borne out in the two campaigns wherein the diversity of the campaigners gave them access to a wider constituency.

Reinforcing the salience of structures, framing power is not undifferentiated among social actors. Some social actors have more framing and other forms of power or resources than do others. As Pan and Kosicki point out, often elected and appointed officials as well as corporations have more of the tangible resources than social movements and coalitions.<sup>53</sup> The mobilization of lobbying agencies in the capital markets sanctions campaign illustrated clearly that differential in economic power between corporations and activists. Activists therefore try to maximize the use of the human rights and democracy master frame that is considered as having attained the stage of "taken for granted" international norm.<sup>54</sup> Activists compete for public knowledge with political and economic elites by striving to make their proposals resonate with popular beliefs. Gans maintains however that the elite still tend to be favored in the contest.<sup>55</sup>

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<sup>51</sup> Hertog, J. K., & McLeod, D. M. "A multiperspectival approach to framing analysis: A field Guide" in S. D. Reese, O. H. Gandy, Jr., & A. E. Grant (Eds.), *Framing public life: Perspectives on media and our understanding of the social world* (pp. 139-161) N.J., Mahwah; 2001

<sup>52</sup> Pan, Z., & Kosicki, G. M. "Framing analysis: An approach to news discourse" *Political Communication*, 10, p. 40

<sup>53</sup> Pan and Kosicki supra 45

<sup>54</sup> Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink. *The Power of Human Rights: International Norms and Domestic Change*. Cambridge University Press; 1999

<sup>55</sup> Gans, H. J. *Deciding what's news*. New York: Pantheon Books; 1979

The literature on framing was helpful in trying to understand the messaging that both activists and their opponents were striving to make, but there is in this approach a shortcoming in that there is no consideration of the structures and discourses in the analysis. Norms and idealistic appeal cannot be the complete explanation for mobilization dynamics: the same liberalism that hails the moral superiority of human rights and democracy also harbors the free enterprise and free market competitiveness that comes with exploitation and poverty elsewhere (and increasingly locally with the phenomenon of outsourcing and industrial relocation).<sup>56</sup> That context has a significant impact on the mobilizing that activists carry out as illustrated in the political opportunity structure analysis within each case. It results in a disconnect between the way international structures operate and the micro practices of the individual norm promoting agents. As Adamson puts it, the disconnect leads to a jaundiced conceptualization of the actors, removed from their context.<sup>57</sup>

### **State-centrism**

A shortcoming of the literature on social movements is its primary focus on the intra-state operations of agents and the state centric nature of the studies. The studies are state centric in so far as they conceptualize of the state as the primary offender and therefore the main target of social activism. The role that other institutions play such as corporations, markets and international institutions is not very well addressed. This is exemplified by Keck and Sikkink who have hailed the rise of global civil society and

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<sup>56</sup> Robinson, William T. (1996) *Promoting Polyarchy: Globalization, US Intervention and Hegemony* Cambridge, Cambridge University Press. Tarak Barkawi and Mark Laffey (1999) "The Imperial Peace: Democracy, Force and Globalization" *European Journal of International Relations* 5:403 - 434

<sup>57</sup> Adamson, Fiona B "global Liberalism versus Political Islam: Competing Ideological Frameworks in International Politics" *International Studies Review* (2005) 7, 548, Schudson, M. 1989 *supra*

norm predominance but missed a vital component because they only focused on national social movements and networks and how they operate and then extrapolated from that a universal mode of norm operationalization.<sup>58</sup>

The literature has the assumption of a state – social movement dichotomy.<sup>59</sup> Keck and Sikkink as pointed out focus on the state as the violator of human rights and thus conceptualize of their boomerang effect as the activism that emanates from the frustration of activists to local state blockage of participation.<sup>60</sup> International networks are then theorized as local linkages to international support groups that act in sympathy with the local causes. In the diamonds and capital markets campaigns, the state was not seen as the only repository of human rights entitlements nor its only violator. The arena for violations is not local either as it is the enabling effects of a globalized market that is substantially responsible for the ability of actors such as the local governments, rebels, warlords, corporations and the consumers in developed countries to carry out or support violations. Thus the targets in these two campaigns were necessarily broader and we need to go outside of the existing analytical frameworks.

Opportunities and targets are therefore a very relevant factor, but these are not simply state centered opportunities. Reflecting the nature of the emerging and evolving global dynamics, the opportunities are a more complex mix of within state political opportunities, economic considerations both on the national and global levels and dominant normative ideals of a global nature. As Dale says,

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<sup>58</sup> Keck and Sikkink 1998 *supra*

<sup>59</sup> Einwohner, Rachel 1999 pg 183

<sup>60</sup> Keck & Sikkink 1998 *supra* 12



“Movement activity is often shaped by networks of actors which stretch beyond the territorial boundaries of the state. If we focus solely on movement activity within the state's boundaries, or presume that the movement operates only within a state-delimited scope of action, then we will remain blinded to potentially crucial movement activity taking place outside the state which influences the activity under scrutiny and shapes interaction between the movement and the state.”<sup>61</sup>

## **Resources and Violence**

There is significant scholarship now on the link between resource extraction, violence and global trade. Malone and Nitzschke point to evolving global dynamics as enabling of the violence. As they put it;

Faced with a decline in superpower support, both government and rebel combatants sought alternative sources of revenue to sustain their military campaigns, often through trade in legally or illegally exploited natural resources, smuggling of contraband and drugs, and the capture of diaspora remittances. The resulting ‘war economies’ thrive on links with arms brokers, transnational criminal networks, corrupt governments, and certain corporations, reaching well beyond war zones to the world’s commodity markets and major financial centers<sup>62</sup>

Cairns argues that in fact since the ending of the cold war, international business and organized crime have become part of the intricate web of conflict world wide.<sup>63</sup> Disorder creates opportunities for exploitation of resources that peace and stability would not afford the extractors under stable conditions.<sup>64</sup> Case studies such as Le Billon’s on Angola illustrated how business actors became very direct intermediaries between the

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<sup>61</sup> Dale, John Gilbert. *Transnational Legal Space; Corporations, States and the Free Burma Movement*, PhD Dissertation, University of California, Davis 2003 pg 93

<sup>62</sup> Malone, David and Heiko Nitzschke. “Economic Agendas in Civil Wars, What We Know, What We Need to Know” Discussion Paper No. 2005/07 United Nations University. See also Mark Duffield, (1999). “Globalization and War Economies: Promoting Order or the Return of History?” *The Fletcher Forum of World Affairs*, 23 (2): 21-38.

<sup>63</sup> Cairns, E. “A safer future: Reducing the human cost of war” Oxford, UK: 1997

<sup>64</sup> Cilliers, Jackie and Christian Dietrich (eds). *Angola's War Economy: The Role of Oil and Diamonds*. Pretoria, South Africa: ISS, 2000; Hailes Janney, "Oil Reserves Transform the Sudanese Civil War", *Jane's Intelligence Review*, 1 June 2001

local war economies and the global commodity and financial markets.<sup>65</sup> As Ballentine and Nitzscheke argue, given this role of business, the regulation of business actors becomes an important tool for conflict prevention and resolution.<sup>66</sup> The campaigns under study were substantially informed by such logic which led to their targeting the markets and industry.

Wars cost money and the logic that curtailing the supply of funds can help stop the violence was core to the campaigners' actions. As Le Billon, Sherman and Hartwell pointed out, curtailing the flow of resources to warring parties by itself would not stop conflicts, but the interdiction against funding is not only necessary for cessation of violence, but promising for conflict prevention.<sup>67</sup> As they put it,

Many of the resource flows sustaining contemporary armed conflicts depend upon access to the global economy, including legitimate international financial and commodity markets, as well as illicit black and gray markets. Importantly, while globalization has presented combatants and their support networks with new economic opportunities, it also renders them more vulnerable to international pressure, if such can be mobilized. From this perspective, the 'international community' should aim to suppress profit-seeking actions in which combatants and their support networks engage under cover of civil wars.<sup>68</sup>

The rebels and warlords that were hacking off the limbs of civilians in Africa were no doubt the most directly responsible for those atrocities, but activists sought to make corporations as mediators between the extraction and the global markets, equally

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<sup>65</sup> Le Billon, Philippe. 'Thriving on War: The Angolan Conflict & Private Business'. *Review of African Political Economy*, 28 (90): 629-35; Global Witness. *A Rough Trade: The Role of Companies and Governments in the Angolan Conflict*. London: Global Witness, 1998

<sup>66</sup> Ballentine, Karen, and Heiko Nitzschke. "Business in Armed Conflict: An Assessment of Issues and Options" *Journal of International Peace and Security*, 79 (1-2): 2004; 35.

<sup>67</sup> Le Billon, Philippe, Jake Sherman, and Marcia Hartwell "Policies and Practices for Regulating Resource Flows to Armed Conflict" IPA Conference Report Rockefeller Foundation Bellagio Study and Conference Center Bellagio, Italy 21-23 May 2002. Available at [http://www.ipacademy.org/PDF\\_Reports/eacw\\_policiesandpractices.pdf](http://www.ipacademy.org/PDF_Reports/eacw_policiesandpractices.pdf)

<sup>68</sup> Le Billon et al 2002 supra pg 5, also Ian Bannon and Paul Collier (eds) *Natural Resources and Violent Conflict: Options and Actions*. Washington, DC: World Bank; 2004

responsible and as well duty bearers for rights. Monshipouri, Welch, and Kennedy among others focus on the role of the multinational corporation and its growing power but see only a limited number of possibilities for reigning them in.<sup>69</sup> Kentor among others argues that global dominance no longer lies within the domain of nation-states, especially the weaker states and that the locus of power is shifting to transnational organizations.<sup>70</sup> The challenges in trying to regulate corporations are phenomenal according to Kentor as there are neither global rules of conduct for corporations nor are there institutional mechanisms for their regulation.<sup>71</sup> The campaigners were therefore broadening the spaces for effecting change on international issues by seeking to regulate markets through domestic legislation.

Traditionally, corporations have claimed to be purely economic actors with no influence on the internal affairs of resource countries. Many hold to Friedman's argument that profit is the only responsibility corporations have. As Friedman put it, "Few trends would so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as they possibly can."<sup>72</sup> This thinking informed the attitudes of the corporations in the initial stages of the campaigns as Talisman and the diamond industry scoffed at activist efforts which they saw as lying outside the purview of corporate objectives. The potential for losses from activist actions very quickly saw the

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<sup>69</sup> Monshipouri, Welch, Jr. and Kennedy *supra* 968

<sup>70</sup> Kentor *supra* 283

<sup>71</sup> Kentor *supra* 283

<sup>72</sup> Friedman, Milton. *Capitalism and Freedom* Chicago, University of Chicago Press; 1962 at 133

corporations change attitude. The possibility of change emanated in other words, from the linking of morals to economic profit.

### **Human Rights and Activism**

While human rights have become the nearest thing to an international code of norms in a secular world, as Wilson points out, human rights are also “advocated by a bewildering array of assorted political constituencies, from liberal individualists to marginalized ethnic minorities.”<sup>73</sup> Activists in the campaigns sought to use the human rights discourse as the master frame for moral and political obligation, but in doing so, a conceptualization of human rights that went beyond the traditional state centrism was called for. Contemporary human rights are defined as the things that states should not do to their citizens. However in the resource extraction phenomenon, although the state was implicated, corporations were seen as the more important location of power, and a primary responsible party to rights violations. As Stammers argues, only a social democratic interpretation of human rights that sees power as located in a confluence of the economic and political realms can help us understand the actions of the social activists in this case.<sup>74</sup> Once it is recognized that economic actors can and do violate human rights, a concept of human rights that requires economic actors to respect human rights can be discursively sustainable and it would then legitimize action against them.

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<sup>73</sup> Wilson, Richard Ashby. ‘Afterword to "Anthropology and Human Rights in a New Key": The Social Life of Human Rights’ *American Anthropologist*. Washington: Mar 2006. Vol.108, Iss. 1; pg. 77

<sup>74</sup> Stammers *supra* at 502

The challenge for liberalism as the source of human rights norms at the same time as it underwrites the free market ethos has been subject to considerable scholarship. For some scholars, globalization is not only good; it is the vehicle through which human rights will come to be upheld. Howard-Hassmann for example, emphatically proclaims the dominant phenomenon of our era, globalization, as the second great transformation; the expansion of capitalism the world over. Its negative impacts she argues are short term;-

its medium and long-term effects may well be positive, as it impels social changes that will result in greater moves to democracy, economic redistribution, the rule of law, and promotion of civil and political rights. Capitalism is a necessary, though hardly sufficient condition for democracy: democracy is the best political system to protect human rights.<sup>75</sup>

For Howard-Hassmann therefore, the problems of globalization are but a temporary stage on the way to an inevitably good society based on democracy. Freeman goes so far as to assert that in fact only capitalism can ensure the protection of human rights and is therefore a pre-requisite for democracy.<sup>76</sup> For Howard-Hassmann, even in the immediate, the lower classes in the third world today are protected from the ills of capitalism way more than the peasants of Europe, the colonized tribes of Africa or the slaves stolen to the Americas ever were, because of the ability of activists to advocate for human rights through the enablement of globalization. Howard-Hassmann thus presents a competing frame to the activists' arguments that corporate behavior was harming the

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<sup>75</sup> Howard-Hassmann, Rhoda E. "The Second Great Transformation: Human Rights Leapfrogging in the Era of Globalization" *Human Rights Quarterly* 27 (2005) at pg 1

<sup>76</sup> Freeman, Michael. *The Perils of Democratization: Nationalism, Markets and Human Rights*, Human Rights Review 33 (2000) at 44

human rights of the less well to do and less powerful.<sup>77</sup> In this lay a major dilemma for some of the advocates for sanctions; congressmen, religious and security groups were loathe to be seen as anti-capitalist or anti neoliberalist. Pro-sanctions arguments, as will appear in Chapters 6 and 7, thus sought at the same time to affirm allegiance to the prevailing capitalist order while decrying its deleterious effects.

### **Geo-politics**

A third argument I make is that despite the human rights discourse attaining and being used as a taken for granted ethical order, the outcomes of the campaigns are best understood by examining as well the economic and strategic interests of the powerful parties. There is in other words a double speak that proclaims human rights as a high good, while outcomes really are determined by self interest. Cox and Evans argue that in the current world order, the maximization of profit for investors appears to have primacy over human rights and that in fact the ultimate good is often defined in neo-liberalism as freedom to profit.<sup>78</sup> Howard-Hassmann who argues from a pro-globalization perspective concedes the point in saying that “the social is giving way to the profit motive” in those areas of the globe that had previously escaped the reach or interest of capitalism.<sup>79</sup> With the reordering of economic production from national to global, the role of the state has changed from being the determinant of economic order to being the facilitator and

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<sup>77</sup> Howard-Hassmann *supra* at page 38

<sup>78</sup> Cox, Robert W. “Civil Society at the Turn of the Millennium: Prospects for an Alternative World Order,” 25 *Review of International Studies* 3 (1999). Evans *supra* 1059

<sup>79</sup> Howard-Hassmann *supra* at page 5

manager of the global economy and as one among others.<sup>80</sup> The engines and symbols of this new era are the multinational corporations and Bauman argues that they have wielded power without obligation or responsibility for the deleterious effects of their actions, which are massive and painful for the little person.<sup>81</sup> That was the premise for action by activists in both campaigns.

The question who will watch for and implement human rights has to be prefaced by another question about the place of human rights in the current world order therefore.<sup>82</sup> The answer has to be contextualized in the nature of the current world order, in which the violators and the victims as well as the manner in which the violations take place has changed considerably from the immediate post World War II era. According to Bauman, the race to the bottom amongst third world countries in the pursuit of capital investment is driven not so much by national development considerations as it is dictated by the primacy of the market norms.<sup>83</sup> With market primacy as it is, the location of power and thus the responsibility for human rights violations cannot only lie with states whose role has so changed over the last few decades. In this “second great transformation” as Howard-Hassmann proclaims, geographical, social, cultural and economic constraints are receding, transforming the nature and meaning of spatial and social distance.<sup>84</sup> It is, as

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<sup>80</sup> Robert Cox, *supra*

<sup>81</sup> Bauman, Zygmunt. *Globalization: The Human Consequences* Columbia University Press, New York 1998.

<sup>82</sup> Rodriguez *supra* 404

<sup>83</sup> Bauman *supra*

<sup>84</sup> Waters, Malcolm. *Globalization*, 2<sup>nd</sup> Ed. Routledge, New York 2001.

several scholars including Cox and Evans have pointed out a world in which the profit motive appears to hold the upper hand.<sup>85</sup>

This paints a rather pessimistic picture of human rights but as scholars like Gill point out, human rights are not useless in this asymmetrical power relationship.<sup>86</sup> The reification of the human rights idea even as theory, and its conceptualization as a component of the neo-liberal discourse serves to provide a framework for challenging the primacy of the market. Human rights provide a counterweight to the effects of the very same globalization which carries with it the unmitigated pursuit of profit.<sup>87</sup> Donnelly argues from a social democratic perspective that in fact human rights originated as a response to the threat that unregulated capitalist markets and their production of severe inequalities of wealth and opportunities pose to human dignity.<sup>88</sup> An interesting argument made by Goodhart in understanding the human rights discourse is that as capitalism advances globally it is also pulverizing some of the rights gained in the west not just in the third world. Outsourcing and corporate relocations further and significantly weaken labor's power leaving human rights as the most promising moral bulwark against capitalism. This then provides part of the explanation for labor's presence in the campaigns on distanced violations and its adoption of rights language.<sup>89</sup>

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<sup>85</sup> Evans *supra*

<sup>86</sup> Gill, Stephen. "Constitutionalizing Inequality and the Clash of Civilizations," 4 *International Studies Review* 47 (2002).

<sup>87</sup> Evans *supra*

<sup>88</sup> Donnelly, Jack. "Human Rights and Asian Values: A Defense of Western Individualism" in *The East Asian Challenge for Human Rights* Joanne R. Bauer & Daniel A. Bell eds., Cambridge; Cambridge University Press, Cambridge

<sup>89</sup> Goodhart *supra* at 960



Literature from political geography was especially helpful on the geo-political factors. Reuber's literature review points out that "social movements are affected by and respond to historical, economic, political, ecological and cultural processes and relations that are themselves, place specific..."<sup>90</sup> Resource extraction related violence and the campaigns to counter it are phenomenon and processes that took place in the social world of a particular historical epoch and they reflect the social, political and economic dynamics of that time. For Cox and Laxer the current era is one of U.S. empire, a subtle but very effective hegemonic dominance by the U.S. of the rest of the world.<sup>91</sup> Laxer argues that this dominance project by the rich and powerful is buttressed by a multiplicity of multilateral institutions including the neo-liberal global market in which corporations are facilitated and protected by the powerful state.<sup>92</sup> In these campaigns, the US state proved to be a staunch and powerful defender of economic rights as against human rights.

Discussing human rights and globalization, Rodríguez states;

"As a direct consequence of globalization and the expansion of capitalism, national and international economies are increasingly being controlled, dominated, and shaped by global financial markets and transnational corporations (TNC) as well as by foreign governments, such as the U.S. and Britain, among others. These "centers of power" have been able to influence and shape laws, legislation, and public policy at the international level aimed at extending their political, economic, and military power. Their international influence is, to a large extent, shaping the national and global economic agenda and the development, or lack thereof, of countries throughout the world."<sup>93</sup>

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<sup>90</sup> Reuber, Paul. "Conflict studies and critical geopolitics – theoretical concepts and recent research in political geography" *Geojournal*, January 2000, 50, 1; Sciences Module pg 38

<sup>91</sup> Cox, Michael "Empire by Denial? Debating US Power" *Security Dialogue* Vol 35 (2) 228; Laxer, Gordon. "Popular National Sovereignty and the U.S. Empire" *Journal of World Systems Research*, xi, 2, December 2005, 317

<sup>92</sup> Laxer *supra*

<sup>93</sup> Havidán Rodríguez. "A "Long Walk to Freedom" and Democracy: Human Rights, Globalization, and Social Injustice" *Social Forces*, September 2004, 83(1), 392

Internationalism as Kentor and others point out however, does not mean the irrelevance of the state.<sup>94</sup> Panitch argues that in fact the state has always been a fundamental constitutive element in globalizing capital and will continue to play that role.<sup>95</sup> Wood sees a symbiotic relationship between state and corporation, but argues that even the so-called multinational corporations have national bases.<sup>96</sup> Because partly of this inextricably intertwined relationship between the corporation and the northern state, Laxer and Halperin argue that corporate practices even though global in nature, cannot be curbed in the global arena and efforts to counter globalization can only achieve concrete results in specific national sites on the basis of national considerations.<sup>97</sup> This necessitated a need to analyze the role of the state in the campaigns not as a neutral arbiter, but as an interested party to the contestation.

According to Michael Smith, the globalization discourse tends to assume an increasing insignificance of national boundaries, identities and institutions.<sup>98</sup> Smith interrogates and disagrees with a perception of nation-state – globalization antagonism that pits the two as mutually exclusive conceptual categories. The attempts at actualizing international human rights norms demonstrate that the local and the international are interlinked. Smith argues that in fact new identities are forming that are transnational and serve to forge transnational self-interests for some of the activists. While I agree with his

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<sup>94</sup> Kentor *supra*

<sup>95</sup> Panitch, L. "Rethinking the Role of the State" in J.H. Mittelman (ed) *Globalization: Critical Reflections* Lynne Rienner, boulder 1996

<sup>96</sup> Wood, E. M. "Labor, Class and State in Global Capitalism" in E.M. Wood, P. Meiksins and M. Yates (eds) *Rising from the Ashes? Labor in the Age of Global Capitalism* Monthly Review Press, New York 1998

<sup>97</sup> Laxer, Gordon and Sandra Halperin . *Global Civil Society and Its Limits* Palgrave MacMillan, New York, 2003

<sup>98</sup> Smith, Michael Peter. *Transnational Urbanism: Locating Globalization* Blackwell, Malden; 2001 pg 3

analysis of emerging cross national identities, I find it a stretch to argue that it is out of such identities that grassroots activism gets its grounding at least in advocacy for policy change. Immigrants and refugees do not acquire electoral power and in fact as demonstrated even by the current debates over immigration in the United States, they are not likely to acquire it any time soon. Policy change through legislative fiat requires leverage over legislators. Without electoral rights, immigrants and refugees have very little clout as a participant activist pointed out, and they have to rely on persuading and forming coalitions with local activists and constituents. That said, I found great merit in Smith's analysis of how the local and the international have become virtually inseparable with the increasing economic and cultural interconnectedness without necessarily dissolving national boundaries. A symbiotic relationship exists between states and international corporations operating in the global free market.

### **Theoretical Frameworks**

Adamson proposes a model that tries to situate activists or norm entrepreneurs as she calls them, in global ideological structures within which processes of norm mobilization take place.<sup>99</sup> According to Adamson,

The notion of systemic-level opportunity structures that are not fixed, but rather change over time, provides a powerful means of conceptualizing the organizational structure of the international system as a whole.<sup>100</sup>

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<sup>99</sup> Adamson 2005, pg 548

<sup>100</sup> Adamson *supra* 553

The agency - structure relationship then becomes dynamic and dialectical rather than static.<sup>101</sup> Thus contextualized, political opportunity structure can be a framework integrating three relevant opportunity structures; discursive, institutional and geopolitical.<sup>102</sup> This is a model that I found enables the mapping of discursive opportunities and contestations, the role of structural power and political ideology in the understanding of social change. The framework conceptualizes of a tripartite systemic level political opportunity structure that comprises a) the Discursive Opportunity Structure, b) the Institutional Opportunity Structure and c) the Geo-political Opportunity Structure.<sup>103</sup> It is, as already pointed out in Chapter 1, the analytical framework used in this dissertation.

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<sup>101</sup> Cerny, Phil G. "Political Agency in a Globalizing World: Towards a Structuration Approach" *European Journal of International Relations* 6: 2002, 435 -463

<sup>102</sup> Adamson *supra*

<sup>103</sup> Adamson *supra*, 553

## Chapter 3

### RESEARCH METHOD

#### Theoretical Approach

As Joan Cassell says, research into any phenomenon is selective and the collection of evidence is through particular chosen methods any of which has its strengths and weaknesses.<sup>1</sup> Bentz and Shapiro define research as “an attempt to answer questions using appropriate or some accepted method that produces valid and reliable knowledge.”<sup>2</sup> They suggest as a starting point, delineating an appropriate culture of inquiry based on the subject and nature of the research.<sup>3</sup> The culture of inquiry provides a guiding theoretical basis within which the investigation takes place. Case study research into policy change campaigns is an inquiry into practice based social action, and in this case the social action is over issues of violence and exploitation in distanced places; issues to which however, those in North America were connected. Understanding the phenomenon required a confrontation of the specific existing structures within which the actions were being undertaken. Using Bentz and Shapiro’s analysis pointed me in the direction of critical theory as the most appropriate culture of inquiry for the research. The premises leading to this choice included that:

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<sup>1</sup> Cassell, Joan. “Perturbing the system: “Hard science,” “soft science,” and social science, the anxiety and madness of method” *Human Organization*. Washington: Summer 2002. Vol.61, Iss. 2; p177

<sup>2</sup> Bentz and Shapiro supra at pg 87

<sup>3</sup> Bentz, Valerie M and Jeremy J. Shapiro. *Mindful Inquiry in Social Research*. Thousand Oaks, Sage Publications, 1998

- a) The issues raised by extractive industries involved the confrontation of structures by agents within a specific historical milieu. Historical specificity is a major concern of critical theory whose interrogation of phenomena is aimed at contributing to human emancipation; a huge project that cannot be achieved through a single action.<sup>4</sup> The activists I interviewed wanted to change the world for the better but as they admitted, the actions they undertook would not single-handedly bring about the ideal society.
- b) My own interests in extractive industries were and continue to be the exploitative nature of the current world and a deep desire to see it changed. Through the research, I sought to understand some of the ways in which change can be effected other than through violent means. I therefore approached the research as an engaged participant of the world that I sought to understand.
- c) Practice and social action are anything but abstract and so I found a culture of inquiry that concretizes “its object through the principle of historical specification” such as is critical theory, the most appropriate approach.<sup>5</sup>

I was further persuaded by Miles and Huberman’s argument that

It is good medicine, we think, for researchers to make their preferences clear. To know how a researcher construes the shape of the social world and aims to give us a credible account of it, is to know our conversational partner. If a critical realist, a critical theorist, and a social phenomenologist are competing for our attention, we need to know where each is coming from. Each will have diverse views of what is real, what can be known, and how these social facts can be faithfully rendered.<sup>6</sup>

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<sup>4</sup> Bentz and Shapiro *supra* at 153

<sup>5</sup> Bentz and Shapiro *supra* 147

<sup>6</sup> Miles, Matthew B and A. Michael Huberman. *Qualitative Data Analysis* Thousand Oaks, Sage Publications, 2<sup>nd</sup> Ed, 1994 p4

Indeed in no way can a research ever capture the literal truth of events and processes because there is always more than one interpretation of any single phenomenon. As suggested by Miles and Huberman as well as by Alvesson, all social knowledge is value laden and validity is better served by making clear at the outset what values the researcher subscribes to.<sup>7</sup>

As for the historical milieu in which we exist, I subscribe to Cox's view that the world is dominated by a powerful elite, but I also believe as argued by Horkheimer that the human condition is capable of change for the better when people seek alternatives to prevailing social conditions.<sup>8</sup> There is in this research therefore an underlying critique of the present neo-liberal, capitalist global structure concurrent with a belief in the possibility of agency driven change. I wanted to understand the actions of the campaigners, and critical theory compels us to go beyond those actions and "investigate how the social and political aspects of the situation shape the reality; that is how larger contextual factors affect the ways in which individuals construct reality."<sup>9</sup> To achieve that, I adopted a theoretical framework that encompassed both agent action and the structures that enabled or debilitated that action.

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<sup>7</sup> Alvesson, M & K. Sköldbberg, 2000. *Reflexive methodology: New vistas for qualitative research*. Thousand Oaks, CA: Sage Publications. 2000 as quoted by Jennifer Summer, "Relations of Suspicion: Critical Theory and Interdisciplinary Research" *History of Intellectual Culture*, 2003 Volume 3, No. 1

<sup>8</sup> Cox, Robert W. "Beyond Empire and Terror: Critical Reflections on the Political Economy of World Order" *New Political Economy*, Vol. 9, No. 3, September 2004. Horkheimer, Mark. *Critical theory: Selected essays*. translated by Matthew J. O'Connell and others. Toronto: Herder and Herder 1972 at 227

<sup>9</sup> Merriam, Sharan B. and Associates. *Qualitative Research and Practice* San Francisco; Jossey-Bass; 2002 pg 4

## Qualitative Case Study Methodology

According to Morrow and Brown, non-statistical comparative case studies are the most suited to research problems identified by critical theory with its concern and focus on the how and why of phenomenon.<sup>10</sup> Yin too in his text on case study methodology asserts that case study research is the best-suited method when the questions being investigated pertain to the “how” and “why” of phenomenon i.e. when one is seeking understanding and explanation.<sup>11</sup> Case study methodology was useful both for comparing what transpired in the two initiatives dealing with extractive industries, as well as in seeking to understand how the social justice advocates tried to influence policy; why they might have succeeded in their legislative endeavors in one case and why they failed in the other.

Yin defines case study as “an empirical enquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident.”<sup>12</sup> As indicated in Chapter 1, the advocacy campaigns on conflict diamonds and capital markets sanctions were historically bounded; necessitated by the circumstances of the time and necessarily affected by the prevailing global and geo-political factors. The campaigns could only be studied in their real-life context because understanding them separately from the context in which they took place would be impossible. It would not have been practicable to hold any of the

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<sup>10</sup> Morrow, Raymond A with David A. Brown. *Critical Theory and Methodology*; Thousand Oaks, CA: Sage 1994, p253

<sup>11</sup> Yin, Robert K. *Case Study Research, Design and Methods* Sage Publications, Thousand Oaks, 2003, 1 & 7

<sup>12</sup> Yin supra 13 and Tellis Winston. “Application of a Case Study Methodology” *The Qualitative Report*, Volume 3, Number 3, September, 1997



factors that impinged on the campaigns constant as each contributed in its own real way to the unfolding events. In any case such an exercise would be artificial, as events in the real world cannot realistically be factored out.

Case study is additionally suitable for understanding the increasingly complex world in which we now live.<sup>13</sup> Lewis summarizes the essence of case study as residing in the multiplicity of perspectives it enables and its rootedness in a specific context.<sup>14</sup> In the world of Washington policy change, many actors with varying agenda and principles participate, and the environment in which they act could not be more multifaceted. Case study was also attractive as this was an inquiry into real life situations. The researcher had no way of manipulating the behavior of the actors nor did he have any control over the unfolding events even during the currency of the campaigns, all of which were persuasive factors for the use of case study inquiry.

The unit of analysis, the case as pointed out in Chapter 1, is the coalition driven advocacy campaign. As appears from Chapter 2, most of the studies on activist driven social change are located in social movement scholarship. I have already discussed the close proximity of these campaigns to social movements, and indicated that there are some distinctions. I elaborate on those distinctions here. Tarrow points to two characteristics of social movements that I found lacking in the campaigns: a strong identity formation among the participants and organizational back up.<sup>15</sup> The Campaign to Eliminate Conflict Diamonds and the Capital Markets Sanctions Campaign had

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<sup>13</sup> Yin supra 14

<sup>14</sup> Lewis, Jane. "Design Issues" in Jane Ritchie and Jane Lewis. *Qualitative Research Practice, A guide for Social Science Students and Researchers* Thousand Oaks; Sage Publications, 2003 at 52

<sup>15</sup> Tarrow, Sidney. *Power in Movement: Social Movements, Collective Action and Politics* Cambridge University Press. 1998

neither. Rather, both campaigns were coalitions of diverse actors coming together over specific issues and with specific and tangible goals to achieve. As will be demonstrated in Chapters 4 and 6, they both dissipated upon achievement or failure of the immediate objectives. The participants were of such diverse ideological persuasions that they held little in common outside of the current specific objectives.

The reasons for studying these two particular cases have been laid out in Chapter 1, but case study methodology itself lends certain advantages in understanding phenomenon. The small number of cases allowed for detailed examination and therefore in depth knowledge of each phenomenon or as Smith indicates, the facility to isolate characteristics that are specific to particular instances.<sup>16</sup> Explaining social change initiatives requires detailed examination of the actions and reactions of the specific actors whose conduct is intrinsic to the change processes. The facilitation or confinement of the actions by structure calls for careful and detailed narration. However, as Smith again points out, knowing a great deal about a specific case will not by itself tell us what might have happened as opposed to what did happen. Case comparison adds then to this in depth understanding affirmation of findings that may apply across cases. Case comparison allows the identification of common properties shared by various instances of phenomena. Through comparison, one can then identify the range of structural possibilities in society at a given point in time and discern the dilemmas and possibilities for change associated with that context. As illustrated by Barrington Moore's classic

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<sup>16</sup> Smith, Dennis. "Historical Analysis" in Melissa Hardy and Alan Bryman eds. *Handbook of Data Analysis*. Thousand Oaks; Sage, 2004 p 157

study, both detailed study of specific cases and comparative analyses are important if not necessary for fuller understanding.<sup>17</sup>

The research was qualitative. I relied essentially on words; documents, interviews and to a limited extent, observation.<sup>18</sup> The goal of qualitative research is the development of concepts which help us to understand social phenomena in natural rather than experimental settings, giving due emphasis to the meanings, experiences, and views of the participants. Qualitative studies are concerned with answering questions such as what factors are relevant and how and why they vary under similar or differing circumstances.<sup>19</sup> The social indicators we use in research can only be surrogates for phenomena such as satisfaction, success or change which themselves do not carry gauges. Thus the indicators do not stand separate from the un-measurable phenomenon for which they are proxies. In talking with both activists and industry representatives, it became abundantly clear that linear measurement of such concepts as success or satisfaction are well nigh impossible when there is as wide a spectrum of participants with as varied principles and goals as existed in the two campaigns. Thus while quantitative or statistical indicators may be 'accurate' measures of social change as Land argues, it would be hard to say by how many deaths, mutilations or starvations we could say that there had been change effected to the social world through the actions of the change agents.<sup>20</sup> I therefore largely avoided the quantitative method and tried rather to capture the understandings of

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<sup>17</sup> Moore, Barrington. *Social Origins of Dictatorship and Democracy. Lord and Peasant in the Making of the Modern World*. Harmondsworth: Penguin 1966

<sup>18</sup> Miles and Huberman *supra* 9

<sup>19</sup> Bryman A, and Burgess R, eds. *Analysing qualitative data*. London: Routledge, 1993

<sup>20</sup> Land, K.C. "Theories, Models and Indicators of Social Change" *International Social Science Journal* Vol. 27 pg 7 and Carlee *supra* p23

the actors. For the same reason, I did not consider surveys as appropriate since surveys are a means of measurement more than they are a tool for understanding. In any case whatever indicators could have been generated for measurement, those would have been dated by the time of the research. As Campbell points out, the level of interest in these issues in the U.S. was low to start with and by mid-2006 it had waned considerably in the public mind.<sup>21</sup> Talking with the involved activists, it was apparent that they too have mostly moved on to other equally pressing social justice issues. The actors here included faith based and secular groups, the politically conservative as well as the extremely liberal, post colonial liberation adherents, globalists and more. It would have been very artificial to place all of them and their actions on a linear scale for measurement. It was very clear from talking to the activists that what some considered considerable success was viewed less positively by others.

### **Research Questions**

As Yin says in case study research there is a continuous interaction between theoretical issues and data.<sup>22</sup> The following research questions were aimed at guiding the data collection and analysis so as to back up the theoretical assertions made in my arguments;

- a) Who were the coalition participants in each case and how is it they were able to work together?

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<sup>21</sup> Campbell, Greg. *Blood Diamonds: Tracing the Deadly Path of the World's Most Precious Stones*. Boulder: Westview Press, 2002 p209

<sup>22</sup> Yin supra 58

- b) Why did one campaign succeed in its legislative endeavors while the other failed?  
Further, in light of the goals of the participants, was legislative outcome the proper measure for success or failure?
- c) What contextual factors impinged on campaign efforts, both at the local and at the global level? In particular how did significant intervening factors such as the 11<sup>th</sup> September, 2001 attacks on the U.S. impact the campaigns?
- d) In light of the above, what can we say were some of the determinants of the outcomes to these campaigns?

### **Cross Case Analysis Questions**

Part of the point of comparison is to see if there are any emerging patterns and divergences and their possible explanations. So a number of questions were framed to help in gleaning such patterns and divergences if any *viz*:

1. Were there differences in the identity and nature of the participants in the two campaigns that could help explain the differing trajectories and outcomes?
2. Were there any patterns across the cases in the development of the campaigns that suggest crucial determinants or elements of change?
3. Did the differences in the nature of the resources i.e. diamonds being a luxury versus oil as a necessity significantly affect the campaigns' prosecution and outcomes?

4. Was there any difference in the response of the targeted actors i.e. the corporations and other market actors? How did the administration respond and why?
5. Did activists and targets use different legitimization codes and why?
6. How did the shift to the war on terror as the dominant national and international policy discourse affect each of the campaigns?

### **Data and Data Collection**

As Harvey says, critical social research is not constrained by data collection techniques.<sup>23</sup> I sought evidence from multiple sources. There was naturally occurring data obtained from documentary sources as well as generated data from in-depth personal interviews; meaning that this research relied primarily on two research instruments, interview and document analysis. This contributed to at least two perspectives: the interpretation of naturally occurring data being that of the researcher while generated data presented a more participant generated perspective. Data sources included published documents, records of congressional committee hearings, NGO records, interviews of NGO activists and industry representatives, media reports, issued statements by actors as well as web pages and archives of various organizations. The multiplicity of data sources was meant to serve as an enhancement to verification and reliability.

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<sup>23</sup> Harvey, Lee. *Critical Social Research* London; Unwin Hyman 1990, p196

## Interviews

In generating data, I relied significantly on interviews and did not have the opportunity to do focus-group discussion, much as that would have been useful. This was partly because depth of understanding is easier achieved in individual interviews. Social change processes through legislatively driven policy formulation are complex phenomena that require depth of focus and opportunities for clarifications. Individual interviews and the opportunity for subsequent follow up allowed for that. There was also the very practical reason that reconvening the campaign groups was a logistical impossibility. By the time of the study, neither of the two campaigns was still functional save in terms of some participants continuing to monitor implementation on the Kimberley Process on conflict diamonds. This was confirmed to me in talking with the activists as well as the congressional researchers who work with them.<sup>24</sup> Given the nature of the coalition as a social action vehicle where groups and individuals are without long lasting ties to each other outside of the campaigns, this was inevitable and I also found this to be the case even with congressional staff. Only one staffer who had worked on capital market sanctions from 2000 to 2003 for example was still in that office by May 2006 when I carried out the field research.

I used systematic, purposive and non-probabilistic sampling for selecting interview subjects. The purpose was not to establish a random or representative sample drawn from a population but rather to identify specific groups of people and individuals who were involved in the campaigns. This approach to sampling allowed the researcher

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<sup>24</sup> Interview with Congressional Research Services personnel, Washington DC, May 30<sup>th</sup>, 2006

deliberately to select key informants with access to important sources of knowledge i.e. those who were as directly engaged on the issues as possible and who could therefore provide details of engagement.

Prior interview instrumentation was utilized given that

- a) I was fairly clear as to the data I wanted from the participants;
- b) The participants were all very busy people with tight schedules and I had to maximize the time available; and
- c) As Miles and Huberman point out, prior instrumentation is preferable when comparability across cases is an element of the research.<sup>25</sup>

All the interviewees were provided in advance with an executive summary of the research project (Appendix; Research Summary) in order that they could provide a well thought out response rather than off the cuff answers. A set of prepared questions still guided the interviews but these were open-ended questions to allow for discovery of aspects that may not have been within the knowledge of the investigator as well as to avoid closing the purview of the inquiry. As this was a study of the processes and outcomes of social change, there were both process and outcome components to the line of questioning. The process component followed a chronological structure while the outcomes aspect was free flowing.<sup>26</sup> Interviews also served to supplement, verify and cross check documentary evidence.

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<sup>25</sup> Miles and Huberman, supra p36, Also Yin, supra p90

<sup>26</sup> Arthur and Nazroo in Jane Ritchie and Jane Lewis. *Qualitative Research Practice, A guide for Social Science Students and Researchers* Thousand Oaks; Sage Publications; 2003 at 113



My 20 years of legal practice as well as over three years of advocacy in the Washington DC area helped equip me with skills for asking relevant questions and being able to listen for the subtleties of the interviewees' answers in this arena. Having worked in the Washington DC social justice advocacy community proved critical for access to the field of research. Previous relationships provided crucial access to activists and provided the much needed trust between me and the interviewees. Without that trust, the interviews would have been much more difficult to obtain and the willingness of subjects to converse harder to solicit.

#### Web based materials

The internet has become an essential tool for communication in the world generally and is a particularly useful tool for activists with limited budgets. Hardly any activist group in the campaigns operated without a web site of its own. Even some of the individual campaigners have their own websites. Web sites were not only used for ease of communication and cost effectiveness, but also for archiving documents and reports. Groups such as Oxfam, Human Rights Watch, Catholic Relief Services, Advocacy Network for Africa and even the Campaign to Eliminate Conflict Diamonds itself, have fairly extensive websites that explain their objectives, give their backgrounds and link any interested person with them and with others involved in the activities. Corporations and their representative groups likewise have their own websites. Congressional committee hearings are recorded and posted on the web through the congressional website, Thomas and individual legislators also maintain their own web sites.

A considerable portion of the public contestation over resource extractives, as with other social justice issues, took place on the internet. Several activists in fact preferred that I study their web postings rather than try to get them to recall what they said or did at a time 2 to 3 years past.<sup>27</sup> The web therefore also proved to be a way around the problem of faulty memory. An additional advantage of the web was the cost savings for the researcher in that it was not necessary to travel to each and every involved organization's offices to collect information.

### Documents and Reports

Working with documentary as well as oral sources affords access to some of the lived experiences of activists and "a window into the submerged organizing, informal networks, .....protest activities, ideological differences, public claim-making and internal tensions, which are almost everywhere features of social movements."<sup>28</sup> Documentary analysis was used to garner an understanding of substantive content as well as some of the meanings revealed by document style and coverage especially in published reports and statements.<sup>29</sup> While some of the documents were accessible through the internet, others were provided in hard copy. I traveled to Washington DC, Baltimore, New York and Greensborough, North Carolina to collect documents and conduct interviews. Most of the Congressional subcommittee hearings were made available by the Congressional Research Services staff who proved incredibly helpful in pointing me in the right

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<sup>27</sup> Email correspondence with Eric Reeves, one of the most active participants in the capital markets sanctions campaign, May 2006

<sup>28</sup> Edelman, Marc. "Social movement: Changing paradigms and forms of politics" *Annual Review of Anthropology*. 2001. Vol.30 p309

<sup>29</sup> Ritchie supra p35

direction as to which committee hearings and which legislators were relevant. In a few cases, records comprising organizational files on a campaign were made available for perusal and copying. That was helpful in tracking the internal processes and decision-making when an organization participated in a coalition.

### Media Reports

In any policy change campaign, the media is recognized as an essential tool for disseminating information and mobilizing citizens.<sup>30</sup> Access to knowledge is important in shaping public as well as policymaker opinions. For the majority of citizens, information comes via the media and the internet. Thus an analysis of the information disseminated to members of the public, some of who also comprised the consumers of the resources in question, helped in gaining a fuller understanding of the public discourse. Media reports to an extent are also an indicator of the extent of the activities undertaken and the public reactions of the target institutions. In some cases, the media role was not just reporting, but provided the trigger to events. Reports of the links between terrorism and illicit diamonds for example first surfaced prominently in the *Washington Post* newspaper and that helped lead to the groundswell against conflict diamonds as narrated in chapters 4 and 6.

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<sup>30</sup> Ryan, Charlotte. *Prime Time Activism, media strategies for grassroots organizing* South End Press, Boston, 1991

### Direct Observation

Between January 2000 and August 2004, I worked as the Africa Campaign Coordinator for Catholic Relief Services (CRS), an agency that does both relief and development work overseas as well as lobbying and community engagement in the U.S. Under its policy of dual constituency, CRS seeks to service both the poor overseas as well as the more affluent people in the U.S. and their policy makers. CRS was involved in both the Campaign to Eliminate Conflict Diamonds and the Sudan Peace Act that had the capital markets sanctions provision. I also participated in the Advocacy Network on Africa (ADNA), a coalition of Washington based NGOs doing advocacy work on Africa issues in Congress and with the Administration. From 2002 to 2003 I was the membership coordinator and meeting co-facilitator for ADNA. ADNA and its members were actively engaged in both campaigns, which gave me another opportunity to observe and engage in some of the activities. By the time of my field research in 2006 however, there was no opportunity to observe. The Capital Market Sanctions Campaign had come to a virtual end in 2003 and attention shifted to the genocide in Darfur, Sudan leaving no opportunity for any more direct observation. The Campaign to Eliminate Conflict Diamonds all but ceased to be active after the passing of the legislation in 2003 although some core groups such as Global Witness continue to monitor the implementation of the Kimberly process.

## Analysis

The objective of the study is to try and understand how human rights advocacy processes took place in these campaigns as well as the factors responsible for the outcomes.<sup>31</sup> A wider selection of cases would have been desirable for more generalizable statements, but the practicalities of carrying out a research project of a greater magnitude than two campaigns and two resources (oil and diamonds) would have required more financial, human and time resources than could have been managed in a dissertation research of this size. In any event, there is considerable advantage to cross case comparison of a small number of cases as Mahoney and Rueschemeyer point out “comparative historical researchers can comfortably move back and forth between new concepts, discover novel explanations, and refine pre-existing theoretical explanations in light of detailed case evidence.”<sup>32</sup> More cases would have required moving out of the same historical context to find comparable cases e.g. the Fur Trade boycott which happened prior to the diamonds campaign. That would have meant much speculation on the effect of the different historical period and its relevant contextual factors. The diamonds campaign and the sanctions campaign allowed for contextualized comparison in other words.

Critical inquiry utilizes multiple analytical methodologies such as historical, ethnographic, phenomenological, hermeneutic, and quantitative methods. This is an obviously historical narrative with pattern matching analysis and explanation building

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<sup>31</sup> Yin supra p52

<sup>32</sup> Mahoney, James and Dietrich Rueschemeyer. *Comparative Historical Analysis in the Social Sciences* Cambridge University Press, New York 2003 p13

techniques. I initiated the analysis of data even as I was collecting it. With a grasp of the theoretical and policy issues, analytical judgments on the nature of the data collected and its relationship to other data necessitated a continual review of the evidence necessary in order to adequately canvass the issues and test both the hypothesis and its rivals. The hypotheses called for explanation building based on pattern matching as the ideal technique for analysis.<sup>33</sup> I laid my arguments side by side with the empirical events in each case to reveal if and whether there was congruence. The turning points in the campaigns such as the co-operation of the diamond industry and the adoption of legislation enabling the Kimberly Process in the U.S. were particularly examined and matched with the attention focused on strategic interests of the U.S. as well as the corporate interests. Concomitantly, lack of action such as the failure of efforts by activists to move Congress when information on the very visible violation of human rights was presented, was used to illustrate the obverse. In the Capital Market Sanctions Campaign, the fizzling out of action when for example, Sudan became an ally in the “war on terror” is examined. In tracing how particular factors represented turning points in the unfolding campaign, chronological sequencing was needed so as to demonstrate the order in which factors and actions followed each other. Naturally, the case of oil and the case of diamonds vary but there are also similarities in the methodologies used for attaining change in each case. For organizing my data, I borrowed Bogdan and Biklen’s scheme and modified the codes to accord more with the research questions I was pursuing.<sup>34</sup> I

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<sup>33</sup> Yin *supra* p120

<sup>34</sup> Miles and Huberman, *supra* p61

had two sections i.e. a) process and b) outcomes. Within those I had subcategories of codes that comprised;

a) Participant identities; ideology, religious leaning, issue focus

b) Objectives

1. Definition of the problem
2. Motivation/reason for participation
3. Definition of objectives

b) Process

4. Why a coalition?
5. Nature of the coalition
6. How the coalition functioned
7. Relationship to others in the coalition
8. Significant turning points

c) Context

9. US economic & political environment
10. Global environment

d) Outcomes

11. Success factors
12. Failure factors
13. Perceptions of outcomes

### Data Interpretation

Interview data was viewed in light of the intentions of participants. As Adeno points out, the objectives in calling for interdiction are not just instrumental i.e. to change the behavior of a target nation or corporation alone, but also identiatinal. As much as the instrumental objective, the goal is also for the sanctioning society to distance itself from the rogue society.<sup>35</sup> In the case of capital markets sanctions for example, did activists ask the questions a) whether sanctions even if they were to be totally implemented, could lead to behavior change or change in policy? (an empirical or factual issue) and/or b) the moral issue as to whether they hurt the poor and most vulnerable rather than the power elites? Thus the participants' meanings were not and could not be presumed as literal. As

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<sup>35</sup>Adeno Addis. "Economic Sanctions and the Problem of Evil" *Human Rights Quarterly* 25.3 (2003) p578

the interviewing progressed and there was deeper questioning it became clear that participants, who were being informed by different worldviews, did not always understand what they were doing in the same way. The reporting is in the form of analytical narratives in the sense proposed by Bates and others.<sup>36</sup>

### Reliability and Validity

The basic strategy to ensure rigor in qualitative research is systematic and self conscious research design, data collection, interpretation, and communication. Method and data should stand independently so that others can analyze the same data in the same way and come to essentially the same conclusions. The account should be a plausible and coherent explanation of the phenomenon under scrutiny. There cannot be a complete convergence of data and conclusions of course because realities vary, but as Ritchie points out, triangulation adds to validity by extending our understanding through the exploration of multiple perspectives.<sup>37</sup> An additional validation strategy that I used was to test some of the findings with some participants to see if they regard them as a reasonable account of their experience so that their reactions to the evolving analysis became part of the emerging research data.<sup>38</sup> That way, the investigator remained open simultaneously to rethinking his commitments in the light of his inquiry and to rethinking his inquiry in the light of his commitments.

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<sup>36</sup> Bates, Robert, Anver Grief, Margaret Levi, Jean-Laurent Rosenthal and Barry Weingast. *Analytical Narratives* Princeton, Princeton University Press, 1998, p12

<sup>37</sup> Ritchie supra 44

<sup>38</sup> McKeganey N.P. and Bloor M.J. "On the retrieval of sociological descriptions: respondent validation and the critical case of ethnomethodology" *International Journal of Sociology and Social Policy* 1981;1:58.



As with most research projects, the danger exists of selective reconstruction of events so as to support the arguments made. Awareness of the danger is one way to guard against this and the effort to obtain feedback from the interviewees on the interpretation of their accounts was a further precaution.

### **Accessing the Data**

As I indicated above, I was familiar with some of the issues before embarking on the research and in fact was partly motivated to focus my dissertation on the campaigns because I had some familiarity with the issues and the actors. This proved to be key in gaining access to the field. It was due to connections with activists during my stay at CRS that I was able to secure interviews, obtain documentation and especially without having to cultivate the trust necessary for interviewees to feel comfortable in discussing the issues with me. As Yin points out, that trust can make or break a research project and I was extremely fortunate in having the contacts.<sup>39</sup> People I had worked with before not only acceded to interviews; they also facilitated access to other participants that I had had no prior contact with.

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<sup>39</sup> Yin *supra* 79

## **Chapter 4**

### **THE CAMPAIGN TO ELIMINATE CONFLICT DIAMONDS**

#### **Introduction**

The Campaign to Eliminate Conflict Diamonds was precipitated by revelations of egregious violence on vulnerable populations in Angola and Sierra Leone. In its broad form the campaign comprised of actors with varying interests and it followed some fairly unconventional trajectories. The multiple identities of the actors presented an operationalization puzzle and partially explains the fragility and temporal nature of the campaign yet they also serve to explain in part the success of the campaign process. Aside from the organizational challenges, the campaigners also had to grapple with geographical and cognitive distance between the issue and the constituency they wanted to mobilize. While most of the world's gem diamonds are found in Africa South of the Sahara, which was the site of the violence, consumption and market power are overwhelmingly situate in the geographical north.<sup>1</sup> Visiting responsibility for violence in Africa on northern actors required knowledge creation on the realities of the diamond trade as well as the identification of relevant and effective normative codes to deploy in the mobilization of western constituencies.

Norms alone proved inadequate to move industry, policymakers and administrators. Activists had to strategically navigate the various industry and U.S. self-

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<sup>1</sup> Stohl, Rachel. "Continued Trade, Continued War" *Center for Defense Information*, November 4, 1999

interest arenas and seek to link their issue to those interests in order to succeed. Self-interest presented both challenges and opportunities for mobilization as did both the national and international institutional structures of the time. The campaign was a discursive contestation within those institutions and ultimately, the central issue became one of contestation over the entry of ethics into the marketplace. The nature of the diamond, its constructed value and its trade provide facets to understanding some of the dynamics of the campaign, while the history and context of the violence provide pointers to the logical targets of the campaign. In this chapter, I give a précis of the nature of the diamond as well as the history and extend of the violence that gave rise to the campaign. The campaign process itself is the major focal point. It is from the praxis of mobilization i.e. who acted, what they did and how they did it that my first argument emanates. This chapter serves as groundwork for the within case analysis in Chapter 5 as well as the cross case comparison in Chapter 8.

### **The Diamond**

The resource at the center of the contestation, the diamond, is a transparent form of pure carbon in crystal form and it is the hardest natural material on earth.<sup>2</sup> It also has high light dispersion qualities, the ability to split white light into its component colors; known as the “fire” in the diamond that has endeared it to lovers the world over. Capitalizing on these exceptional physical attributes, the diamond industry turned the diamond into the world’s best-known gemstone. The diamond also has industrial utility.

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<sup>2</sup> The name “diamond” derives from the ancient Greek *adamas* (αδάμας; “invincible”).

Its exceptional hardness makes it a useful cutting element and it has the highest thermal conductivity of any known solid at room temperature; a quality that is utilized in semiconductor manufacturing for the prevention of overheating. In fact according to Emporia State University, “over 75% of the mined diamonds go to industry each year, with applications from windows to phonograph needles!”<sup>3</sup> But in popular culture and therefore in the public domain, these industrial uses are eclipsed by the diamond’s gem value.

Through very creative image crafting by De Beers Corporation, the durability and refractive qualities of the diamond came to symbolize eternity and the purity of love.<sup>4</sup> A highly disciplined cartel operation maintained an aura of rarity and preciousness that made the diamond one of the most concentrated forms of wealth. As the Diamond High Council put it, “They (diamonds) are a form of currency. They back international loans, pay debts, pay bribes and buy arms. In many cases they are better than money.”<sup>5</sup> It was the high gem value of the diamond, its portability and difficulty to trace once it entered the global market, which attracted its use as a facilitator of war and a currency of choice

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<sup>3</sup> Emporia State University. *Everything You Always Wanted to Know About Diamond*  
<http://www.emporia.edu/earthsci/amber/go340/diamond.htm> (visited December 28th, 2006)

<sup>4</sup> Epstein’s very detailed article gives a comprehensive background to the invention of the diamond as a valuable gem. Epstein, Edward Jay. “Have You Ever Tried to Sell a Diamond? An unruly market may undo the work of a giant cartel and of an inspired, decades-long ad campaign” *The Atlantic Monthly* February 1982

<sup>5</sup> Mark van Bockstael of the Diamond High Council in Antwerp as quoted in Andrew Cockburn. “Diamonds: the Real Story” *National Geographic Magazine*, 2002  
[http://www7.nationalgeographic.com/ngm/data/2002/03/01/html/ft\\_20020301.1.html](http://www7.nationalgeographic.com/ngm/data/2002/03/01/html/ft_20020301.1.html) accessed on February 24, 2007

apparently for terrorism. As Campbell remarked, “Illicit diamonds make fabulous profits for terrorists and corporations alike.”<sup>6</sup>

The nexus between diamonds and violence is nothing new. As *Global Policy Forum* points out, way back at the beginning of the 20<sup>th</sup> century, British colonial entrepreneur Cecil John Rhodes was sowing ethnic strife in South Africa in pursuit of the Kimberly diamond deposits.<sup>7</sup> But it was in the 1990s that non-governmental organizations, social justice activists and some U.S. legislators started to draw attention to the link between diamond trading and wars in Africa. The international illicit diamond supply chain turned out to include miners, rebels, transport companies, arms dealers, smugglers, financial institutions, diamond cutters and polishers, retailers and ultimately the consumers who provide the market for the product. As far as social justice activists were concerned, each of these actors was implicated in the horrendous violence that was taking place in the sites of diamond extraction.

### **History of the Violence**

What was it the activists were so upset about? Illicit diamond extraction was implicated in the wars in a number of African countries including the Democratic Republic of Congo and Liberia but it was the tragedy in Angola and the human carnage in Sierra Leone that prompted international action.<sup>8</sup> What was happening in Africa set the stage for the confrontation amongst social justice actors, the global free market and its

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<sup>6</sup> Campbell, Greg. “Blood Diamonds” *Amnesty Magazine*

<http://www.amnestyusa.org/amnestynow/diamonds.html> visited 29th November, 2006

<sup>7</sup> Global Policy Forum. “Diamonds in Conflict”

<http://www.globalpolicy.org/security/issues/diamond/index.htm> visited 30th November, 2006

<sup>8</sup> United Nations S/2001/357 Security Council Distr.: General 12 April 2001

agents and governments including the U.S. Violence created chaos was enabling illicit diamond trading and the functioning of subterranean financial operations.

### Angola

Illicit trading was rampant in Angola. In 1999 the Angolan diamond sector produced about U.S. \$600 million of rough diamonds, nearly 10% of world output, but of that only U.S. \$20 million, less than 4% accrued to the Angolan government.<sup>9</sup> Because the diamond reserves in Angola are alluvial, extensive and fell outside geographical areas under the control of government, strongmen and armed groups were able to profit, and in turn the proceeds from the diamonds gave them financial access to weapons. The informal diamond sector became militarized, with production based on the use of brutal force or the creation of patron-client networks that enabled the levying of tolls. When the Angolan rebel movement, *União Nacional para a Independência Total de Angola* (UNITA), abrogated peace initiatives and returned to war in 1992, the guerilla group quickly overran and secured control of the most lucrative alluvial diamond reserves in the Lunda region of Angola. By 1993, UNITA had gained control of the country's best mining sites and was managing most of the production.<sup>10</sup>

Diamonds made a difference to Angola's war and especially to UNITA's fighting capability and explained to a large degree UNITA's tenaciousness and the intractability

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<sup>9</sup> Dietrich, Christian. "Inventory of formal diamond mining in Angola" in Jakkie Cilliers and Christian Dietrich (eds). *Angola's War Economy; The role of oil and diamonds* Pretoria, South Africa; Institute for Security Studies, 2000 p141

<sup>10</sup> *Africa Action*. "Is the price of diamonds too high? How Angola's return to war has been funded by the international diamond trade" December 14, 1998

of the war.<sup>11</sup> Between “1992 and 1997, UNITA is estimated to have earned \$3.7 billion through diamond sales.”<sup>12</sup> By 1999 UNITA had spent an estimated \$1.72 billion on arms and supplies; in the process turning itself into a formidable fighting machine.<sup>13</sup> The unconstrained and unregulated finance revolving around diamond mining became a strategic objective in and of itself.

In 1993 the Angolan government, faced with UNITA’s battlefield successes contracted the mercenary outfits Sandline International and Executive Outcomes (EO) with whose help government managed to recapture the strategic Cuango valley and a few other areas by July 1994. Sandline International had common directors with diamond company, DiamondWorks. This solidified the phenomenon of militarized commercialism in Angola. After EO’s contract was terminated in 1995, DiamondWorks’ Angolan subsidiary Branch Energy continued to mine in Lunda Norte up to 1997. Remnants of EO personnel provided security. According to Dietrich, there was also a joint diamond mining venture between America Mineral Fields (AMF) and International Defence and Security (IDAS) from early 1996.<sup>14</sup> Diamond mining and military/security activities became in Angola part of the same puzzle.

By December 1998, Angola had returned to all out war.<sup>15</sup> The results were staggering. According to the Centre for Research on the Epidemiology of Disasters (CRED), the period of war between 1999 and 2002 was the most deadly in Angola’s

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<sup>11</sup> Orugun, Paul. “Blood diamonds” and Africa’s armed conflicts in the post-cold war era’ *World Affairs*, Winter, 2004

<sup>12</sup> Stohl, Rachel. “Continued Trade, Continued War” *Center for Defense Information*, November 4, 1999

<sup>13</sup> Orugun 2004 *supra*

<sup>14</sup> Dietrich 2000 *supra* p176

<sup>15</sup> Human Rights Watch. *World Report 1999; Africa Overview - Angola*  
[http://www.hrw.org/wr2k/Africa.htm#P288\\_98792](http://www.hrw.org/wr2k/Africa.htm#P288_98792) (visited December, 2006)

war.<sup>16</sup> By then both sides to the conflict were using scorched earth tactics, forcing many Angolans to flee to the cities and become internally displaced. Over and above the direct casualties, CRED pointed out that there was “economic collapse, food shortages and malnutrition, the disruption of health systems, mass population movements to overcrowded settlements, and the stretching of public safety systems due to long conflicts,” all of which added to the death toll.<sup>17</sup>

By the time the war ended, Angola was sitting at the bottom of the UN global development index. According to UNICEF, Angola had the third-worst under five-mortality rate in the world with 181,000 children dying every year.<sup>18</sup> Over 4 million people were internally displaced and almost half a million were refugees outside the country, meaning that at least 40% of the population had been forced to move out of their homes. Life expectancy had dropped to under 40 years.<sup>19</sup> This incredible human toll was, according to Global Witness and other NGOs, financed through the extraction and marketing of Angola’s mineral wealth, primarily diamonds and oil, both destined for consumption mainly in Europe and North America.

### Sierra Leone

Like other African countries Sierra Leone was subjected to the colonial specter. The vagaries of colonization no doubt gave rise to numerous grievances but in what may

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<sup>16</sup> Guha-Sapir, Deberati and Vicente Teran. “Angola: The human impact of war; A data review of field surveys in Angola between 1999-2005” accessible at *Reliefweb* <http://www.reliefweb.int/rw/RWB.NSF/db900SID/HMYT-6RMSK3?OpenDocument> (visited December 5<sup>th</sup>, 2006)

<sup>17</sup> Guha-Sapir supra p5

<sup>18</sup> UNICEF-MICS data on <http://www.childinfo.org/MICS2/newreports/angola/angola.htm>

<sup>19</sup> World Health Organization. *The World Health Report 2004-changing history* Geneva. 2004



have been the clearest illustration of the Collier and Hoeffler greed thesis; Sierra Leone's violence came to be driven by neither grievance nor ideology, but rather by the quest for diamond wealth.<sup>20</sup> A perpetual state of war appeared to be the major rebel objective.

Sierra Leone was established by the British as a refuge for freed slaves in 1787 and it gained independence in 1961 but a stable state structure was slow in evolving. Starting from 1967, Sierra Leone experienced coups and counter coups, corruption and abuse of power. A rebel group, the Revolutionary United Front (RUF) was formed in 1991 ostensibly to oust the corrupt regime of then president Joseph Momoh. However from the beginning, the RUF never articulated a coherent political ideology. Its leader, Foday Sankoh, was a former army corporal who had been exiled to Libya after a failed coup attempt. Signaling the emergence of a new genre of guerilla violence, the RUF defied all existing typologies of rebel movements. The RUF was not a separatist uprising nor was it a reformist movement driven by a radical emancipatory agenda *vis a vis* the regime it sought to overthrow. It made history for being a peculiar criminalized guerilla movement with no significant national following and driven almost purely by its leadership's desire for economic gain.

The war in Sierra Leone and the RUF participation in it also had much to do with the machinations of Charles Taylor, a warlord turned president of Liberia. Before taking over the Liberian government, Taylor was in control of a large part of the Liberian interior, and he ran his fiefdom as a business, exporting timber, iron ore and other commodities. Taylor was interested in the diamonds of Sierra Leone and the RUF

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<sup>20</sup> Collier, Paul and Anke Hoeffler. "Greed and grievance in civil war" *Oxford Economic Papers* – New Series, Volume: 56 (4) October 2004 p563

became his instrument for accessing them. As the RUF marched into Sierra Leone, several units of Taylor's armed forces, as well as mercenaries from Burkina Faso were in their ranks and their first target was the diamond-rich district of Koindu. Together they carried out one of the most brutal and violent operations in the history of mankind.<sup>21</sup> They captured Sierra Leone's substantial wealth of diamonds and used the proceeds to finance the terror they inflicted on local populations while enriching the respectable captains of the diamond industry.

Between 1991 when the RUF stepped up the fighting and 2000, over 50,000 people were killed and one million displaced.<sup>22</sup> More people died in that conflict than in Kosovo, but the international community was doing little other than issue statements of condemnation and adopting condemnatory resolutions. The amputation of limbs was the RUF signature tactic for instilling fear amongst the local populations.<sup>23</sup> Other RUF arsenal included the rape of children less than 12 years of age, abduction of villagers, murders, mutilations, forced labor, massive looting and the abduction, training and use of child combatants. In January 1999 the RUF launched their aptly named "Operation No Living Thing." 5,000 people were killed in four months and over 150,000 people were left homeless. Many more were left without limbs. In Freetown, the RUF rampage resulted in the destruction of more than 80 percent of the city's buildings.<sup>24</sup> Faced with this rebel force, the 1992-1996 military government of Captain Valentine Strasser

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<sup>21</sup> Campaign to Eliminate Conflict Diamonds. "Sierra Leone Backgrounder: War & Conflict Diamonds" [http://www.phrusa.org/campaigns/sierra\\_leone/background.html](http://www.phrusa.org/campaigns/sierra_leone/background.html) (visited December 4th, 2006)

<sup>22</sup> Human Rights Watch. "Getting Away with Murder, Mutilation, Rape; New Testimony from Sierra Leone" July 1999, Vol.11 No 3(A)

<sup>23</sup> Human Rights Watch *supra*

<sup>24</sup> Hawley, Caroline. "World: Africa Analysis: Sierra Leone's brutal rebellion" *BBC News*, January 7, 1999; follow up report on *BBC World News*, "A country torn by conflict" January 12, 1999

internationalized the conflict by resorting to “violence for hire.” The government contracted the South African based mercenary outfit Executive Outcomes in an attempt to protect the country’s major diamond mining areas.<sup>25</sup> In April 1999, the West African humanitarian intervention force, ECOMOG also implicated Burkina Faso along with Liberia as suppliers of arms to the RUF using Ukrainian registered aircraft and crews.

Diamonds were a critical resource in sustaining and advancing RUF military activities. Depraved as it was, there was method to the madness. The complete breakdown of state authority and a terrified population assured the RUF of total control over the diamonds of Sierra Leone. It also allowed for trade with actors operating on the outside of mainstream and legitimate global trade. Terror proved to be an effective weapon for economic exploitation, and the earnings from diamonds in turn funded the terror. According to the UN Panel of Experts’ report on Sierra Leone, RUF diamond earnings varied from \$25 million per annum to as much as \$125 million.<sup>26</sup> The diamonds were apparently being smuggled out of the country and into the global trade, mostly through Liberia with the facilitation of Taylor. An international subterranean trade was in operation. The U.N. panel of experts found that

A large volume of diamonds entering Europe is disguised as Liberian, Guinean and Gambian in order to evade taxation and launder money. (There were) flagrant examples in Belgium of fraudulent commercial reporting. A country like Liberia, whose name has been used with or without its knowledge by illicit traders, can thus conceal its own very real trade in illicit and conflict diamonds behind larger rackets being perpetrated by others.<sup>27</sup>

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<sup>25</sup> Cornwell, Richard. “Sierra Leone: RUF Diamonds?” *African Security Review* Vol. 7 No 4, 1998

<sup>26</sup> United Nations, “Report of the panel of experts appointed pursuant to UN Security Council Resolution 1306 (2000), paragraph 19 in relation to Sierra Leone” published December 2000

<sup>27</sup> UN Panel of experts on Sierra Leone, 2000 *supra* , Executive Summary point 6

The report criticized Belgium's *Hoge Raad voor Diamant* (Diamond High Council, HRD) and accused the Belgian system of facilitating illegal international trade and corruption. As examples, while Liberia's average annual diamond producing capacity was 100,000 to 150,000 carats, the HRD records showed over 31 million carats in diamonds as imported into Belgium from Liberia between 1994 and 1998. Even Ivory Coast, which had had no diamond mining operations since the mid 1980s “exported” more than 1.5 million carats to Belgium per year between 1995 and 1997.<sup>28</sup>

What was transpiring in Sierra Leone was not a grievance driven struggle but rather a highly criminalized war economy was in place and it had developed a momentum of its own.<sup>29</sup> Partnership Africa Canada (PAC) one of the NGOs closely involved in the conflict diamonds campaign, concluded that peace would not be possible in Sierra Leone unless and until the illicit trade in diamonds had been addressed both locally and internationally because diamonds were at the heart of the matter.<sup>30</sup> To social justice activists the international trade in diamonds extracted through violence, made North America and Europe complicit to the suffering. Grievance was extended to encompass all participants to the trade. Rebels were the direct perpetrators, but they were supplying a market with an existing demand. The diamond traders who sold their wares in Antwerp and Tel Aviv not only enabled rebels to operate, they gave the RUF the incentive for the fighting. In turn the traders were in the market to supply the wholesalers and the consumers in the North. As already pointed out above, the RUF defied any typology of

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<sup>28</sup> UN Panel of experts report supra

<sup>29</sup> Smillie, Ian, Lansana Gberie, Ralph Hazleton. “The Heart of the Matter, Sierra Leone, Diamonds and Human Security” *Partnership Africa Canada*, January 2000

<sup>30</sup> Smillie & Gberie supra

guerilla movement basically because it owed its existence not to political grievance, but to the profit motive. The market and those acting through it thus became logical targets of the conflict diamonds campaign.

### **The Campaign Process**

The campaign against conflict diamonds had international and national components and involved numerous governments, diamond industry traders, the United Nations, faith groups, human rights and humanitarian NGOs, legislators and ultimately the consumers of diamonds. In this dissertation my primary unit of analysis is the advocacy coalition campaign in the United States. For that reason, the international efforts of which the U.S. campaign was an offshoot, becomes part of the opportunity structure that helped enable mobilization within the U.S.<sup>31</sup>

#### Campaign Actors and Diversity

The U.S. campaign exhibited a form of mobilizing that engaged a diverse coalition operating on strategy. Primarily, two types of agent drove the campaign; legislators and NGOs. Congressmen Tony Hall (D-Ohio) and Frank Wolf (R-Virginia) became not just Congressional sponsors for conflict diamond legislation; they actively campaigned against blood diamonds inside and outside the legislative chamber. As will be apparent from the campaign timeline, it was Rep. Tony Hall who first confronted the diamond industry and led the first protests in front of leading jewelry stores in the U.S.

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<sup>31</sup> Interview with Steering committee member, Washington DC, July 25<sup>th</sup> 2006

Holly Buckhalter, the coordinator of the conflict diamonds campaign, confirmed this key role.<sup>32</sup> As an activist explained in interview with me;

You have to remember though that Tony Hall (Ohio) had been pushing for the regulation of the diamond industry for more than a year before the campaign started. He had been to Africa and had seen what was going on. So he championed the issue. His office really pulled us in on this and urged us to do more. Tony Hall's office gave us a legislative focus for the campaign. This was a tangible tool that would make the industry pay attention.<sup>33</sup>

That role was critical because activists can have the most clearly framed issue in the world but unless they can find a champion; the staff person who will take an issue forward with their member, proselytize internally for the issue, talk to staff people in other offices, and the legislative member who will make it his or her issue, the campaign will not take off.<sup>34</sup> In all, Hall with support from Wolf, sponsored or co-sponsored no less than six conflict diamond pieces of legislation; an effort acknowledged by both activists and the diamond industry.<sup>35</sup>

Hall had the backing of a campaign that at its height boasted membership of human rights, humanitarian and faith organizations. At the forefront were well established NGOs. The initial steering committee comprised of Physicians for Human Rights, Amnesty International, World Vision, Oxfam America, World Relief, and the Commission on Social Action of Reform Judaism. Of these, World Vision, Physicians for Human Rights and Amnesty International became the *de facto* steering committee and

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<sup>32</sup> Buckhalter, Holly. "Deadly Diamonds" *Legal Times* September 18<sup>th</sup>, 2000 available at <http://www.calbaptist.edu/dskubik/diamonds.htm> visited February 25<sup>th</sup>, 2007

<sup>33</sup> Interview with a campaign coalition steering committee member June 1<sup>st</sup>, 2006, Washington DC

<sup>34</sup> Interview with activist May 15<sup>th</sup> 2006, Greensborough, North Carolina

<sup>35</sup> Interviews with campaigners July 25<sup>th</sup> 2006 Washington DC; See also *Israel Diamonds*, "Tony Hall to leave Congress for UN post" June, 2002

later, they were joined by Catholic Relief Services.<sup>36</sup> Participation included a spectrum of people ranging from the small diamond retailer (in their individual capacity) to housewives and students.<sup>37</sup> Analysis of every participant would be impossible, but a discussion of the initial steering committee membership is illustrative of the diversity of membership and participation.

Physicians for Human Rights is a health professionals NGO founded on the idea that “health professionals, with their specialized skills, ethical obligations, and credible voices, are uniquely positioned to investigate and document the health consequences of human rights violations and speak out with authority to end them.”<sup>38</sup> The mission statement for Physicians for Human Rights provides its imperative for the advocacy that took it into the clean diamonds campaign. Physicians for Human Rights;

...mobilizes health professionals to advance health, dignity, and justice and promotes the right to health for all. Harnessing the specialized skills, rigor, and passion of doctors, nurses, public health specialists, and scientists, PHR investigates human rights abuses and works to stop them.... Motivated by moral urgency, based on science, and anchored in international human rights standards, PHR’s advocacy advances global health and protects human rights.<sup>39</sup>

Founded in 1961, Amnesty International self describes as a grassroots activist organization that “undertakes research and action focused on preventing and ending grave abuses of the rights to physical and mental integrity, freedom of conscience and

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<sup>36</sup> Campaign to Eliminate Conflict Diamonds home page;

[http://www.phrusa.org/campaigns/sierra\\_leone/campaign\\_clean\\_diamonds.html](http://www.phrusa.org/campaigns/sierra_leone/campaign_clean_diamonds.html) (visited November 2006)

<sup>37</sup> Interview with activist June 1<sup>st</sup>, 2006 Washington DC; see also Franklin, Anna and Rachel Stohl.

“Attempts Made to Control Conflict Diamonds” *Center for Defense Information*, August 23, 2001

<http://www.cdi.org/friendlyversion/printversion.cfm?documentID=630> (visited December 17<sup>th</sup>, 2006)

<sup>38</sup> Physicians for Human Rights 20<sup>th</sup> anniversary celebrations at PHR website

<http://www.physiciansforhumanrights.org/about/20-years/> visited January 5<sup>th</sup>, 2007

<sup>39</sup> Physicians For Human Rights Mission Statement at

<http://www.physiciansforhumanrights.org/about/mission.html> visited on January 5th, 2007

expression, and freedom from discrimination, within the context of its work to promote all human rights.”<sup>40</sup> Amnesty is represented in over 150 countries and territories all over the world and its advocacy work is equally international and well known, with as its basic objective the protection of human rights.

World Vision is a relief and development organization with a particular focus on children. Its mission statement which states; “World Vision is an international partnership of Christians whose mission is to follow our Lord and Savior Jesus Christ in working with the poor and oppressed to promote human transformation, seek justice and bear witness to the good news of the Kingdom of God” indicates its strong Christian faith foundation.<sup>41</sup> That gave it access to the conservative Christian audience. World Vision operates in multinational partnerships in over 90 countries. It had both a national and an international presence in the campaign.<sup>42</sup>

The Union for Reform Judaism, the largest Jewish movement in North America with a reach to an estimated 1.5 million Jews, was one of the initial coalition members through its Religious Action Center in Washington, DC. Reform Judaism’s involvement stemmed from its vision of the relevance of

“social justice as the jewel in the Reform Jewish crown. Like the prophets, we never forget that God is concerned about the everyday and that the blights of society take precedence over the mysteries of heaven. A Reform synagogue that

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<sup>40</sup> Amnesty International USA website <http://www.amnestyusa.org/about/> visited January 6<sup>th</sup> 2007

<sup>41</sup> World Vision website;  
[http://www.worldvision.org/worldvision/wvusfo.nsf/stable/globalissues\\_diamonds07?Open&lid=read\\_about&lpos=leftnav](http://www.worldvision.org/worldvision/wvusfo.nsf/stable/globalissues_diamonds07?Open&lid=read_about&lpos=leftnav)

<sup>42</sup> World Vision website;  
[http://www.worldvision.org/worldvision/wvusfo.nsf/stable/globalissues\\_diamonds07?Open&lid=read\\_about&lpos=leftnav](http://www.worldvision.org/worldvision/wvusfo.nsf/stable/globalissues_diamonds07?Open&lid=read_about&lpos=leftnav)



does not alleviate the anguish of the suffering is a contradiction in terms.”<sup>43</sup>

Part of Reform Judaism’s engagement also emanated from a conviction that; “If we (Reform Judaism) don’t bring these progressive religious values into the public arena with us, we will abandon the public square to those offering a different view of religion and values.”<sup>44</sup>

World Relief had its foundation in the post WWII era when the National Association of Evangelicals established the War Relief Commission to send clothing and food to victims of World War II. War Relief evolved into World Relief. The basis of the aid work was firmly grounded in the Christian faith, and traditionally World Relief has carried out its work in the context of the evangelizing mission.<sup>45</sup> The mission statement of World Relief reflects its major objective; “to work with, for and from the Church to relieve human suffering, poverty and hunger worldwide in the name of Jesus Christ.”<sup>46</sup> Although World Relief did not maintain a high profile in the steering committee after the campaign was launched, its presence in the steering committee at the initiation of the campaign reveals an interesting phenomenon; the entry of Evangelicals into the political sphere through advocacy for humanitarian issues in league with secular organizations, a phenomenon discussed at greater length in Chapters 7 and 8.

Oxfam America, an affiliate of Oxfam International has as its mission the ending of poverty in the world. Oxfam was founded by Quaker intellectuals, social activists, and

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<sup>43</sup> Feldman, Rabbi Marla. “Why Advocacy is Central to Reform Judaism” Religious Action Center for Reform Judaism [http://rac.org/\\_kd/Items/actions.cfm?action=Show&item\\_id=1655&destination=ShowItem](http://rac.org/_kd/Items/actions.cfm?action=Show&item_id=1655&destination=ShowItem) visited January 6<sup>th</sup> 2007

<sup>44</sup> Feldman *supra*

<sup>45</sup> World Relief website *History* <http://www.wr.org/aboutus/history8090.asp> visited January 7<sup>th</sup>, 2007

<sup>46</sup> World Relief *The Story of the Church at Work* at <http://www.wr.org/aboutus/vision.asp> visited January 7<sup>th</sup>, 2006

Oxford academics during World War II to provide relief to war victims. The concerns turned from relief to poverty as the major, long-term goal and today Oxfam seeks to achieve that through work on the ground with people in need. Oxfam prides itself in not having any specific political, economic, or religious affiliation.<sup>47</sup> More so than the other NGOs, Oxfam tackles structural issues like global trade and natural resource exploitation through advocacy work. Oxfam places a high value on its independence and unlike most relief and development NGOs, does not take U.S. government funds or money from any sources it perceives may compromise its independence.

The campaign steering committee was later joined by Catholic Relief Services (CRS), the international relief and development arm of the U.S. Catholic Church. CRS was also founded in the aftermath of the Second World War with the initial objective of helping Europe recover. That mission expanded globally and today, CRS's "mission is to assist the poor and disadvantaged, leveraging the teachings of the Gospel of Jesus Christ to alleviate human suffering, promote development of all people, and to foster charity and justice throughout the world...."<sup>48</sup> In the last decade CRS adopted what it called a dual constituency approach in which its focus became both the poor overseas as well as Catholics in the U.S. As the agency puts it, "CRS is ...committed to educating the people of the United States to fulfill their moral responsibilities toward our global brothers and sisters by helping the poor, working to remove the causes of poverty, and promoting social justice."<sup>49</sup>

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<sup>47</sup> Oxfam America *Who We Are* <http://www.oxfamamerica.org/whoweare> (visited January 8, 2007)

<sup>48</sup> CRS Website "Who We Are" [http://www.crs.org/our\\_work/what\\_we\\_do/index.cfm](http://www.crs.org/our_work/what_we_do/index.cfm) visited March 1st, 2007

<sup>49</sup> CRS *supra*

The market and the agents in that market i.e. the diamond industry and the corporate sector were the main targets of the campaign.<sup>50</sup> However in a fairly unusual development, the industry and the activists joined forces to lobby jointly for regulatory legislation. The relationship was ambivalent, it was new and some activists always felt uncomfortable about it, but the partnership proved quite powerful in moving the legislation through.<sup>51</sup> An unexpected finding in the research was the degree of attribution by activists to the partnership for the legislative success. As one activist interviewee put it “We decided that we would work with the industry because otherwise it would go nowhere. Having the industry with us was key especially on the Hill.”<sup>52</sup> What differentiates the diamond industry from the simply cooperative target was its decision to actively lobby for control of the flow of diamonds and to do so eventually on the basis of the same legislative vehicles as the activists. As a participant observed, “Ironically in the end it was in fact the advocates and the industry lobbying together with the administration on the other side. The administration did not want business regulation at all.”<sup>53</sup> For some of the activists, this phenomenon of the industry strategizing and working together with activists was in and of itself a huge indicator of campaign success.<sup>54</sup>

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<sup>50</sup> Interview with steering committee member July 25<sup>th</sup>, 2006 Washington DC

<sup>51</sup> Interview with steering committee member July 25<sup>th</sup> Washington DC and activists May 24<sup>th</sup> and July 31<sup>st</sup> 2006 Washington DC as well as interviews with diamond industry representative June 20<sup>th</sup>, 2006 New York

<sup>52</sup> Interview with steering committee member, June 1<sup>st</sup> 2006 Washington DC

<sup>53</sup> Interview with steering committee member June 1<sup>st</sup>, 2006 Washington DC

<sup>54</sup> May 23<sup>rd</sup> and June 1<sup>st</sup> interviews Washington DC

The diamond industry also revealed itself as anything but homogenous.<sup>55</sup> The retailers who are the face of the industry to the public tended to be the more committed to finding a solution while other sectors remained ambivalent about regulation.<sup>56</sup> According to the diamond industry personnel involved in the campaign, the decision to participate in the campaign was prompted by both the desire to preserve the integrity of the product and appreciation of the enormity of the human problem.<sup>57</sup> The industry appears therefore as a target in the initial stages and as a part of the campaign post the rapprochement with legislators and the coalition for clean diamonds.

### A Strategy Driven Campaign

I was intrigued and curious about the ability of all these actors to work collaboratively and succeed not only in maintaining the campaign, short though it was, but also in getting legislation enacted. Part of the explanation lies in the avoidance of debate on principles. In fact according to some of the participants, there was a tacit agreement that participant organizations would not get fixated on individual ideologies so that the work could go on.<sup>58</sup> One activist explained that bringing up that sort of discussion would make for considerable discomfort as it would raise issues about, for example the detrimental effects of capitalism and its prime agents, the corporations. Some of the

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<sup>55</sup> Interview with diamond industry representative June 20<sup>th</sup> 2006 New York

<sup>56</sup> Interview with jewelry spokesperson June 20<sup>th</sup>, 2006 New York and campaigner, July 25<sup>th</sup>, 2006 Washington DC

<sup>57</sup> Interview with diamond industry spokesperson June 20<sup>th</sup>, 2006 New York

<sup>58</sup> Interviews with participants, June 17<sup>th</sup> and July 25<sup>th</sup> 2006 Washington DC.

actors involved were in her view, not prepared or positioned to question the dominant capitalist model in the U.S. environment.<sup>59</sup>

Reflecting the arguments of social movement scholars, just about all the interviewees also attributed avoidance or lack of ideological discussion to the nature of the campaign involvement; that activism was substantially driven by factors external to the activists. A steering committee member commented that, “There was really no extended discussion on the broad objectives. Part of this was that some of the action was driven by events on the Hill and what was going on in the Kimberly Process.”<sup>60</sup> In May 2000, a meeting comprised of diamond exporting governments, the diamond industry and civil society groups took place at Kimberley, South Africa and was followed by several others culminating in an international diamond trade regulation agreement at the end of 2002. The diamond industry came to the meeting because of its worries over the diamond’s image of purity being associated with the bloody business of wars in Angola and Sierra Leone and the loss of business that could emanate from that. Diamond exporting countries like South Africa and Botswana were worried about the damage that could be inflicted on their trade if a consumer boycott of diamonds were effected in the major markets of North America and Europe due to concerns over the same conflicts. These two stakeholders therefore initiated an international process for the regulation of the diamond trade through a certification scheme that would seek to ensure that only diamonds certified as coming from non-conflict zones would enter the global market. The scheme took its name from Kimberley, one of the original diamond producing areas and

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<sup>59</sup> Interview June 17<sup>th</sup>, 2007 Washington DC

<sup>60</sup> Interview with steering committee member, June 1<sup>st</sup>, 2006 Washington DC

the site of the first meeting. The initiative came to be known as the Kimberley Process Certification Scheme (KPCS or Kimberley Process). Responding to such external opportunities became a strategic enterprise as action got dictated by the pressing practical issues of “membership in Congress, how are you going to move your ideas, who do you get on board, how many different faith groups have to weigh in, which member of Congress is going to listen to which perspective, how do you put the issue more on the table etc.”<sup>61</sup> Conflict diamonds legislation became a “strategic piece that was a lever to hold onto...” and activism came to be driven considerably by the legislative process.<sup>62</sup>

The choice of issue to act on was itself a strategic decision and the manner of engagement was also a factor of strategy. As Smillie of Partnership Africa Canada said of diamonds;

...for those NGOs in search of an issue, diamonds are almost heaven-sent. Their connection to three brutal wars is clear. The industry, dominated by one big company, is not regulated in any meaningful way. It epitomizes the globalization problem that has so exercised young people on the streets of Seattle, Prague, and Genoa. It is a much clearer issue than seals and the fur trade.<sup>63</sup>

The campaign grew out of a convergence of interests rather than germinating from commitment to a single articulated ideological principle.<sup>64</sup> As one activist stated; “People have their own reasons, but all those interests converged into one focus, one strategy.”<sup>65</sup> One or two NGOs identified the problem and others joined in; some based on their conceptualization of how the problem affected their development, humanitarian or other

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<sup>61</sup> Interview with activist June 17<sup>th</sup>, 2006 Washington DC

<sup>62</sup> Interview May 15<sup>th</sup>, 2006 Greensborough, North Carolina

<sup>63</sup> Smillie, Ian quoted in *Partnership Africa Canada*, Other Facets: News and Views on the International Effort to End Conflict Diamonds, no. 3, October 2001, 4.

<sup>64</sup> Interview May 30<sup>th</sup> 2006 Washington DC

<sup>65</sup> Interview with activist May 11<sup>th</sup>, 2006 Arlington, Virginia

advocacy work and others for more philosophical or principled reasons such as objection to the lack of ethical concern for the adverse effects of capitalism.<sup>66</sup> For others, the goal was limited simply to stopping the funding of wars from resource extraction.<sup>67</sup> I found that activists of African origin had their own particular interests in the campaign; i.e. leveraging the powerful U.S. government structures to effect change at home. It was a question of power. The reality they faced was that on their own they would simply not be heard. As one such activist put it,

So that means that to call the attention of the US to what is going on you have to have a lobby group or an advocacy group in the US. So that is one of the reasons for coalitions too because alone you give information, they don't take it into account until they recognize its a powerful group of coalitions.<sup>68</sup>

For some NGOs like Amnesty International, human rights are their reason for being and a goal in and of itself. For them any violations should be countered and the campaign coalition was but one of a number of methodologies for doing this.

How did the campaign process succeed despite such differences? First there is need to acknowledge that the process was not always as smooth as appeared on the outside. As an interviewee revealed, negotiation of difference especially when an important stakeholder was involved did not always result in a solution. As the steering committee member said, "So Coalitions have to live with difference. Some groups may think one approach is less important than others. But so long as you have a broadly agreed common agenda and you are not undermining each other with your public

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<sup>66</sup> Interviews May 30<sup>th</sup>, May 31<sup>st</sup> and July 25<sup>th</sup> 2006 Washington DC

<sup>67</sup> Interview May 11<sup>th</sup> and 30<sup>th</sup> Washington DC

<sup>68</sup> Interview with activist May 11<sup>th</sup>, 2006 Arlington, Virginia

messaging, that's often the best you can hope for.”<sup>69</sup> Coming up with consensus positions was not easy and groups at times ended up not signing onto statements or action alerts and in other circumstances, the final statement got considerably watered down in an effort to accommodate as many important stakeholders as possible.<sup>70</sup>

The assumption of consensus decision making and operation based on equality among participants also turned out to be more assumption than reality. The direction and the actions the coalition took were partly based on the investment and capacity of each participating member. As a coalition member put it

it's a difficult process and like I said at the beginning, in many coalitions you may have one or two organizations that are really pushing the coalition, have a number of assets including reputation on the issue, or the amount of resources they are putting into the issue, research capacity, contacts with key actors. Those types of assets may not be broadly shared within the coalition members, so you may have a situation where... you are right, there is that lateral power, but there is in many coalitions a first among equals syndrome.<sup>71</sup>

That left a small core group to make most of the decisions with the vast majority concurring and supporting them.<sup>72</sup>

Power was important, but equally important was the degree of trust vested in the integrity of the core group.<sup>73</sup> There would be exceptions when a smaller contributor would preempt steering committee decisions. For example when the Bush administration insisted on a watered down version of the Conflict Diamond Act H.R. 2722 at the end of 2001 which the House passed, some activists found this extremely troubling. A coalition participant fearing passage of this “meaningless piece of legislation” as he put it

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<sup>69</sup> Interview May 30<sup>th</sup> Washington DC

<sup>70</sup> Interview May 24<sup>th</sup> 2006 Washington DC

<sup>71</sup> Interview May 30<sup>th</sup> supra

<sup>72</sup> Interviews May 23<sup>rd</sup> May 30<sup>th</sup>, June 1<sup>st</sup>, June 13<sup>th</sup>, June 15<sup>th</sup>, June 17<sup>th</sup>, July 25<sup>th</sup> 2006 Washington DC

<sup>73</sup> Interview with steering committee member by telephone from New Delhi, India June 1<sup>st</sup>, 2006



preempted any possibility of the campaign coalition going along with it by issuing an action alert urging opposition to the amended version.”<sup>74</sup>

The coalition process is difficult and unequal yet due to a common strategic consideration, activists still opt to work through it. Individual NGOs rarely have the capacity unilaterally to carry out the advocacy they want and achieve the results they desire.<sup>75</sup> The coalition then is in fact a dictate of necessity. As an activist illustrated of the clean diamonds campaign, while Global Witness had some good capabilities, one capacity it did not have was a constituency in the U.S.<sup>76</sup> On the other hand Oxfam America did not have the capacity to carry out investigations into atrocities in Angola or to reach fairly conservative legislators in Congress, but others did. The coalition became a strategic tactic for pooling together the resources necessary for the goals to be attained. Each campaign participant brought different attributes to the table, reached different constituencies and presented different voices, material, technical and human resources and even different principles. The diversity thus became a key ingredient to success. One of the steering committee members said of this; “I have worked at a lot of coalitions and I think this one was particularly effective because of the diversity of what and who we brought to the table.”<sup>77</sup>

The different voices ensured that in approaching Congress or the administration on diamonds, an issue that is rather removed from the immediacy of American life, as

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<sup>74</sup> Conflict Diamond Act H.R. 2722

<sup>75</sup> Interview with activist May 31<sup>st</sup>, 2006 Washington DC

<sup>76</sup> This was given credence by Global Witness itself which insisted they needed and wanted others to join the campaign so that it would have broad based support. That way, congress and the administration would have to listen. Interview June 13<sup>th</sup>, 2006.

<sup>77</sup> Interview with steering committee member July 25<sup>th</sup> 2006, Washington DC

many points of leverage needed to be utilized as possible. Legislators with no interest in religious issues were approached through human rights or humanitarian issues. Having NGOs that worked on children's issues provided access to legislators whose agenda included children but who may have had little interest in the ethics of trade or the marketplace or poverty agendas.<sup>78</sup>

An additional need that dictated a strategic approach to the campaign process was the importance of demonstrating a sizable voter constituency. Different segments of society listen to different speakers. There were people who listened to the Evangelical Churches while others listened to Amnesty International. It was strategic for success therefore to include in the campaign both organizations in order to get the message to all these constituencies and the legislators even though their principles and interests may have differed. Amnesty International had a very strong popular campaigning outreach and strong popular mobilization capacity and was itself a very well known brand globally. World Vision brought very strong connections with the Christian right and the more conservative offices in Congress. World Vision also had a field presence and was a known brand in charity. Oxfam had a reputation for strong policy and advocacy and a field presence but was much more left leaning ideologically and thus appealed to a very different audience. Physicians For Human Rights had a professional health constituency. As a steering committee member asserted;

we brought together very, very different constituencies to the table and that was in hindsight incredibly strategic. Maybe Oxfam did not have the capacity to mobilize the supporters that Amnesty did and maybe Amnesty couldn't get in to see the right wing Republicans that World Vision could. So we had a very

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<sup>78</sup> Interview with activist May 30<sup>th</sup> 2006 Washington DC

complementary steering committee. And then when we brought in the Catholics and a couple of the Jewish organizations, that expanded even further. I just wanted to put that in there because it's a really important part of the US campaign.<sup>79</sup>

This perspective was backed up by most of the activists I interviewed.<sup>80</sup>

I was offered real examples to illustrate the pragmatic and strategic operationalization of the campaign. Oxfam has a very strict policy against depicting or showing any person in poverty, misery or conflict as it feels that is a manipulation of heartstrings even if those images would be effective in raising awareness. However, Rep. Hall, World Vision and Amnesty invited amputees to give testimony before Congress and march with demonstrators on the streets of New York. Oxfam did not take issue with Amnesty or World Vision on this; it simply did not make a presence at those events.<sup>81</sup> Similarly with instruments like action alerts, organizations that could not subscribe to particular messages that were going out would not have their names on the action alerts. That strategic approach enabled the participants to operate with mutual respect and tolerance of each other. As a participant said, "I just think there was a recognition of the diversity which was really important. But it also meant we were not going to be able to brand everything, but that was OK. A lot of smashing of the ego for us. I did a lot of work but my organization's name would not be on it because of organizational principles."<sup>82</sup>

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<sup>79</sup> Interview with steering committee member, July 25<sup>th</sup>, 2006, Washington DC

<sup>80</sup> Interview May 30<sup>th</sup> 2006, June 1<sup>st</sup>, June 13<sup>th</sup> and July 25<sup>th</sup> 2006 Washington DC

<sup>81</sup> Interview with steering committee member July 25<sup>th</sup>, 2006, Washington DC

<sup>82</sup> Interview with participant July 25<sup>th</sup>, 2006, Washington DC

By viewing the campaign coalition as strategy driven is not meant the negation of principle on the part of the activists. On the contrary, these were very principled and committed actors. However each had their own principles and their driving imperatives and those were critical for engagement. What is meant is that the campaign as a unit did not operate on the basis of commonality of principle or a common identity. Each participant organization had to account to its constituency, some faith based, others secular. In this too, pragmatism enabled operationalization. Each had to speak the language of its audience.<sup>83</sup> Sometimes even goals differed. For some church groups, prophetic witness was complete in and of itself; i.e. that some things just needed to be said for the sake of morality and that was an important end goal. For NGO groups on the other hand the objectives tended to be more concrete and measurable outcomes.<sup>84</sup>

### The Actions

Together these actors led a campaign that dramatized the conflict diamonds issue through a variety of actions. They investigated facts and publicized them and they lobbied Congress directly and through the mobilization of their constituents. They gave Congressional testimonies and staged demonstrations in front of jewelry stores and they inspired others to do likewise. As Akwei of Amnesty International testified; “individuals have written letters, held vigils and teach-ins and communicated with their Congressional representatives to raise awareness about the issue of conflict diamonds and to try to push the United States government to lead the international community toward taking effective

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<sup>83</sup> Interview with activist May 15<sup>th</sup>, 2006 Greensborough, North Carolina

<sup>84</sup> Interview with activist, May 15<sup>th</sup>, 2006 Greensborough, North Carolina

action against conflict diamonds.”<sup>85</sup> The investigations and reports of the human rights NGOs were used as the basis for advocacy for example in testimony before Congressional committees. I provide a timeline of the events in order to give the factual basis for discussion of the opportunity structures in the campaign that I will tackle in Chapter 5.

### **Campaign Timeline**

One can distinguish four discernible periods in the campaign to stop conflict diamonds. Phase 1 comprised in the initial investigation and publication period when the main players were international NGOs and Congressman Tony Hall in confrontation with the diamond industry. During this period, U.S. NGOs were not that visible on the advocacy scene and the diamond industry was not responsive to the calls for regulation of trade. Phase 2 came out of activist frustration with the diamond industry’s attitude and culminated in the formal launch in the U.S. of the Campaign to Eliminate Conflict Diamonds on February 14<sup>th</sup> 2001. This period was characterized by open confrontation between the industry and activists. The differences were eventually mediated by a number of U.S. senators and this led to the period of cooperation. Phase 3 that I call the rapprochement phase was characterized by collaboration between the diamond industry and the campaigners, a fairly unusual phenomenon in the history of social mobilization. Then September 11<sup>th</sup> happened, bringing in a fourth phase in which the “war on terror” became the dominant public discourse. International and U.S. policy considerations

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<sup>85</sup> Akwei, Adotei, testimony before the Subcommittee on Trade, October 10, 2001 at pg 55

underwent a shift that had a significant impact on the campaign. This period ended with the enactment of the Clean Diamond Trade Act after which the activism dissipated leaving only one or two NGOs that still kept active watch on the implementation of the Kimberly certification process. My analysis ends at that point. On each phase, I breakdown the narrative by the important sectors or themes in the campaign's life; the media, international initiatives, activist action and legislative action.

### **Phase 1**

The campaign start off point was clearly the publication by Global Witness of its 1998 report "*A Rough Trade, The Role of Companies and Governments in the Angolan Conflict*."<sup>86</sup> In the report Global Witness not only gave an account of the atrocities of war; it implicated the diamond industry and especially De Beers corporation and the processing centers in Belgium in the illicit trade of diamonds and by extension in the violence through which the resource was being extracted.

### Media Coverage

The media immediately picked up the conflict diamonds story. "Dirty Diamonds" were news items in *The New York Post* and the *Dallas Morning News* and numerous other newspapers.<sup>87</sup> In December 1999 *Time* magazine featured a report about the Angolan diamonds controversy.<sup>88</sup> In response to the publicity, the *Professional Jeweler*

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86 Global Witness, *A Rough Trade, The Role of Companies and Governments in the Angolan Conflict* London, December 1998

87 <http://www.nypost.com/> and <http://www.dallasnews.com/>

88 Hawthorne, Peter. "Diamonds in the Rough" *Time Magazine* Dec. 6 1999 issue

*Magazine* warned its membership to be prepared to answer questions about conflict diamonds from local newspapers.<sup>89</sup> In 2000 conflict diamonds became even more topical. In January a United Nations update on Angola confirmed UNITA's use of diamonds to purchase arms illegally.<sup>90</sup> In New York City, at least two local TV stations broadcast stories on diamonds.<sup>91</sup> Valentine's Day became a focal point for even more media attention. "The Race to Make a Diamond," was aired on the science program NOVA on the *Public Broadcasting Service* (PBS) on February 1<sup>st</sup> 2000.<sup>92</sup> PBS also set up an accompanying Web site under the title "The Diamond Deception."<sup>93</sup> CBS's affiliate Channel 2 aired a two-part series on diamonds in early February as did NBC affiliate, Channel 4. Representing the most extensive report on conflict diamonds to run in a national consumer magazine, on July 10, 2000 *Newsweek* published an article entitled "In Search of Hot Rocks."<sup>94</sup> *Newsweek's* message was quite candidly that a diamonds-for-guns trade was fueling bloody civil wars in Angola, the Democratic Republic of the Congo and Sierra Leone.

2000 did not produce the legislation Rep. Hall and other activists desired and negative publicity continued into 2001. In February 2001 ABC's Primetime aired a segment on conflict diamonds in which they interviewed Hall and De Beers executive Tim Capon. A Sierra Leonean amputee was brought onto the show and asked American consumers not to buy diamonds "because diamonds are killing us." Fox Television also

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89 Professional Jeweler Magazine <http://www.jewelersresource.com/public/main.cfm>. This is the magazine of the jewelry industry in the U.S.

90 Panafrikan News Agency. "Fowler Briefs UN On How UNITA Bursts Sanctions" January 19, 2000

91 Professional Jeweler Magazine *supra*

92 PBS' Web site [www.pbs.org/nova/diamond](http://www.pbs.org/nova/diamond) visited September, 2006

93 The web page is at <http://www.pbs.org/wgbh/nova/diamond/> last visited February 26th, 2007

94 *Newsweek*. July 10, "In Search of Hot Rocks,"

aired a "conflict" diamonds segment in which Jewelers of America CEO, Matthew A. Runci and two Boston retailers were interviewed.<sup>95</sup>

### Diamond Industry Response

The initial response from the diamond industry when revelations of diamonds for war reports surfaced ranged from denial through indifference to derisive dismissal of the campaigners.<sup>96</sup> De Beers denied responsibility and countered that the company was not the world's diamonds policeman.<sup>97</sup> The industry as a whole argued that it was next to impossible to determine the origins of any diamond.<sup>98</sup> It raised the counter-argument that control of diamond trading would only serve to wreck the entire diamond trade and negatively impact the economies of Botswana, South Africa and Namibia which benefited from diamond trade.<sup>99</sup>

As bad press into which the term "blood diamonds" was creeping, increased during the course of 1999, De Beers changed its mind. In October 1999 De Beers announced that it would no longer buy Angolan diamonds except for those coming from a single contracted mine.<sup>100</sup> In February 2000 De Beers undertook not to buy diamonds

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<sup>95</sup> World Diamond Council 1st annual meeting London January 17-18, 2001 Chairman's Report: Eli Izhakoff

<sup>96</sup> Silverstein, Ken. "Diamonds of Death" *The Nation magazine*, April 23, 2001 and Shaxson, Nicholas. "Transparency in the international diamond trade" *Global Corruption Report 2001* pg 214 at 218 Shaxton for example quotes a Belgian diamond official who described Global Witness as 'a bunch of well-intentioned hooligans.'

<sup>97</sup> *CNN* quoting Tim Capon, a director of De Beers in an article headed "Lust for diamonds kills thousands in African wars" January 12, 2000

<sup>98</sup> Shaxson, Nicholas. "Transparency in the international diamond trade" *Global Corruption Report 2001* pg 214

<sup>99</sup> Physicians for Human Rights. *U.S. Civil Society Calls Upon Diamond Industry to Boycott Conflict Diamonds* July 13<sup>th</sup>, 2000

<sup>100</sup> De Beers Group, Statement to Stakeholders, 5 October 1999



from any conflict zones in Africa.<sup>101</sup> NGOs welcomed the move but insisted that a more comprehensive response with concrete measures was needed.<sup>102</sup> Later, reflecting on its earlier attitude, De Beers corporate affairs director Bill Lear admitted that, "We (De Beers) felt we were the wrong target...(but) we have (now) come to realize that our leadership position means we must drive the illegitimate diamonds out of the legitimate sector."<sup>103</sup> Some analysts have argued that De Beers may have been motivated by purely economic reasons.<sup>104</sup> Cowell for example points out that the stockpiling of diamonds in order to create an artificial shortage, keep up prices and maintain the aura of rarity was becoming too costly since De Beers' dominance of the market was dissipating as other actors were entering the diamond market independently of De Beers.<sup>105</sup> Whatever the cause, there was change of attitude.

The diamond industry as a whole was also forced to respond to the negative media coverage. When at the International Rough Diamond Conference in Tel Aviv, De Beers announced that it would sever ties with any site-holders dealing in conflict diamonds, banks that financed the industry also announced that they would stop doing business with any clients trading in conflict diamonds.<sup>106</sup> Recognizing the seriousness of the conflict diamonds issue, the World Diamond Congress acted. On July 19<sup>th</sup> 2000 it

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<sup>101</sup> Press Release by De Beers, February 29, 2000

<sup>102</sup> Global Witness Press Release on De Beers Statement on Conflict Goods 29th February, 2000 available at <http://www.africaaction.org/docs00/ang0003a.htm> visited on February 25th, 2007

<sup>103</sup> Cowell, Alan. "Controversy Over Diamonds Made Into Virtue by De Beers" *New York Times* August 22, 2000

<sup>104</sup> Morris, Janelle. "The Modern De Beers and the Significant Changes to the Diamond Pipeline Over the Past Decade, A Literature Review" *Australia Gemmologist*; Harden, Blaine. "De Beers Halts Its Hoarding Of Diamonds" *New York Times* July 13, 2000

[http://www.australiangemmologist.com.au/modern\\_debeers.pdf](http://www.australiangemmologist.com.au/modern_debeers.pdf) visited March 11th 2007

<sup>105</sup> Cowell 2000 supra, and BBC "De Beers shakes up diamond world" 12 July, 2000,

<sup>106</sup> Gary Ralfe, De Beers' managing director Press Release February 29th, 2000.

The banks which made this made this commitment were ABN AMRO and Israel Discount Bank

adopted a resolution committing to fight the entry of conflict diamonds into the global markets.<sup>107</sup> The resolution called for an international certification system for rough diamonds, a global electronic registry to monitor the export and import of the gems and legislatively sanctioned monitoring of rough diamond imports through a system that would only allow clean diamond parcels officially sealed and registered in the exporting country into the importing countries.<sup>108</sup> In September 2000 the industry created the World Diamond Council (WDC) with a mandate to eliminate the illicit trade in diamonds. The president of the U.S. national trade association for retail jewelers, the Jewelers of America, Mathew Runci was appointed CEO of the WDC. Activists welcomed the plan but Congressman Tony Hall was less enthused and warned that if the industry did not do something more concrete about the issue, there would be a consumer boycott.<sup>109</sup>

### Legislative Action

Congressman Tony Hall had taken up the conflict diamonds issue early in 1999 and with Global Witness he was one of the first people that challenged the diamond industry to stop the illicit trade.<sup>110</sup> In November 1999 Hall supported by Rep. Frank Wolf, introduced legislation requiring certificates of origin for diamonds imported into the U.S. The Consumer Access to a Responsible Accounting of Trade Act H.R. 3188 (CARAT) was to be the first of several attempts by Rep. Hall to get the U.S. to regulate

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<sup>107</sup> CNN *Diamond leaders in pact to ban 'conflict gems' funding African wars* July 19, 2000. See also United Nations Department of Public Information, *Conflict Diamonds ; Sanctions and War* 21 March 2001

<sup>108</sup> CNN July 19<sup>th</sup> 2000 *supra*

<sup>109</sup> Activists that welcomed the plan included Global Witness, Amnesty International, World Vision, Physicians for Human Rights and Fatal Transactions and Partnership Africa Canada.

<sup>110</sup> Toole, Teresa. "Conflict Diamonds" The Ringworks Studio  
<http://www.ringworksstudio.com/Pages%20/Conflict-Dias-subp.html>; visited March 11th 2007

the diamond trade.<sup>111</sup> The introduction of the legislation and the gathering publicity led to the convening of a meeting on conflict diamonds by the Foreign Service Institute (Secretary of State's Department) in Washington DC in November 1999.<sup>112</sup> At the meeting were Rep. Hall, a heavy industry presence, representatives of the Department of State, U.S. Customs Service, National Intelligence Council, National Security Council and Harvard University representatives.<sup>113</sup> Attention on conflict diamonds was beginning to get a foothold in the U.S. but there was not yet organized grassroots action and no momentum to push the legislation through. In December 1999, Hall and Wolf visited Sierra Leone as well as Sierra Leonean refugee camps in Guinea. Upon their return the legislators released a report detailing stories of the people who had been victimized by RUF rebel forces.<sup>114</sup> At a press conference Hall and Wolf showed graphic photographs of mutilated children to illustrate the destructiveness of Sierra Leone's civil war.

On May 23<sup>rd</sup> 2000 the U.S. House of Representatives' Subcommittee on Africa convened the first Congressional hearing on conflict diamonds. Several other hearings would be held before legislation was enacted. Representative Hall and Global Witness gave testimony but at this point no U.S. NGOs appeared. The U.S. industry response came in the form of a statement of support for United Nations resolutions and expressed

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111 Cook, Nicolas. "Diamonds and Conflict: Policy Proposals and Background" a background document for congress from the *Congressional Research Services* RL30751 January 16, 2001

112 Weldon, Robert, G.G., and Peggy Jo Donahue. "Industry Discusses Angola in Washington" *Professional Jeweler Magazine* November 23, 1999

113 Jewelry representatives included; Jewelers of America, Gemological Institute of America, the Diamond Dealers Club, the Diamond Manufacturers and Importers of America, Lazare Kaplan International and the Rapaport Diamond Report),

114 See Congressman Wolf's web page article "Congressmen Wolf, Hall seek to keep 'conflict' diamonds out of U.S." at [http://www.house.gov/wolf/news/2000/07-12-Conflict\\_Diamonds.html](http://www.house.gov/wolf/news/2000/07-12-Conflict_Diamonds.html) visited February 26th 2007

industry opposition to conflict diamonds.<sup>115</sup> It was however events in Sierra Leone that brought drama to the conflict diamonds issue at this time. RUF leader Foday Sankoh who had been brought into the government the previous year as part of a U.S. sponsored “peace agreement” disappeared and the RUF captured 500 United Nations peacekeepers.<sup>116</sup>

Meanwhile, the U.S. House Appropriations subcommittee voted to require the U.S. Customs Service to enforce the U.N. Security Council's 18-month ban on conflict diamonds.<sup>117</sup> Section 517 of Appropriations bill H.R 4871 was attached to appropriations legislation without dissent and was read and placed on the calendar on July 21<sup>st</sup> 2000. However, the U.S Administration objected and the attachment was severed from the appropriations legislation.<sup>118</sup>

By December 2000 with the Kimberley Process in progress, the formation of the World Diamond Council, the commitments expressed by the industry, the work by human rights activists as well as negotiations with the Clinton Administration in process, Rep. Hall attached another conflict diamonds piece of legislation, H.R. 5147 as a rider to an appropriations bill for the Commerce, Justice and State departments. Support in the Senate came from Senator Judd Gregg who compared buying conflict diamonds to purchasing goods made by Nazi Germany. Indications of support from all stakeholders

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<sup>115</sup> Eli Haas, president of the Diamond Dealers Club of New York City, testimony before the U.S. House of Representatives' subcommittee on Africa hearing May 23<sup>rd</sup>, 2000

<sup>116</sup> *New York Times*, *CBC* and *CNN* May 1-5, 2000

<sup>117</sup> GovTrack.us <http://www.govtrack.us/congress/subjects.xpd?type=crs&term=Diamonds&session=106> visited March 12<sup>th</sup>, 2007

<sup>118</sup> H.R. 4871 - Treasury and General Government Appropriations Bill, FY 2001 (Sponsors: Young (R), Florida; Kolbe (R), Arizona) available at Office of Management and Budget web site <http://www.whitehouse.gov/OMB/legislative/sap/106-2/HR4871-h.html> visited March 12, 2007

were made and there was optimism about the bill. On December 8, 2000 however, the World Diamond Council at a breakfast meeting with NGOs in Washington announced that it was withdrawing support for Hall's bill. Runci explained the withdrawal of support on the basis that the bill was badly drafted.<sup>119</sup> Rep. Hall's rider was removed from the appropriations bill and simply died. This did not help the relationship between the industry and campaigners and antagonism escalated going into 2001 culminating in the formalization of the Campaign to Eliminate Conflict Diamonds.<sup>120</sup>

#### International Efforts - Kimberly Starts

One of the first actions of the United Nations on conflict diamonds was the imposition of sanctions against diamond trade with UNITA through Security Council resolution 1173 of June 12<sup>th</sup> 1998. However, findings by the UN's own experts in 2000 were that the embargo was being violated.<sup>121</sup> Therefore on April 18, 2000 the United Nations Security Council issued an ultimatum on member countries that were violating the trade embargo to clean up their act within 6 months or face penalties.<sup>122</sup> Although the resolution did not provide any specific penalties, it was significant as it marked the first time the Security Council had broached the possibility of sanctions against member violators of U.N. sanctions. It also added to the mounting pressure against illicit diamond

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<sup>119</sup> Silverstein, 2001 *supra*

<sup>120</sup> Donahue, Peggy Jo. "Human Rights Groups and JA Clash Over Support of Conflict Diamond Legislation" *PJM* April 11, 2001

<sup>121</sup> Final Report of the UN Panel of Experts on Violations of Security Council Sanctions Against UNITA, The "Fowler Report" S/2000/203, 10 March 2000

<sup>122</sup> U.N. Resolution 1173 and S/RES/1295

trade. The government of Angola for its part suspended all contracts on the purchase and sale of diamonds in an effort to stop diamond trafficking.<sup>123</sup>

With so much pressure gathering, countries like Botswana and South Africa that exported legitimate or clean diamonds became concerned about the negative impact conflict diamonds could have on their trade. In May 2000 they initiated the first international meeting on conflict diamonds at Kimberley, South Africa. This was the start of the Kimberley Process. 35 governments were involved as was the diamond industry and many non-governmental organizations. The Kimberley Process set out to devise a global certification system to document and monitor the origins of diamonds. As Kimberley's first meeting was about to convene, Global Witness released another report in which the NGO offered ways in which the trade in diamonds could be regulated such that conflict diamonds would be excluded from the market.<sup>124</sup> In September 2000, the Kimberly Process called for a world treaty on conflict diamonds.<sup>125</sup> Both the process and the reports that were being produced by UN experts and other NGOs added to the momentum and provided resources that enabled U.S. activists to launch a formal campaign in 2001.

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<sup>123</sup> Dixon, Mark E. "Angola Suspends Diamond Contracts" *Professional Jeweler Magazine*, April 18, 2000

<sup>124</sup> Global Witness. *Conflict Diamonds; Possibilities for the Identification, Certification and Control of Diamonds*. London May 10<sup>th</sup>, 2000

<sup>125</sup> Diamonds.net, "London Conference Tackles Global Diamond Certification Press Release from Conference" October 26, 2000 available at <http://www.globalpolicy.org/security/issues/diamond/2000/1026conf.htm> visited March 26th, 2007

## Campaign Initiatives

In the initial phase from 1999 to 2000, activist initiatives against conflict diamonds in the U.S. were not formally organized. In anticipation of the July 2000 World Diamond Congress (WDC) meeting, 56 American human rights, humanitarian, development, peace, academic, and religious groups sent the diamond industry an open letter calling for a stop to trade in conflict diamonds.<sup>126</sup> At the Congress, Global Witness and Canadian Ambassador to the UN, Robert Fowler hinted at a boycott campaign if delegates to the meeting did not agree to regulation.<sup>127</sup> Congressman Tony Hall reminded the diamond trade about the fate suffered by the fur trade and the possibility of a boycott. Charged Hall while addressing the Congress, "Your industry has failed. Ten billion dollars worth of diamonds were smuggled out of Africa in the last 10 years. ... If consumers find out about this there will be a boycott."<sup>128</sup>

Congressman Hall followed up on the Antwerp dialogue with the introduction of a revised version of the CARAT Act H.R. 5147 and on September 13, 2000 the U.S. House of Representatives, Ways and Means Subcommittee on Trade held hearings on conflict diamonds. This time U.S. based NGOs gave testimony and were critical of the diamond industry for not taking enough action to stop conflict diamond trading.<sup>129</sup> NGOs put pressure on the recently formed World Diamond Council, requiring implementation

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<sup>126</sup> Open Letter to the World Diamond Congress from U.S. Civil Society July 17, 2000, available at [http://www.phrusa.org/campaigns/sierra\\_leone/sierra\\_openlet.html](http://www.phrusa.org/campaigns/sierra_leone/sierra_openlet.html) (visited December 10th, 2006) and also at Africa Action <http://www.africaaction.org/docs00/dia0007a.htm> visited March 26th 2007

<sup>127</sup> Braid, Mary and Stephen Castle. "How A Little Band of London Activists Forced the Diamond Trade To Confront The Blood On Its Hands" *The Independent*, July 25, 2000

<sup>128</sup> CNN *Diamond industry reacts to charges that it's letting trade in 'blood diamonds' pay for African wars* Hall speaks at the World Diamond Congress in Antwerp, Belgium. July 17, 2000

<sup>129</sup> Committee on Ways and Means Webpage <http://waysandmeans.house.gov/hearings.asp?formmode=view&id=4093> visited March 1<sup>st</sup>, 2007

of industry undertakings, failing which they threatened to start picketing, demonstrating and mounting negative publicity campaigns if tangible action was not taken by Valentine's Day 2001.<sup>130</sup> Adding to the industry's concerns was the intent of T.V. programs "20/20" and "60 Minutes" to air stories on conflict diamonds.

Activist action did not wait for February 2001 however and in October 2000 Rep. Tony Hall and Amnesty International USA staged an anti-conflict-diamond rally and press conference in front of Cartier Jewelers, New York.<sup>131</sup> Demonstrators and maimed survivors of the RUF reign of terror in Sierra Leone marched down Fifth Avenue in New York City carrying posters and chanting anti-conflict diamond slogans. At the press conference, Rep. Hall and Adotei Akwei of Amnesty International, told reporters they were advising consumers not to buy diamonds unless jewelers could guarantee they were conflict free. At the beginning of December, 2000 Congressman Hall led another demonstration this time in front of Tiffany & Co.'s store in Chevy Chase, Maryland.<sup>132</sup> In response to the industry's argument that his legislation would hurt the legitimate trade in diamonds, Hall made clear that he was not calling for a consumer boycott but rather for selective purchasing.<sup>133</sup>

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<sup>130</sup> Weldon, Robert G.G. "Deadline on Conflict Diamonds" *Professional Jeweler Magazine* September 15, 2000 and Dunn, Kate. "Tainted Gems Lose Sparkle as Prices Fall" *Christian Science Monitor* October 27, 2000

<sup>131</sup> *Associated Press*. "Sierra Leone amputees join protest against 'blood diamonds' October 7, 2000 and Donahue, Peggy Jo. "NYC Rally Calls Attention to Conflict Diamonds" *Professional Jeweler Magazine*, October 9, 2000

<sup>132</sup> Bates, Rob. "Hall, NGOs Stage Second Protest.(non-governmental organizations) *Jewelers Circular Keystone* February, 2001

<sup>133</sup> Bates *supra* 2001



## U.S. Administration

Administration concerns appeared to have been based on geo-politics from early on. While links between diamonds and security were dramatized by September 11<sup>th</sup>, as far back as January 12, 2001 outgoing U.S. National Security Adviser Sandy Berger raised the security problems posed by diamonds. Berger indicated that Africa's conflict diamond trade was a U.S. national security problem because the trade made the continent unstable.<sup>134</sup> Berger was speaking at a White House Conference that was focusing on ways to identify the origins of rough diamonds.<sup>135</sup>

## **Phase 2; Confrontation**

### Campaign Initiatives

The actions taken by the diamond industry and its withdrawal of support from the Hall legislation infuriated the activists working on conflict diamonds and on February 14, 2001 they proceeded to announce the formation of the Campaign to Eliminate Conflict Diamonds.<sup>136</sup> Human rights groups led by Amnesty International, Physicians for Human Rights, World Vision and others, held a press conference symbolically on Valentine's Day and released an open letter to the industry.<sup>137</sup> Seventy-three NGOs and faith organizations signed the letter and urged their constituents to support passage of the Clean Diamond Act (HR 918) to be introduced in Congress on March 7, 2001 by

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<sup>134</sup> Duncan, Julia M. "Conflict Diamond Trade Considered National Security Problem" *PJM* January 12, 2001

<sup>135</sup> White House Office of Science and Technology Policy held a conference on 'Technologies for [Diamond] Identification and Certification' on January 10<sup>th</sup> 2001, *Other Facts* "News and views on the international effort to end conflict diamonds" Number 1 April 2001 at <http://www.pacweb.org/e/images/stories/documents/OF1.pdf> visited March 26th 2007

<sup>136</sup> *Rappaport* "US NGO's Initiate Valentine's Day Campaign" February 16, 2001

<sup>137</sup> Physicians for Human Rights news release [www.phrusa.org](http://www.phrusa.org)

Representative Tony Hall.<sup>138</sup> In an indication of the confrontation brewing between the industry and the activists, activists like Amnesty International warned their members not to support alternative legislation that the industry intended to introduce.<sup>139</sup>

From the perspective of the activists the formal launch of the campaign was “...prompted by the diamond industry's inability to live up to the promise made last summer to establish a system of controls on the diamond trade by December 2000.”<sup>140</sup> What they were seeing was that after a year of adverse publicity as well as United Nations reports and U.S Congressional hearings that were critical of the industry's complicity in the conflict diamonds trade, all the industry was trying to do was damage control.<sup>141</sup> To counteract industry efforts at preserving the image of the diamond, the group released an online video imitating the De Beers' "Shadows" advertising campaign but instead of slipping a diamond ring onto another hand, shadowy figures cut off the hand of the person in a representation of the RUF practice in Sierra Leone. Numerous activities were lined up that were aimed at raising consumer awareness and mobilizing constituencies to support the activist lobby efforts. On 3 April, 2001 for example students and activists protested the sale of conflict diamonds at Boston's Copley Square where diamond jeweler, Tiffany & Co has a store.<sup>142</sup> The rally was sponsored by Amnesty International, Oxfam America, Physicians for Human Rights, World Vision, World

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<sup>138</sup> Library of Congress, Thomas at web page <http://thomas.loc.gov/cgi-bin/bdquery/z?d107:HR00918:@@L&summ2=m&#cosponsors> (visited December 13, 2006)

<sup>139</sup> Donahue, Peggy Jo. “Human Rights Groups Announce Consumer Campaign Against Conflict Diamonds” *Professional Jeweller Magazine*, February 15, 2001

<sup>140</sup> The Fund for Peace Human Rights and Business Roundtable newsletter Volume 2 Issue 2

<sup>141</sup> Silverstein 2001 *supra*

<sup>142</sup> World Vision, “Students, activists protest sale of conflict diamonds at Boston's Copley Square; Groups ask retailers to certify that jewelry doesn't fuel African civil wars” April 3<sup>rd</sup>, 2001

Relief, and the Commission on Social Action of Reform Judaism. Thus crystallized a short but intense period of open confrontation between the diamond industry and social justice campaigners.

The campaign coalition also tried to go after the industry's support base, soliciting support for the Hall legislation from individual diamond retailers. They mailed information packets to 4,000 U.S. jewelers and invited them to join "Jewelers for Clean Diamond Imports." Jewelers who did would be listed on the campaign's web page and also get a window sticker so that consumers would be able to tell which jewelers supported the ending of conflict diamonds.<sup>143</sup> World Vision a steering committee member of the campaign commenced airing TV commercials featuring Martin Sheen, an actor/activist advocating support for Hall's Clean Diamonds Act.

### Media Coverage

Widespread media coverage of the diamonds issue continued to cause concern for the industry. CBS aired a documentary "Cry Freetown" on the brutal atrocities committed in Sierra Leone.<sup>144</sup> Among the images included were people burning to death, people shredded by gunshot wounds, and the torture of a 14-year-old boy."<sup>145</sup> The realities of the Sierra Leone war were so horrifying that most U.S. TV stations would not air it.<sup>146</sup> PrimeTime Live and "60 Minutes" had their own presentations on diamonds and the wars

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<sup>143</sup> [www.endconflictdiamonds.com](http://www.endconflictdiamonds.com)

<sup>144</sup> *CBS News* "Too Painful To Look" Feb. 8, 2001

<http://www.cbsnews.com/stories/2001/01/31/world/main268487.shtml> visited March 26th 2007

<sup>145</sup> Cry Freedom excerpts are available at <http://www.cryfreetown.org/> visited March 26<sup>th</sup> 2007

<sup>146</sup> Hawke, Chris from interview with Ron McCullagh producer of Cry Freedom, *CBS News* February 8<sup>th</sup> 2001

in Angola and Sierra Leone.<sup>147</sup> On June 14<sup>th</sup> 2001 *CBS* evening news and other *CBS* features focused on conflict diamonds and the devastation of war in Sierra Leone.<sup>148</sup> The news reports were complemented by studies produced by institutions like the World Bank.<sup>149</sup> Blood diamonds were coming into the living rooms of what constituted 65% of the gem diamond consumer population. If consumers were to respond as urged by the campaigners, the financial damage would be substantial.<sup>150</sup> Diamonds were in an even more vulnerable position than fur, which had been devastated by a consumer boycott. Further, unlike fur, which had some utility in giving warmth, gem diamonds were all image with no practical value, thus the risk was much higher.<sup>151</sup>

### Industry Responses

The World Diamond Council and the Jewelers of America responded by urging their members not to participate in the Campaign to Eliminate Conflict Diamonds coalition or support the Hall bill.<sup>152</sup> Part of their opposition was based on the inclusion in Hall's bill of a jewelry and diamond labeling system for consumers. The industry wanted only rough diamonds to be controlled. The diamond industry was also unhappy that Rep.

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<sup>147</sup> "60 Minutes" aired February 18<sup>th</sup> 2001

<sup>148</sup> CBS Evening News, "Diamonds: A War's Best Friend, Freetown, Sierra Leone" June 14, 2001  
<http://www.cbsnews.com/stories/2001/06/14/eveningnews/main296716.shtml> visited March 26th 2007

<sup>149</sup> Agence France Presse "Plans Against 'Conflict Diamonds' Spurred" November 12, 2001; Louis Goreux "Conflict Diamonds" World Bank Africa Region Working Paper Series No. 13 March 2001

<sup>150</sup> Hall, Tony Rep Address to Congress on the introduction of HR 918 March 15, 2001, see Thomas at <http://thomas.loc.gov/cgi-bin/query/D?r107:19:./temp/~r107Pi4NhN>:

<sup>151</sup> Hall *supra*

<sup>152</sup> Rappaport News. *Senator Judd Gregg Introduces Conflict Diamonds Act to Senate* May 4, 2001

Hall's bill did not acknowledge the work of the World Diamond Council thus far in trying to combat conflict diamonds.<sup>153</sup>

The industry mounted a major counter offensive to the activist initiatives and the negative publicity. They lobbied Congress and administration officials at the White House, the State Department and the Treasury Department. On February 27, 2001 industry lobbyists visited congressional offices to press the industry's case. The industry's line of argument included that a) diamonds were not responsible for Africa's wars; the problem was corruption, bad governance etc; b) diamonds were generating positive development in African countries like Botswana and South Africa and a diamond boycott would hurt such economies and c) the industry was doing everything possible to counter the illicit trade.<sup>154</sup>

The industry went on to hire high profile public relations firms and lobbyists to bolster its efforts. According to Silverstein, it hired Akin, Gump, Powell Tate (headed by Jody Powell, the former spokesman for President Jimmy Carter). Individual jewelers followed suit. As reported by Silverstein;

On the payroll of Lazare Kaplan (jewelers) is Ted Sorensen, a former top adviser to President John F. Kennedy, and Kate McAuliffe, a former aide to House minority leader Richard Gephardt, both from the New York law firm of Paul, Weiss, Rifkind, Wharton & Carrison. ("As an active figure in the Democratic Party, he has participated in nine of the last 11 Democratic Party National Conventions and...is experienced in the ways of Washington," says the bio of Sorensen on his firm's website.) Tiffany has signed up the blue-chip firm of Cassidy & Associates, which has deployed Christy Evans, previously with the House Republican Conference, and Dan Tate Jr., a former lobbyist for the Clinton White House. The Jewelers of America has turned for help to Haake and

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<sup>153</sup> Donahue, Peggy Jo. "Sen. Gregg Introduces Conflict Diamonds Bill; JA's Runci Asks Jewelers to Support It" *Professional Jeweller Magazine*, April 27, 2001

<sup>154</sup> Silverstein, Ken. "Diamonds of Death" *The Nation* April 23rd 2001

Associates, where another revolving-door alumnus, Timothy Haake, is handling the account.<sup>155</sup>

Some of the diamond producing or trading countries also joined the fray. The Democratic Republic of Congo and Burkina Faso hired Herman Cohen, who previously served as Assistant Secretary of State for African Affairs in the first Bush Administration. Botswana hired Hill and Knowlton and Liberia hired Ken Yates of Jefferson Waterman International, which in the past had acted for Burma's military rulers in the oil campaign.<sup>156</sup> The campaign turned into a confrontation of mobilized consumer and electorate power versus industry lobbying power.

### Legislative Action

Meanwhile, as promised at the launch of the campaign on February 14<sup>th</sup> 2001, Rep. Hall introduced a new conflict diamonds bill and in introducing it he castigated the diamond industry, which he said had “reneged on its solemn promise that it would do its best to help end this problem.”<sup>157</sup> On April 26<sup>th</sup>, 2001 Senator Gregg introduced the competing industry bill; The Conflict Diamonds Act of 2001 (S. 787). Jewelers of America urged industry support for the Gregg bill and opposition to the Hall bill.<sup>158</sup> The

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<sup>155</sup> Jewelers of America hire of Haake & Associates was confirmed in the Senate Lobbying Disclosures, available on the United States Senate web page at [http://www.senate.gov/pagelayout/legislative/b\\_three\\_sections\\_with\\_tasers/clientlist\\_page\\_H.htm](http://www.senate.gov/pagelayout/legislative/b_three_sections_with_tasers/clientlist_page_H.htm) visited April 4<sup>th</sup> 2007; Silverstein April, 2001 supra. Matt Runci, of the World Diamond Council and the Jewelers of America took issue with Silverstein through letters published in subsequent editions of *The Nation*, (June 25<sup>th</sup> 2001) but Silverstein maintained his position save for one factual error.

<sup>156</sup> Silverstein supra; Republic of Botswana news archive “Diamonds play a positive role - Mogae” 28 March, 2001 at <http://www.gov.bw/cgi-bin/news.cgi?d=20010328> visited April 4<sup>th</sup>, 2007

<sup>157</sup> Hall, Tony, congressman, H.R. 918, The Clean Diamonds Act -- (House of Representatives - March 15, 2001)[Page: H944] *The Library of Congress, Thomas* <http://thomas.loc.gov/cgi-bin/query/D?r107:19:/temp/~r107Pi4NhN::>

<sup>158</sup> Donahue April 27<sup>th</sup> 2001 supra

industry bill provided that no diamonds were to be imported into the United States from countries that were not on an approved list that the Treasury Department was to issue later. To the activists, the standards for making the list were incredibly weak. A cooperating country for example was defined in the bill as one that is "negotiating in good faith to develop an acceptable international agreement" or acting in good faith to develop a unilateral certification system. "With these flimsy guidelines, virtually any nation can make the [Treasury Department's] good-guy list," Burkhalter coordinator of the coalition against conflict diamonds pointed out.<sup>159</sup> The industry bill also exempted jewelry from the import ban and permitted violators of the law to escape prosecution if they imported illicit diamonds "through inadvertence, or by reason of clerical error or other mistake of fact." As Deborah DeYoung, aide to Congressman Tony Hall put it "It's a trade lawyer's dream. It won't cut the flow of conflict diamonds, and there's no incentive for countries to take serious action."<sup>160</sup>

Campaigners secured sponsorship for a senate companion bill to Hall's draft bill through Senators Dick Durbin (D-IL), Russ Feingold (D-WI) and Mike DeWine (R-OH). They proposed introducing another conflict diamonds bill in the Senate in June 2001. However, while Rep. Hall's House legislation mastered 107 co-sponsors, including almost all members of the Congressional Black Caucus, it was not enough to assure passage in the face of industry opposition. The campaign coalition could not marshal the kind of lobbying power that the industry could buy and conceded that it was "going to face a huge uphill battle. (and that) There's no way to pass tough legislation without

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<sup>159</sup> Silverstein April 2001 *supra*

<sup>160</sup> Silverstein, Ken. "Diamonds of Death" *The Nation magazine*, April 23, 2001

industry support..."<sup>161</sup> For its part, the industry also realized that it could not succeed and that even if it did, the negative activist campaign would still continue to do damage to the industry.

### **Phase 3; Rapprochement and Collaboration**

#### U.S. Legislative Campaign

The mutually hurting stalemate prompted a compromise that was negotiated by Senators Dick Durbin, Russ Feingold and Mike DeWine. On June 21<sup>st</sup> 2001 they introduced new legislation in the form of the Clean Diamonds Act of 2001 (S. 1084) that both sides could sign onto. The new bill tried to address some of the issues that had divided the two sides. It would give the president waiver authority to allow diamond imports from "cooperating countries," as long as the countries were trying to establish a system of controls for the flow of conflict diamonds. Rep. Hall's provision for conflict-free labels on all diamonds and diamond jewelry in retail stores was dropped as part of the compromise.

Recognizing that neither side could emerge victorious from the confrontation, all those involved in the conflict diamonds saga, including Congressman Hall agreed to the compromise.<sup>162</sup> Sierra Leone's ambassador also gave the bill his approval. As Runci from the industry side indicated; "It became apparent to all of us that crafting a solution was more important than our individual differences. It would have been tragic to let what were only technical differences [between competing bills] stand in the way of getting a

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<sup>161</sup> Silverstein supra 2001

<sup>162</sup> Interview with activist, June 1<sup>st</sup> 2006 Washington DC



bill passed."<sup>163</sup> Planned demonstrations by the activists were cancelled. All sides expressed hope for legislation to be in place by the end of the year.<sup>164</sup> In a joint statement, the World Diamond Council and the Steering Committee of the Campaign to Eliminate Conflict Diamonds pledged to work together in support of the 2001 legislation.<sup>165</sup> To complement the Senate bill, on August 2, 2001 U.S. Reps. Amy Houghton (R-NY), Charles Rangel (D-NY), Tony Hall (D-OH) and Frank Wolf (R-VA) together with 35 other members of the U.S. House of Representatives introduced and cosponsored a House companion bill. House bill, H.R. 2722, was immediately endorsed by Jewelers of America and the Campaign to Eliminate Conflict Diamonds and they each urged their members and supporters to lobby for passage of both bills. Thus started a remarkable collaborative initiative bringing together members of the human rights, humanitarian and faith community, concerned members of Congress, and representatives of the diamond industry.<sup>166</sup>

### International Efforts

With the differences buried, attention turned to progress in the international Kimberly Process efforts. Here progress was slow. As Hall put it, the international

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<sup>163</sup> Donahue 2001 *supra*

<sup>164</sup> Franklin, Anna and Rachel Stohl. "Attempts Made to Control Conflict Diamonds" *Center for Defense Information*, August 23, 2001

<sup>165</sup> Available on the Campaign to Eliminate Conflict Diamonds web page at [http://www.phrusa.org/campaigns/sierra\\_leone/jewel\\_release062101\\_joint.html](http://www.phrusa.org/campaigns/sierra_leone/jewel_release062101_joint.html) as well as on the World Diamond Council webpage at <http://www.worlddiamondcouncil.com/jsb.html> (visited December 11th and 12th 2006)

<sup>166</sup> Donahue, 2001 *supra*; Religious Action Center of Reform Judaism, *Reform Jewish Movement Welcomes New Senate "Conflict Diamonds" Legislation* [http://rac.org/Articles/index.cfm?id=681&pge\\_prg\\_id=4270](http://rac.org/Articles/index.cfm?id=681&pge_prg_id=4270) (visited December 13<sup>th</sup>, 2006)

process had turned into meetings about meetings.<sup>167</sup> In a written statement he urged the Kimberley Process conference to have in place the international certification program quickly. As he said; "We have united in supporting this bill (HR 2722) in the hope that leaders of the global initiative ... will see in our unity a call to move beyond debating this problem, and actually devise a system capable of ending the trade in conflict diamonds."<sup>168</sup>

### Media

The rapprochement between industry and activists ended the intense public rivalry and yielded less negative press for the industry, but the issue still attracted some coverage. In early July 2001 NBC's "Dateline" aired a report on investigations the network had carried out on conflict diamond sales.<sup>169</sup> Using hidden cameras, the network's reporters went to Tiffany & Co., Harry Winston, Cartier and Cora Diamonds in New York City and recorded the jewelers' responses to questions about conflict diamonds. Dateline also contacted a number of other diamond jewelry retailers. Their findings were that most New York City diamond dealers visited were still willing to buy Sierra Leone diamonds without a government certificate of origin.

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<sup>167</sup> Hall 2000 *supra*

<sup>168</sup> Hall, Tony (Congressman) quoted in Peggy Jo Donahue, "Industry, Human Rights Groups, Congress Unite on Conflict Bill" *Professional Jeweler Magazine* June 22, 2001

<sup>169</sup> Dateline. "Diamonds of Conflict," *NBC News*, July 1, 2001

#### **Phase 4; The Campaign and the War on Terror**

On September 11<sup>th</sup> 2001 Al Qaeda carried out attacks on the U.S. This event precipitated significant shifts in public discourse, policy making and public attitudes both in the U.S. and on the international stage. On September 12<sup>th</sup> 2001, the U.S. declared a war on terror and on October 8<sup>th</sup>, that war was concretized with the U.S attack on Afghanistan.<sup>170</sup> Soon after, the media made the connection between conflict diamonds and the war on terror.

#### The Media, Terrorism and Conflict Diamonds

Although there was some coverage of conflict diamonds for example in a T.V. drama “Soldier of Fortune” aired by NBC in October 2001, media attention had shifted to security and terrorism in the aftermath of September 11<sup>th</sup>.<sup>171</sup> That changed at the end of the year. On November 2, 2001 Douglas Farrah of the *Washington Post* reported that there were links between Sierra Leonean diamonds and Al Qaeda.<sup>172</sup> Quoting U.S., European and other unnamed sources, the newspaper alleged that Osama bin Laden and his network had laundered millions of dollars from RUF diamonds and stockpiled more as a means of hedging against financial actions anticipated against the organization in consequence of its attack on the U.S. Some of the details were that Al Qaeda operatives, some of whom were on the FBI wanted list, had interacted with Ibrahim Bah, the RUF's

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<sup>170</sup> See for example *BBC News*  
[http://news.bbc.co.uk/onthisday/hi/dates/stories/september/12/newsid\\_2515000/2515239.stm](http://news.bbc.co.uk/onthisday/hi/dates/stories/september/12/newsid_2515000/2515239.stm) visited March 26th 2007.

<sup>171</sup> Law & Order, “Soldier of Fortune,” *NBC.com Episode Guide*, October 24, 2001;

<sup>172</sup> Farah, Douglas. “Al Qaeda Cash Tied to Diamond Trade; Sale of Gems From Sierra Leone Rebels Raised Millions, Sources Say” *Washington Post Foreign Service* November 2, 2001; Page A01

principal diamond dealer in Liberia. The Interpol expert on the U.N. panel investigating illegal diamond trading in Sierra Leone indicated that this was a definite possibility and that investigations on the links would follow.<sup>173</sup> Other media channels picked up on the story. The *San Francisco Chronicle* for example almost immediately raised the specter of a consumer boycott now that there was a terrorist connection to conflict diamonds.<sup>174</sup>

The story elicited quick responses from all those involved in the campaign. The De Beers Group condemned the activities and Hall emphasized the importance of the pending legislation against conflict diamonds as a guard against terror financing.<sup>175</sup> The link caused such a stir that the Jewelers Association of America prepared talking points for its members in preparation of questions anticipated from members of the public.<sup>176</sup> More reports of Al Qaeda activities in the gem industry surfaced in May and June 2002. The *Washington Post* reported that dozens of investigators interviewed in Asia, Africa, Europe and the U.S. had confirmed that Al Qaeda had moved into gem and gold funding long before and in preparation for September 11<sup>th</sup> 2001.<sup>177</sup> The implications of this were that the U.S. Treasury Department's international financial war to halt terrorist funding which had focused on blocking bank accounts and freezing money allegedly used by terrorists, had missed a significant source of terrorist funding. The revelations changed that. Deputy Treasury Secretary Kenneth W. Dam speaking at the Woodrow Wilson

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<sup>173</sup> Sandhu, Harjit Singh in the U.N. Press Briefing on November 5<sup>th</sup>, 2001 available at <http://www.un.org/News/briefings/docs/2001/LiberiaPC.doc.htm> visited March 13, 2007

<sup>174</sup> Wellman, Laurel. "Diamonds may not be a girl's best friend" *San Francisco Chronicle*, November 6, 2001

<sup>175</sup> Global Witness. *For A Few Dollars More, How Al Qaeda Moved into the Diamond Trade* April 2003

<sup>176</sup> *Professional Jeweler Magazine*, "JA Releases Talking Points on Conflict Diamond-Al Qaeda Connection" November 9, 2001

<sup>177</sup> Farah, Douglas. 'Liberian is Accused of Harboring Al-Qaeda,' *Washington Post*, 15 May 2003, pA18.

International Center for Scholars declared that "the financial front of the war on terrorism has entered a new phase..." and that the focus would now be on means of financing terrorism outside of the mainstream financial system.<sup>178</sup> A United Nations report also alleged that Al Qaeda and the Taliban could well be diversifying financial aspects of their support by converting assets into gold, diamonds and other precious stones.<sup>179</sup> In October, *The Observer* published a story complete with details of the amounts Al Qaeda had laundered through diamonds.<sup>180</sup> There were numerous other media stories on the connection in 2002 including a book by journalist Greg Campbell.<sup>181</sup>

On December 10, 2002 the *Wall Street Journal* reported that U.S. and South African intelligence officers suspected that Al Qaeda was shifting to South Africa for its funding and regrouping base.<sup>182</sup> On December 29<sup>th</sup> 2002 the *Washington Post* revealed that Al Qaeda had converted \$20 million into diamonds.<sup>183</sup> According to the *Washington Post* a European investigation, whose findings had been shown to the newspaper revealed that the terrorist group had worked through three diamond dealers that had been named in a United Nations report. Inevitably, the terrorism connection had an impact on the legislative initiatives.

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<sup>178</sup> Dam, Kenneth W. "Money That Kills: The Financial Front Of The War On Terrorism" *The Avalon Project at Yale Law School* October 22, 2001 available at

[http://www.yale.edu/lawweb/avalon/sept\\_11/treas\\_011.htm](http://www.yale.edu/lawweb/avalon/sept_11/treas_011.htm) visited March 26th 2007

<sup>179</sup> *AllAfrica* "Report Links Lebanese, Terrorism & Diamonds" November 15, 2002 available at Global Policy Forum <http://www.globalpolicy.org/security/issues/diamond/2002/1202leb.htm> visited March 27th, 2006

<sup>180</sup> Hill, Amelia. "Bin Laden's \$20m African 'blood diamond' deals; How the terror network financed its operations with stolen gems" *The Observer* October 20, 2002

<sup>181</sup> Campbell, Greg. *Blood Diamonds: Tracing the Deadly Path of the World's Most Precious Stones* Westview Press, 2002.

<sup>182</sup> December 10, 2002 Wall Street Journal

<sup>183</sup> December 29 Washington Post. Available too on [professionaljeweler.com](http://professionaljeweler.com) Daily News archives, Jan. 3, 2003 and Nov. 2, 2001

### International Efforts

On the international stage, in October 2001, the United Nations panel monitoring the sanctions on UNITA had reported that over \$1 million worth of conflict diamonds were still being smuggled out of Angola daily despite the embargoes against trading with UNITA. That represented at least 5% of the world supply of rough diamonds.<sup>184</sup> Meanwhile the Kimberley Process meeting in Botswana from November 26 to 28, 2001 reached a consensus recommendation for a worldwide system of rough diamond controls to stop the conflict diamond trade.<sup>185</sup> However, the Bush Administration was apparently not pleased with the Kimberley Process' requirement that all diamond importing and exporting nations sign on to the new certification system.<sup>186</sup> The administration wanted countries to be given the discretion to either participate in the Kimberley Process or devise their own equivalent systems of controls.

That for activists would defeat the whole purpose of an international regulatory system. Activists also felt that the Kimberly Process was moving at a snail's pace. By February 2002, World Vision was so frustrated by the lack of progress it declared that; "The diamond industry, as well as the governments of the U.S. and other nations, which are developing an international agreement, known as the Kimberley Process, receive an

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<sup>184</sup> United Nations Security Council Committee established pursuant to resolution 864 (1993) concerning the situation in Angola Supplementary report of the Monitoring Mechanism on Sanctions against UNITA, S/2001/966, 12 October 2001; also Alex Vines "Monitoring UN sanctions in Africa: the role of panels of experts" *Verification Yearbook*, 2003 pg 247

<sup>185</sup> Diamondfacts.org *Timeline of the Kimberley Process* available at

[http://www.diamondfacts.org/pdfs/conflict/Kimberley\\_Process\\_Timeline.pdf](http://www.diamondfacts.org/pdfs/conflict/Kimberley_Process_Timeline.pdf) visited April 4th 2007

<sup>186</sup> Washington Office on Africa *Support for a new Senate version of the Clean Diamond Trade Act* Action Alert July 2002 at <http://www.woafrica.org/Diamonds8.htm> visited March 27th 2007

'F' for not fulfilling a demand by the United Nations for a "clean diamond stream," in which the origins of rough diamonds are tracked and authenticated"<sup>187</sup> World Vision warned that the Kimberley process itself was failing and needed rectification. In its words, "The system as it currently exists will be neither effective nor transparent. It is a watchdog without teeth, and, as currently drafted, it could actually make it easier to trade in conflict diamonds."<sup>188</sup>

The WTO issue which was one of the administration's points of concern was the focus of discussion among the key stakeholders' meeting in Ottawa from March 18<sup>th</sup> to 20<sup>th</sup> 2002. From that meeting, the delegates announced an agreement that the Kimberly process be launched in November 2002. For many that represented considerable progress. In recognition for their role in getting the world to this point, Reps. Hall and Wolf nominated Partnership Africa Canada and Global Witness for the 2003 Nobel Prize.

By October 2002 the diamond industry was proclaiming that the conflict diamond crisis was over. At its Antwerp Conference held October 7 to 8, 2002 the Diamond High Council, De Beers and even former U.S. Vice President Al Gore all put conflict diamonds in the past. According to Gore, "This is the end of a two-and-a-half-year period

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<sup>187</sup> World Vision, *Administration earns 'F' on Conflict Diamond Valentine's Day 'Report Card': Bush gets failing marks for 'reckless lack of leadership'* MEDIA ADVISORY - February 13, 2002 [http://www.worldvision.org/worldvision/pr.nsf/stable/20020213\\_conflict\\_diamond](http://www.worldvision.org/worldvision/pr.nsf/stable/20020213_conflict_diamond) (visited December 11th, 2006)

<sup>188</sup> World Vision, *Press Center A Report Card on Progress Toward Eliminating Conflict Diamonds* available at [http://www.worldvision.org/worldvision/pr.nsf/stable/Congo\\_diamonds\\_reportcard?Open&lid=reportcard&lpos=main](http://www.worldvision.org/worldvision/pr.nsf/stable/Congo_diamonds_reportcard?Open&lid=reportcard&lpos=main) (visited on December 11<sup>th</sup>, 2006) Valentine's Day, 2002

of negative publicity around conflict diamonds."<sup>189</sup> On November 5<sup>th</sup> 2002 at Interlaken, Switzerland, 50 nations adopted the Kimberley Process Certification Scheme (KPCS).<sup>190</sup> The United States Department of State issued a press statement in support of the declaration.<sup>191</sup> On January 28<sup>th</sup> 2003 the United Nations Security Council passed a resolution supporting the Interlaken Declaration. In February, the World Diamond council published "The Essential Guide to Implementing the Kimberley Process." Most significantly on February 26<sup>th</sup> 2003, The WTO Council for Trade in Goods, agreed to recommend that the WTO General Council grant requesting members a waiver for trade measures taken under the Kimberley Process for Rough Diamonds. This was an exception made in order to sidestep one of the WTO's basic principles and enable the ban on conflict diamond trade.<sup>192</sup> Said the WTO, "Trade in conflict diamonds is a matter of serious international concern, which can be directly linked to the fueling of armed conflict, the activities of rebel movements aimed at undermining or overthrowing legitimate governments, and the illicit traffic in, and proliferation of, armaments, especially small arms and light weapons."<sup>193</sup>

This was the culmination of the protracted negotiations among governments, the diamond industry and human rights groups to stop the trade in conflict diamonds. Almost

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<sup>189</sup> Bates, Rob. "Al Gore, Botswana President hail industry." *Jewelers Circular Keystone*, January, 2003; also Donahue, Peggy Jo. "Antwerp Conference Says Conflict Crisis is Over" *Professional Jeweler Magazine* October 9, 2002

<sup>190</sup> Interlaken Declaration of 5 November 2002 on the Kimberley Process Certification Scheme for rough diamonds, available at [http://72.14.209.104/u/uwpeg?q=cache:AEeHGXA\\_RhqcJ:www.kimberleyprocess.com:8080/site/www\\_docs/plenary\\_meetings9/interlaken\\_declaration.pdf%3FPHPSESSID%3D55b573d056f47474cccdeb5c12ac872e+Kimberley+process+interlaken+declaration&hl=en&ct=clnk&cd=1&ie=UTF-8](http://72.14.209.104/u/uwpeg?q=cache:AEeHGXA_RhqcJ:www.kimberleyprocess.com:8080/site/www_docs/plenary_meetings9/interlaken_declaration.pdf%3FPHPSESSID%3D55b573d056f47474cccdeb5c12ac872e+Kimberley+process+interlaken+declaration&hl=en&ct=clnk&cd=1&ie=UTF-8) visited April 5<sup>th</sup>, 2007

<sup>191</sup> Philip T. Reeker. Deputy Spokesman Department of State "Kimberly Process" Washington, DC December 31, 2002

<sup>192</sup> *WTO News*, 'Agreement reached on WTO waiver for "conflict diamonds"' 26 February 2003

<sup>193</sup> *WTO News* supra



every significant international stakeholder signed onto the Interlaken Declaration, but most significant for the U.S. campaign was the State Department endorsement. The program was scheduled to start on January 1, 2003 and that meant the U.S. now had to put in place the legislative mechanism for implementation of the international scheme.

### U.S. Legislative Campaign

On October 11<sup>th</sup>, 2001 the U.S. House of Representatives Ways and Means Committee's Subcommittee on Trade held a hearing and received testimony from both activists and industry that were urging passage of H.R. 2722 and its Senate companion bill S. 1084. The focus of the hearing was on progress in achieving an international agreement. After links between conflict diamonds and terror were made, campaigners appropriated terrorism language as an added imperative for the legislation. Sponsors of the legislation, Hall, Wolf, Durbin, DeWine, and Feingold all urged action given the emerging role of diamonds in terrorism.<sup>194</sup>

Congressional sponsors of conflict diamonds legislation entered into negotiations with the administration for a compromise bill the administration could accept. On November 29, 2001 by a vote of 408-6, the House passed a significantly altered Conflict Diamond Act H.R. 2722. Intense negotiations with the Bush administration over compatibility with U.S. national interests however produced a vastly altered bill. Instead of automatic sanctions, the bill now gave the president the discretion to prohibit diamond

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<sup>194</sup> See Subcommittee on Trade of the Committee on Ways and Means "Conflict Diamonds" hearing October 10, 2001; also Runci, Matthew A, "U.S. Legislative Report" World Diamond Council 2nd annual meeting, Milan March 12-13 2002

imports depending on considerations of U.S. foreign policy and essential security interests. As Runci put it, wartime concerns caused the change and “The administration didn't want its hands tied with sanctions on sensitive countries that could be assisting with the U.S. war effort.”<sup>195</sup>

The administration also insisted on not offending WTO free trade rules to which the U.S. is the strongest subscriber. Another administration objection was over the administrative burden if polished and finished diamonds were included and it linked this to increased chances of WTO challenges. This was a huge disappointment for the legislators and human rights groups who had worked hard to include those provisions. For the industry, this was quite acceptable and they were the only advocates for a Senate companion bill at that point. The Senate however objected to the administration induced changes in the draft legislation as senators felt the changes overly weakened the legislation. Senators refused to pass the weakened legislation.

On February 13, 2002 the Congressional Subcommittee on Oversight of Government Management held new hearings specifically on the link between terrorism and conflict diamonds.<sup>196</sup> With the Al Qaeda connection now a part of the dialogue, there was pressure from many stakeholders for some regulation but disagreement between the Senate and the House persisted. In March 2002 Senators Durbin, DeWine and Feingold introduced yet another new conflict diamonds bill, (S. 2027). The bill was broader than

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<sup>195</sup> Donahue, Peggy Jo. “House Passes Conflict Diamond Bill; Kimberley Process Reaches Agreement” *Professional Jeweler Magazine*, November 29, 2001

<sup>196</sup> Subcommittee on Oversight of Government Management focusing on “Illicit Diamonds, Conflict and Terrorism: The Role of U.S. Agencies in Fighting the Conflict Diamond Trade.” S. Hrg. 107–384 available at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107\\_senate\\_hearings&docid=f:78621.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_senate_hearings&docid=f:78621.pdf) visited April 5<sup>th</sup> 2007

the Bush-approved House of Representatives measure that had passed at the end of 2001 and was an attempt to restore features of the legislation removed by the administration. It did not make it into law the same as several other pieces of legislation attempted during the currency of the 107<sup>th</sup> Congress.<sup>197</sup> In fact only one conflict diamond related provision made it into law during the 107<sup>th</sup> Congress due to administration objections.<sup>198</sup>

Eventually even with the administration, the terror link had an impact. The additional reports confirming links between conflict diamonds and terror together with the finalization of Kimberley negotiations finally moved the administration. On September 18, 2002 Runci declared, "The Bush administration has now enthusiastically embraced adherence to the system.... Terrorism has added an urgency and a cachet to the Kimberley Process."<sup>199</sup> The *Professional Jewelers Magazine* attributed the change from the previous year when the administration was fighting diamond controls, to its frustration in efforts to track terrorists' funds. Continued media coverage of the link between diamonds and terror was attributed by campaigners as a major factor in influencing the Bush administration's change of attitude.<sup>200</sup>

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<sup>197</sup> The conflict diamond-related bills introduced in the 107th Congress included H.R. 918 (Hall); H.R. 2500 (Wolf); H.R. 2722 (Houghton); H.R. 5410 (Kolbe); H.Con.Res. 410 (Hall); S. 787 (Gregg); S. 1084 (Durbin); S. 1215 (Hollings); and S.2027 (Durbin). one in which diamond-related provisions were included in the final

<sup>198</sup> H.R. 2506 (Rep Jim Kolbe) [P.L. 107-115] was the only law that included diamond-related provisions that got enacted. The provision prohibited certain OPIC and Ex-Im Bank diamond-related projects in countries not implementing a system of rough diamond export and import controls, as defined in the Act. Available at GovTrack website <http://www.govtrack.us/congress/bill.xpd?bill=h107-2506> visited march 27<sup>th</sup>, 2007

<sup>199</sup> Runci, Matthew quoted by Peggy Jo Donahue "U.S. Can Enforce Kimberley Rules Without Legislation" *Professional Jeweler Magazine*, September 18, 2002

<sup>200</sup> Some of the media coverage included *BBC*, "Blood diamonds' polished off" 5 November, 2002; *Reuters* "Diamond Scheme Crystallizes but NGO Concerns Remain" November 5, 2002; *Harvard Crimson* "Deadly Diamonds" November 13, 2002;

After the State Department endorsement of the Interlaken Declaration, the way was opened for progress on legislative measures. On April 1<sup>st</sup> 2003, Senator Grassley introduced S. 760, entitled the Clean Diamond Trade Act. In the House, Representative Houghton introduced two conflict diamonds bills, H.R. 1415, on March 25, 2003, and H.R. 1584, on April 3, 2003. On April 8, 2003, the House passed an amended version of H.R. 1584. In contrast to earlier bills introduced in Congress, H.R. 1415, H.R. 1584, and S. 760 left out regulation of polished diamonds or jewelry. These bills only sought to provide authority to implement the Kimberley Process Certification Scheme and the scheme only pertains to rough diamonds. On April 10, 2003 the U.S. House of Representatives passed the Clean Diamond Trade Act, H.R. 1584. On April 25<sup>th</sup>, the Clean Diamond Trade Act became Public Law 108–19.<sup>201</sup>

In less than three months, legislation was initiated and passed by both houses. On April 27, 2003 President Bush signed the Clean Diamond Trade Act in time for the U.S. delegation to take the news to a KPCS meeting in Johannesburg, South Africa in May.<sup>202</sup> Rough diamonds would henceforth not be permitted entry into the United States except when accompanied by a Kimberley Process certificate from the originating country. That was impressive progress.

An interesting twist to the legislative campaign is that a July 2003 Jewelry Consumer Opinion Council (JCOC) survey showed that one in four consumers were now

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<sup>201</sup> Available at <http://www.state.gov/documents/organization/77550.pdf> visited March 13th 2007

<sup>202</sup> Public Law 108–19, 108th Congress available at [http://www.fas.org/asmp/resources/govern/108th/pl\\_108\\_19.pdf](http://www.fas.org/asmp/resources/govern/108th/pl_108_19.pdf) visited March 7th, 2007

aware of conflict diamonds. According to the survey, in July 2003, 26% of consumers said they are aware of the term conflict diamonds. That was up from 16% in December 2002, 9% in May 2001 and 7% in October 2000. According to Martin J. Hurwitz , CEO of MVI Marketing, Ltd., creators of JCOC "In just over two-and-a-half years, consumer awareness of conflict diamonds – or 'blood diamonds' – has grown 271%. That means one out of four consumers may base their next diamond purchase decision on diamond origins or ask probing questions about diamond origin certification."<sup>203</sup> On July 29, 2003 President Bush issued the executive order implementing the Clean Diamond Trade Act.<sup>204</sup>

What enabled or constrained the actions of the campaigners and what factors helped determine the outcomes of those activities? I examine these aspects of the campaign in terms of the opportunities and impediments campaigners encountered in their quest.

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<sup>203</sup> *Professional Jeweler Magazine*,  
<http://www.professionaljeweler.com/archives/news/arcnews/1112arcnews01.html> last visited March 7th, 2007

<sup>204</sup> Executive Order 13312 of July 29, 2003 Implementing the Clean Diamond Trade Act, Federal Register / Vol. 68, No. 147 / Thursday, July 31, 2003 / Presidential Documents

## Chapter 5

### CAMPAIGN TO ELIMINATE CONFLICT DIAMONDS

#### Within Case Analysis Introduction

The second and third arguments of this dissertation come out of the discourses utilized in the campaigns and the structures within which the campaign took place. I use the tripartite opportunity framework outlined in Chapter 1 to analyze these enabling and debilitating external factors that activists encountered. As a caveat, I acknowledge that there always exists in social interaction an infinity of causal links between any two phenomena and therefore no absolute standard can exist for excluding alternative postulations, which alternatives can also be spurious.<sup>1</sup> There are however empirical, methodological and analytical criteria for backing up arguments.<sup>2</sup> The tripartite framework used in this chapter as well as in Chapter 7 has the advantage of encompassing structural components while simultaneously allowing for analysis of agency through consideration of the discursive aspects of the campaigns.

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<sup>1</sup> Njolstad, Olav. "Learning from History? Case Studies and the Limits to Theory-Building." In Njolstad and Nils Petter Gleditsch, eds. *Arms Races: Technological and Political Dynamics* (London: Sage), 1990 pp. 220-246

<sup>2</sup> Lakatos, Imre. "Falsification and the Growth of Scientific Research Programs." In Lakatos and Musgrave, eds., *Criticism and the Growth of Knowledge*. Cambridge University Press, 1976 pp. 91-180; Ikenberry, John. *American Foreign Policy: Theoretical Essays*. Scott-Foresman 1989 pg 10; Kuhn, Thomas. *The Structure of Scientific Revolutions*. London: University of Chicago Press, 1970

At any one time in the public sphere there exist numerous social justice issues that need actioning, but only a minority of the efforts at public claim making get to be successfully mobilized. The conflict diamonds issue made it. Many factors intersect to determine which issues actors take up and how successful their actions will become. Given the abundance of social justice issues at the time of the campaign, grievance and internal organizing alone cannot be adequate explanations for why this campaign gained the momentum that it did. Like other instances of claim making, the conflict diamonds campaign was subject to external factors. The activists themselves were keenly aware of the structural elements that substantially determined what they could and did do. As an activist pointed out;

...what goes on in Washington sometimes might not be your choice of priorities but something that is happening. The timing of what you do is governed by Congressional agendas, what the administration does....etc So even though we like to think that we are pushing particular campaigns, often what goes on is reactive...<sup>3</sup>

As many scholars have pointed out, the human rights movement has been very successful at establishing a rights-oriented political and discursive agenda even though there remains a huge implementation deficit. Human rights talk is everywhere especially in the media. At the international level, institutions dedicated to human rights primarily in the form of international NGOs but also in United Nations bodies have been established.<sup>4</sup> These international institutions combined with others at the national level to provide institutional opportunities for the conflict diamonds mobilizing. The opportunity

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<sup>3</sup> Interview with activist May 15<sup>th</sup> 2006, Greensborough, North Carolina

<sup>4</sup> Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink eds. *The Power of Human Rights: International Norms and Domestic Change*. 1999 New York: Cambridge University Press.

structure framework is aimed at illustrating how other culture codes also intersected with the international social structure of human rights norms to provide a discursive opportunity structure for the activists. These discursive opportunities however were impacted and sought to capitalize on the ascendancy of U.S. security interests as well as existing economic interests.

### **Institutional Opportunity Structures**

Institutional opportunities as already discussed in Chapter 1, reside in the enabling and constraining institutions within whose boundaries activists have to operate. Conflict diamonds were an international and a national issue and the coalition activities straddled both arenas. The campaign is thus also the story of activist navigation of the numerous external factors that impinged on their claim making on both levels. For analytical purposes, the two arenas are treated separately, but in reality there was a symbiosis between the national and the international as will be further discussed in Chapter 8.

The world within which diamond extraction, trade and consumption and the world in which vulnerable populations had their limbs chopped off, was dominated by the neo-liberal global structure in which both free market economics and human rights discourses existed side by side.<sup>5</sup> The contestation that was the campaign, translated into a clash of these two phenomena, but paradoxically it was in the international trade structure, which activists saw as a large part of the problem, that some of the opportunities for intervention

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<sup>5</sup> There is extensive literature on this duality for example McCorquodale, Robert with Richard Fairbrother. "Globalization and Human Rights" *Human Rights Quarterly* 21.3 (1999) 735-766; Howard-Hassmann, Rhoda E. "The Second Great Transformation: Human Rights Leapfrogging in the Era of Globalization" *Human Rights Quarterly* - Volume 27, Number 1, February 2005, pp. 1-40 - Article



were also located. Facets of institutional opportunity structures include the global market system, international initiatives (the Kimberley Process, international NGOs and the United Nations), the U.S. legislative and administrative systems and the media.

### The Global Markets

The public discourse contestation over conflict diamonds brought into intersection international trade regimes such as the WTO and economic agents like corporations with international NGOs such as Global Witness and Partnership Africa Canada through direct negotiation as well as mediation by the media. There was therefore both public contestation and more direct negotiation going on at the same time. What brought these two sets of actors into interaction is that the violence that took place at the sites of resource extraction was perpetrated by parties outside the direct accessibility of activists. However, the enablement especially in the form of trade and financing could be targeted through social activism. Free markets made possible the free trading in diamonds and the flow of funds to rebels like the RUF and UNITA. As an activist put it, “the RUF could secure the diamonds, and there were avenues for them to sell them and therefore their funding to sustain their movement was coming through diamonds. Then the opportunity to cut off that source of funding had a really compelling logic.”<sup>6</sup> To the extent that trade enabled war funding, terminating that trade became a more effective form of power for effecting change than relying on weak governments like the ones in Sierra Leone to stop

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<sup>6</sup> Interview with activist May 15<sup>th</sup> 2006 Greensborough, North Carolina

the war.<sup>7</sup> That made free trade both a target and an opportunity. Thus at core, regulation of trade defined internationally but implemented nationally, became a major objective of the campaign.

The complicity of the trade regime came not only from NGO investigative reporting; a USAID report revealed that “Blood diamonds have found their way onto the sorting tables of mainstream firms in Antwerp, London, Tel Aviv and New York, and presumably into jewelry purchased by customers in the United States, shielded from guilt by the permissive channels of the international market.”<sup>8</sup> According to Global Witness, a well-organized network of Israelis for example had established itself and facilitated the exchange of conflict diamonds for money, weapons and military training. The exchanged diamonds were channeled to Israel where they disappeared into the legitimate market, getting cut and sold at the Ramat Gan Diamond Centre.<sup>9</sup> As Gooch of Global Witness indicated at the hearings held by the House Committee on International Relations Subcommittee on Africa on May 9, 2000, the problem of conflict diamonds was structural in that, “....the development of conflict diamonds has only been profitable because of the total absence of controls in the market and the industry....”<sup>10</sup>

The extent of the financing was substantial. In 1998 some estimates put the trade in diamonds at a market value of \$50 billion.<sup>11</sup> Thus although conflict diamonds

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<sup>7</sup> Interview with activist May 11<sup>th</sup>, 2006 Arlington, Virginia

<sup>8</sup> USAID Office of Transition Initiatives (OTI) ‘Sierra Leone: “Conflict” Diamonds,’ Progress Report on Diamond Policy and Development Program March 30, 2001 available at [http://pdf.usaid.gov/pdf\\_docs/pdabt690.pdf](http://pdf.usaid.gov/pdf_docs/pdabt690.pdf) visited March 4th 2007

<sup>9</sup> UNSC (2001d) 69

<sup>10</sup> Gooch, Charmian testimony before the Subcommittee on Africa, May 9<sup>th</sup> 2000

<sup>11</sup> Mungbalemwe Koyame. “United Nations Resolutions and the Struggle to Curb the Illicit Trade in Conflict Diamonds in Sub-Saharan Africa” *Africa Journal of Legal Studies* 2 (2005) 80-101

accounted for only about 4% of the market, the \$2 billion that the 4% revenue represented was quite significant.<sup>12</sup> Conversely, this also made tangible and substantial the potential of a boycott that represented a threat to all of the \$48 billion worth in legitimate trade for both the industry and producing countries. That was a fearful prospect and that vulnerability became the leverage that persuaded governments and industry to come to the negotiation table and to make a place for NGOs at that table. The international Kimberley certification process was a direct outcome of activist capitalization of the opportunity provided by the market.

### The Kimberley Process

As discussed in the timeline in Chapter 4, the Kimberley Process was instigated by a growing international momentum triggered by the investigative reporting of NGOs and that was buttressed and legitimated by United Nations investigations and reports, substantial media attention and the threat of economic losses.<sup>13</sup> It represented the realization by the diamond industry of the potential that negative product image, selective purchasing or boycotts could have. The international momentum that created Kimberley and the Kimberley process itself in turn gave birth to the U.S. campaign effort. As a coalition steering committee member said in response to the question how the campaign started; "... you need to remember that the Kimberly Process was already going on and the diamond industry was engaged in that. So the campaign was just in time to give a

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<sup>12</sup> One Sky, The Canadian Institute for Sustainable Living and a Clean Diamonds coalition member in Canada suggests the share of conflict diamonds could be as high as 15%. One Sky, "Diamonds are for Never"; <http://www.onesky.ca/diamonds/about.html#facts>

<sup>13</sup> USAID Office of Transition Initiatives (OTI) 'Sierra Leone: "Conflict" Diamonds' Progress Report on Diamond Policy and Development Program March 30, 2001

focus to a wide spectrum of people; housewives, students, the Jewish Faith, and everyone else. The coalition was in time to give shape to an already gathering momentum.”<sup>14</sup>

The importance of the international process as a campaign opportunity in the U.S. was underscored by the lobbying stance adopted by the industry in countering legislative initiatives in 2000. Industry representatives argued that U.S. legislation should be modeled on the evolving international framework if U.S. efforts were to be an effective form of intervention.<sup>15</sup> In the view of the CEO of the World Diamond Federation, Matt Runci, once Kimberley was in place, U.S. legislation became a much easier and more logical proposition.<sup>16</sup> International regulation was a necessity as the diamond chain drew in players from within the producer countries, the international traders and polishers in Belgium and Israel, the retailers in North America and Europe and their consumer base.<sup>17</sup>

Progress in the international negotiations further provided leverage for activist lobbying. As the world was coming up with a regulatory mechanism whose initiation the U.S. had been party to, a U.S. failure to get on board would make it a spoiler. Kimberly had its flaws, but as Izhakoff, president of the World Diamond Council argued, this was an unprecedented international development that created the space for national level activism.<sup>18</sup> That leveraging was sealed when the U.S. State Department endorsed the Interlaken Declaration at the end of 2002 as narrated in Chapter 4.

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<sup>14</sup> Interview with steering committee member, June 1st 2006, Washington DC

<sup>15</sup> Interview with Dr. Matthew Runci, President of the American Jewellers Association and CEO of the World Diamond council on June 20<sup>th</sup>, 2006, New York.

<sup>16</sup> Runci interview June 20<sup>th</sup> above

<sup>17</sup> Anderson, Rory in a statement submitted to the Subcommittee on Trade of the House Committee on Ways and Means, September 13, 2000 delineated some of the actors in the chain; available at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106\\_house\\_hearings&docid=f:68040.wais](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_house_hearings&docid=f:68040.wais)

<sup>18</sup> Campbell 2006 *supra*

### International NGOs

For the U.S. campaign, the work of international NGOs provided yet another opportunity structure. U.K. based Global Witness' work initiated the international outcry.<sup>19</sup> Going back as far as 1995, Global Witness had been battling to expose the exploitation and destruction of forests in Cambodia.<sup>20</sup> When it released its first report on conflict diamonds, Global Witness triggered not just an international moral outcry; individual national efforts were also inspired and facilitated.<sup>21</sup> The NGO challenged the international community's ignorance and complacency on conflict diamonds and by so doing dispelled the perspective that the mechanics of the illicit diamond trade in rebel held areas were beyond anyone's control. That attitude had justified the "do-nothing" policy of the diamond industry and world governments.<sup>22</sup> NGOs changed this attitude by a) pointing to and providing evidence of the key role diamonds played in the wars, b) showing up the interconnectedness of the illicit diamond mining to the global trade and thus c) the leverage that, that interconnectedness afforded the international community in changing the direction of the wars.<sup>23</sup>

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<sup>19</sup> Financial Times, 12 April, 2004 pg 16. Global Witness now has a Washington DC office as well. The mission of Global Witness is summarized on its website at [http://www.globalwitness.org/about\\_us/index.php](http://www.globalwitness.org/about_us/index.php)

<sup>20</sup> By 1998, Global Witness had published no less than eight reports on the timber exploitation in Cambodia, based largely on its own investigations. The reports are available at the Global Witness website at <http://www.globalwitness.org/reports/>

<sup>21</sup> Global Witness. *A Rough Trade, The Role of Companies and Governments in the Angolan Conflict* London, December 1998

<sup>22</sup> Global Witness. 'A Rough Trade – The Role of Companies and Governments in the Angolan Conflict,' 1998.

<sup>23</sup> Smillie, Ian, Lansana Gberie, Ralph Hazleton. *The Heart of the Matter: Sierra Leone, Diamonds and Human Security* Partnership Africa Canada, January 2000

Further, forming international coalitions, such NGOs launched global campaigns such as “Combating Conflict Diamonds” and “Fatal Attractions” that provided spaces for networking.<sup>24</sup> In the kind of networking that Keck and Sikkink conceptualized, these international campaigns provided campaign ideas, materials such as their reports, data and campaign tools as well as linkages for national campaigns to work in league with others internationally.<sup>25</sup> They kept track of UN imposed sanctions and named and vilified sanctions violators.<sup>26</sup> This ensured that while prior to 2000 there was hardly any mention of conflict diamonds in western media, by 2002 the Kimberly Process was under way and a highly visible campaign to eliminate diamonds emanating from conflict zones was taking place simultaneously in several countries.<sup>27</sup> It was in response to these revelations of atrocities by international NGOs that in November, 1999 Rep. Tony Hall initiated efforts to legislatively regulate the marketing of diamonds in the U.S.<sup>28</sup>

### The United Nations

The United Nations provided activists with yet another opportunity for advocacy. In 1992, when UNITA rejected the outcome of UN monitored elections and resorted to

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<sup>24</sup> Global Witness, Combating Conflict Diamonds [http://www.globalwitness.org/pages/en/conflict\\_diamonds.html](http://www.globalwitness.org/pages/en/conflict_diamonds.html) (visited December 5th, 2006) and the Fatal Attractions website at <http://www.fataltransactions.org/campaign/introduction/index.html> visited March 21<sup>st</sup> 2007

<sup>25</sup> Keck, Margaret and Kathryn Sikkink. *Activists Beyond Borders: Advocacy Networks in International Politics* Cornell University Press 1998

<sup>26</sup> United Nations Security Council *Final Report of the UN Panel of Experts on Violations of Security Council Sanctions Against UNITA S/2000/203* 10 March 2000; Global Witness, *A Rough Trade* 1998 supra

<sup>27</sup> Grant, Andrew J and Ian Taylor. “Global Governance and Conflict Diamonds: The Kimberley Process and the Quest for Clean Gems” *The Round Table*, Vol. 93, No. 375, 385 July 2004 at 386

<sup>28</sup> Fisher-Thompson, Jim. “U.S. Legislators Attack War in Sierra Leone with Anti-Diamond Bill” *USIS Washington File* 15 December 1999 <http://www.globalsecurity.org/military/library/news/1999/12/991215-sierra-usia1.htm> (accessed December 28th, 2006)

military operations against the Angolan government, the UN Security Council responded by adopting resolution 864 of September 15, 1993 imposing an arms embargo against UNITA.<sup>29</sup> When UNITA abrogated a peace agreement in 1998, the Security Council initiated investigations into UNITA's sanctions-busting operations; in the process helping bring international attention to focus on the link between diamonds and conflict in Africa. Undeterred UNITA went on to dishonor the Lusaka Protocol of 1994 and this led to the Security Council adopting more resolutions prohibiting the direct or indirect import from Angola to U.N. member countries of all diamonds not controlled through the Certificate of Origin issued by the Government of Angola, as well as imposing financial sanctions on UNITA.<sup>30</sup> When member countries violated the sanctions, the UN threatened to sanction the offending members.<sup>31</sup>

On Sierra Leone, the United Nations also imposed sanctions.<sup>32</sup> A Security Council Committee on Sierra Leone held a public hearing attended by representatives of interested Member States, regional organizations, non-governmental organizations, the diamond industry and other relevant experts that exposed the link between illicit diamond trade and trade in arms. These and other UN experts found that Liberia was heavily implicated in the illicit diamond trade and the war in Sierra Leone. The UN therefore passed resolutions against Liberia.<sup>33</sup>

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<sup>29</sup> UN Conflict Diamonds Page: Sanctions and War available at <http://www.un.org/peace/africa/Diamond.html> visited March 15th 2007

<sup>30</sup> UN Conflict Diamonds page supra

<sup>31</sup> UN document S/2000/203

<sup>32</sup> Security Council Resolution 1306 of 5 July 2000

<sup>33</sup> Security Council resolution 1343 of 7 March 2001 gave an ultimatum to the Government of Liberia mandating all States to take the necessary measures to prevent the direct or indirect import of all rough

According to Fleshman however, in spite of these measures, diamonds continued to flow from conflict zones;

“Overall, between \$350 mn and \$420 mn worth of Angolan diamonds were smuggled into neighboring countries in 2000. That figure represents about half of Angola's yearly output and 5 per cent of annual rough diamond sales worldwide..... the absence of international controls on diamond exports has allowed sanctions-busters to evade national regulations by smuggling them to neighboring countries for sale on world markets.”<sup>34</sup>

Neither the resolutions nor the sanctions were therefore effective, but they served some purpose.<sup>35</sup> UN focus on the conflict diamonds issue brought more attention. The panel investigations revealed the interconnectedness of the resource extraction and the violence at the sites of extraction. Further, the investigations also exposed the multitude of parties involved in the trade, confirming the NGO accusations of the complicity of the international community in the trade. The UN gave legitimacy to the international Kimberley process negotiations.<sup>36</sup> Not only was this utilized by NGOs in testimony before Congressional committees; it was referenced by legislators and government officials as well.<sup>37</sup>

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diamonds from Liberia, whether or not such diamonds originated in Liberia, if Liberia did not meet the demands specified by the Security Council within two months

<sup>34</sup> Michael Fleshman. “ 'Conflict diamonds' evade UN sanctions, Improvements in Sierra Leone, but continuing violations in Angola and Liberia” *Africa Recovery*, Vol.15 #4, December 2001, page 15 as well as interview with Fleshman on June 2<sup>nd</sup>, 2006 New York

<sup>35</sup> The UN Panel of Experts in 2002 acknowledged that UN imposed sanctions on arms trade and Sierra Leone diamonds had unquestionably failed due to lack of effective monitoring and implementation

<sup>36</sup> On January 29, 2003, the United Nations by Resolution 1459 adopted the Kimberley Process endorsing the certification method expected to stop the trade and sale of conflict diamonds.

<sup>37</sup> See remarks by Congressman Sander M. Levin, Alan Eastham, special negotiator for conflict diamonds, U.S. Department of State; Cecilia Gardner general counsel, World Diamond Council; Rory Anderson World Vision at the October 10, 2001 House of Representatives, Committee on Ways and Means, Subcommittee on Trade hearing; Serial 107 - 46



## U.S. Legislative Structure

UN and European efforts to curb the trade in conflict diamonds were laudable and useful; however for any meaningful progress to be made, it was imperative that there be regulation in the U.S. where the bulk of the world's diamonds end up.<sup>38</sup> The United States legislative and executive institutions, as the most effective mechanisms for regulation represented too, the most effective opportunity for the campaign. Despite globalization, the state's authority remained a critical attribute of effective and meaningful global norm enforcement as discussed in Chapter 1. At the same time, these same institutions and in particular the administration presented themselves as challenges the activists had to deal with in their quest.

Between 1999 and the eventual enactment of the Clean Diamond Trade Act in 2003, no less than 6 conflict diamonds bills had been introduced in Congress. The legislation itself was an objective, but the U.S. legislative process, which channels most of its work through committees and subcommittees, provided a platform for public contestation and it brought visibility to the conflict diamonds issue. Congressional hearings on conflict diamonds included;

- a) "Africa's Diamonds: Precious, Perilous Too?" a hearing held before the House Committee on International Relations, Subcommittee on Africa on May 9, 2000.
- b) "Trade in African Diamonds," a hearing held before the House Ways and Means Committee, Trade Subcommittee on September 13, 2000.
- c) "Conflict Diamonds," a hearing held before the House Committee on Ways and Means, Subcommittee on Trade on October 10, 2001.

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<sup>38</sup> Global Witness at the US Congressional hearing 19th may 2000

d) “Illicit Diamonds, Conflict and Terrorism: The Role of U.S. Agencies in Fighting the Conflict Diamond Trade,” a hearing held before the Senate Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia on February 13, 2002.

e) Diamonds were addressed during hearings on other issues as well e.g. hearings on U.S. policy on Sierra Leone, Angola, the Democratic Republic of the Congo, terrorism financing and U.N. activities in Africa.<sup>39</sup>

The recognition of the value of Congressional hearings and the increasing involvement of U.S. NGOs in this forum is reflected in the level of participation in the hearings. At the May 9<sup>th</sup> 2000, Subcommittee on Africa hearings, the only NGO to give evidence was international; Global Witness.<sup>40</sup> By September the same year when the House Ways and Means Committee Trade Subcommittee held hearings on diamonds, Amnesty International USA and World Vision were present as they and other NGOs were at all subsequent hearings.<sup>41</sup> Activists used the hearings as a platform to seriously warn the industry of the possibility of boycotts as Anderson of World Vision indicated;

Although consumers are at the very end of a somewhat convoluted pipeline, they are the final but the most effective line of defense against conflict diamonds. The power of the purse can never be underestimated, particularly with the benefits of a free market economy where consumers can easily choose alternative gems or synthetic diamonds. If lawmakers and the industry fail to implement the described necessary changes, consumers could merely boycott diamonds all together, severely damaging both the conflict and the legitimate diamond business.<sup>42</sup>

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<sup>39</sup> Cook, Nicholas. “Diamonds and Conflict: Background, Policy, and Legislation” *Congressional Research Services*, (Order Number RL30751) pgs 25 to 26

<sup>40</sup> Hearings before the Subcommittee on Africa of the Committee on International Relations, 106<sup>th</sup> Congress, 2<sup>nd</sup> Session May 9, 2000.

<sup>41</sup> Anderson, Rory of World Vision testimony before the Subcommittee on Ways and Means of the House Committee on Ways and Means, held on September 13th 2000 Serial 106-72

<sup>42</sup> Anderson supra 2000

In addition to the hearings platform, the campaign had not just champions, but campaigners within the house in the persons of Congressmen Hall and Wolf. This provided the campaign with numerous opportunities for communicating their message as well as enabling the eventual passage of the legislation. The legislation itself was a handle, something tangible that the activists used as a rallying point in their mobilization and ultimately it was the instrument for market regulation.<sup>43</sup>

### The Administration

Publicly, the U.S. administration professed support for the efforts to curb illicit diamond trading, but in the end, it was the administration which became the major obstacle to regulation. In September 2000 a representative from the State Department stated that;

The United States is proud to really have been a leader in both the theory and in the implementation of measures to block the illicit trade in diamonds and their use to support insurgencies against legitimate governments in Africa. We have mentioned here the resolutions in the Security Council. The United States supported those strongly. We have mentioned the Antwerp meeting. The United States supported that strongly. We have mentioned the Kimberley process. The United States supports that strongly.....<sup>44</sup>

The administration's actions however were at variance with these pronouncements as Pep. Hall complained during the September 2000 Congressional subcommittee hearings.<sup>45</sup> After the industry and activists reached agreement in 2001, it was the

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<sup>43</sup> Interview with activist May 15<sup>th</sup> 2006 Greensborough, North Carolina

<sup>44</sup> Wood, William, Principal Deputy Assistant Secretary, International Organization Affairs, U.S. Department of State, testimony before the Subcommittee on Trade of the House Committee on Ways and Means, September 13<sup>th</sup>, 2000

<sup>45</sup> Congressman Tony Hall testimony before the Subcommittee on Ways and Means of the House Committee on Ways and Means, held on September 13th 2000 Serial 106-72

administration which became the only hurdle both industry and campaigners had to overcome. As global Witness said “Despite being an early advocate of the whole Kimberley Process, the US has taken an increasingly weak and disruptive position. Given the United States Governments’ recent history of reneging on international treaties and agreements, the outlook is worrying.”<sup>46</sup> The administration watered down legislation and put up the WTO as a stumbling block for market regulation.<sup>47</sup> In the end, it was only after persistent linkages of conflict diamonds and Al Qaeda and after the WTO waived its rules that the administration allowed the control of conflict diamonds to become somewhat of a reality.<sup>48</sup> Thus it remained a consistent impediment to campaign efforts.

### The Media

Getting media attention is one of the biggest challenges in social justice campaigns. In the public competition for attention, the media has been recognized as not the only, but definitely a key element.<sup>49</sup> There is a dynamic interaction between the claim makers on one hand and the media, which according to Koopmans and Statham plays the role of gatekeeper to the public sphere, on the other.<sup>50</sup> The media selects, shapes, amplifies or kills the messages from claim makers. For the conflict diamonds campaign,

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<sup>46</sup> Global Witness Press Releases *Hypocrisy On Countering Terrorism - Why Some Governments Are Failing To Take Action On Conflict Diamonds* 26 October, 2001

<sup>47</sup> Donahue, Peggy Jo. “House Passes Conflict Diamond Bill; Kimberley Process Reaches Agreement” Professional Jeweler Magazine, November 29, 2001; The Washington Office on Africa (WOA): An Action Alert “Support for a new Senate version of the Clean Diamond Trade Act” at WOA webpage <http://www.woafrica.org/Diamonds8.htm> visited March 15th 2007

<sup>48</sup> Runci, Matthew quoted by Peggy Jo Donahue “U.S. Can Enforce Kimberley Rules Without Legislation” Professional Jeweler Magazine, September 18, 2002

<sup>49</sup> Ryan, Charlotte. *Prime time Activism, media strategies for grassroots organizing* Boston; South End Press, 1991

<sup>50</sup> Koopmans, Ruud, and Paul Statham. “Political Claims Analysis: Integrating Protest Event and Public Discourse Approaches.” *Mobilization* 4:203-22. 1999

the media was one of the biggest opportunities. It picked up on the story even before there was activism in the U.S. and stayed on it until legislation was signed.<sup>51</sup> A steering committee member confirmed the key role of the media thus; “The industry also feared a backlash because the media caught onto this and seized it. We did not have to seek media attention; they came seeking us. Part of it may be that diamonds are an icon and draw attention. Diamonds are built on a myth which the industry created and that always gets a media buzz.”<sup>52</sup> Most of the major media outlets such as Christian Science Monitor, Washington Post, New York Times, Time Magazine, The Observer, The Economist, CNN, The Guardian, Reuters, Associated Press, Financial Gazette, Agence France-Presse, BBC, PanAfrican News Agency, Xinhua News Agency, Los Angeles Times, USA Today and Esquire Magazine carried the conflict diamond story at some point during the currency of the campaign.<sup>53</sup>

Having a highly mediatized campaign has the advantage of accessing a bigger audience and getting government to listen, but it also had its price. As an interviewee put it “a lot of these campaigns are based on media, consumer pressure, etc and if the media and consumers are convinced that this issue has been solved, they can put the history of conflict diamonds on the shelf as a victory when in fact it isn’t. Then it’s very difficult to actually go back and resurrect it.”<sup>54</sup> Indeed once the conflict diamonds legislation had

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<sup>51</sup> Interview with activist from Global Witness, June 13<sup>th</sup>, 2006

<sup>52</sup> Interview with steering committee member June 1<sup>st</sup>, 2006 Washington DC

<sup>53</sup> A sampling of the major news items on conflict diamonds is illustrated in the compilation by Global Policy Forum on its website at <http://www.globalpolicy.org/security/issues/diamond/archindx.htm> visited on February 25th 2007.

<sup>54</sup> Interview May 30<sup>th</sup> 2006 Washington DC

been passed and the media moved on to other stories, the campaign more or less dissipated.

### **Discursive Opportunity Structure**

It is common cause that there is always in process any number of public social actions being staged across the country at any one time; while very few of them are successful at gaining the attention necessary for success.<sup>55</sup> The availability of institutional opportunities is part of the explanation. The second area of explanation lies in the second leg of the tripartite framework, the discursive opportunity structures; “the aspects of the public discourse that determine a message's chances of diffusion in the public sphere.”<sup>56</sup> Some of the elements of discursive opportunity structure include publicity, resonance and legitimacy. Of these, legitimacy, which has to do with accepted values may be the most difficult since the search for agreement on universally accepted norms is an ongoing struggle. The campaign took place in a secular world in the sense that religion (and especially that any one religion holds supremacy) is no longer a universal precept for determining what is right or wrong. Religion and local norms are powerful codes for local mobilization, but on international issues a more universalistic connection has to be found for resonance. Human rights language appears to have been the most widely appropriated language for this even though human rights, created primarily to challenge tyranny by strong states and to defend the civil and political rights of individuals and

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<sup>55</sup> Hilgartner, Stephen, and Charles L. Bosk. "The Rise and Fall of Social Problems." *American Journal of Sociology* 94:53-78. 1988

<sup>56</sup> Koopmans, Ruud, and Paul Statham. "Ethnic and Civic Conceptions of Nationhood and the Differential Success of the Extreme Right in Germany and Italy." Pp. 225-51 in *How Social Movements Matter*, edited by Marco Giugni, Doug McAdam, and Charles Tilly, Minneapolis: University of Minnesota Press, 1999

even dissidents within them, were strictly speaking inappropriate as the brutalities were perpetrated by actors other than governments. Religion, for its part is also revealed as extending its reach through the appropriation of human rights language as discussed below and in Chapter 8.

### Publicity and Resonance

Several factors go into whether a story gets attention. Galtung and Ruge list “(geographical) proximity, the prominence and prestige of the speaker, and the level of violence and/or conflict, possibilities for dramatization and personalization, and the novelty of a story,” as influential factors.<sup>57</sup> Using those criteria on the conflict diamonds story we find that distance was a huge debilitating factor, but the nature of the product compensated substantially for distance.<sup>58</sup> Paradoxically, De Beers’ invention of the diamond as the world’s most alluring gem, its high value and its symbolism also served to make for easier media and public fascination with diamonds’ more shadowy role.<sup>59</sup> “That diamonds, universal symbol of love, can actually be implicated in hate and destruction and frenzied violence is a highly compelling story” that by itself triggered a substantial media “buzz.”<sup>60</sup>

As indicated in the timeline, the RUF displayed such a staggering capacity for brutality that networks in the US had problems airing the documentary on the war, “Cry

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<sup>57</sup> Galtung, Johan, and Marie Homboe Ruge. "The Structure of Foreign News: The Presentation of the Congo, Cuba and Cyprus Crises in Four Norwegian Newspapers." *Journal of Peace Research* 2:64, 1965

<sup>58</sup> Interview with activist June 13<sup>th</sup>, 2006 Washington DC.

<sup>59</sup> Vicky Paterson. *Diamonds* Firefly Books, 2005 gives a comprehensive discussion of the aura of diamonds.

<sup>60</sup> Gberie, Lansana. “Blood Diamond’: Hollywood and Sierra Leone” *Znet* February 15, 2007

Freetown.” The factual Physicians for Human Rights report on sexual violence revealed unimaginable crimes like rape of 11 year olds.<sup>61</sup> While UNITA did not include mutilations as part of its arsenal, its killing sprees and executions of civilians, as well as the misery caused by the displacement of over 2.5 million people were egregious enough to attract attention.<sup>62</sup> NGO reports were replete with self-recounted accounts of the horrors. Human Rights Watch’s 1999 report *Getting Away With Murder, Mutilation, Rape; New Testimony from Sierra Leone*, for example included stories of numerous victims self-describing the horrors they had gone through.<sup>63</sup> In addition to merely reporting the stories, the activists personalized them by giving the victims direct access to the U.S. public and legislature through appearances on TV programs and in front of congressional committees. At anti-conflict diamonds rallies in U.S. cities powerful stories were narrated by victims in person like nine-year-old Fatu Koroma who lost her right hand and both her parents to Sierra Leone's brutal civil war and the whereabouts of whose two brothers and sisters were unknown.<sup>64</sup> With such stories and reports, the diamonds issue very quickly became mediatized, putting into the glare of international limelight a trade traditionally shrouded in mystery.

When popular culture joined in, for example through the movie “Die Another Day,” a James Bond movie part of whose plot was a connection between a North Korean terrorist and an adventurous diamond broker and the use of diamonds as currency for

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<sup>61</sup> Physicians for Human Rights (with the support of UNAMSIL) “War-Related Sexual Violence in Sierra Leone; A Population-Based Assessment” Boston and Washington DC, January 23<sup>rd</sup> 2002

<sup>62</sup> Human Rights Watch, “Human Developments” *World Report 2000; Angola*

<sup>63</sup> Human Rights Watch, 1999 *supra*

<sup>64</sup> Amputation Online Magazine, Volume 6 Issue No.1 January 15, 2001 <http://www.amputee-online.com/amputation/jan01/index.html> visited March 11th, 2006



purchasing arms, diamonds became even more topical.<sup>65</sup> Campaigners utilized the power of popular media to bring the realities of the horror on the ground in Angola and Sierra Leone to the American public. NGOs screened documentaries such as Sierra Leone filmmaker Sorious Samura's "Blood on a Stone" and "Cry Freetown."<sup>66</sup> World Vision and Amnesty International streamed online videos that explained the conflict diamonds issue and showed graphic images of the atrocities. Social movement organizers anticipate media selection mechanisms and modern protests are to an "important extent scripted and staged to maximize the chances of drawing media attention."<sup>67</sup> Activists in the conflict diamonds campaign too carefully scripted their acts to court publicity.<sup>68</sup> Mass rapes and amputations go against every grain of decency in people and these images were bound to and did provoke reactions from other actors. This amplified and reproduced the message.

The anxiety and counter publicity from the diamond industry only served to heighten the attention levels. Massive public relations campaigns do not necessarily work in the favor of the industry as they may instead prompt people to ask "Why are they

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<sup>65</sup> Examples of popular culture portrayals of diamonds include;

- The 2001 episode of Law & Order, titled "Soldier of Fortune".
- The 2002 James Bond film "Die Another Day" revolved around smuggling of conflict diamonds.
- The 2003 episode "Forever" of CSI: Crime Scene Investigation centered around the death of a kicked by a horse that was used as a carrier of packets conflict diamonds cushioned by lentils.
- The 2004 song Talib Kweli "Going Hard" is about conflict diamonds in Sierra Leone.
- Blood diamonds were the main theme of the 2004 Australian/Nigerian film "Death is a Diamond."
- Kanye West's 2005 song "Diamonds from Sierra Leone" was on diamonds.

<sup>66</sup> Sylvia Pfeifer, Sylvia. "Upside of diamond 'conflict'" *London Sunday Telegraph* February 22, 2007

<sup>67</sup> Ryan, Charlotte. *Prime Time Activism*. Boston: South End Press, 1991.

<sup>68</sup> "Marriage made in hell" was a skit done by activists including Amnesty International in Washington DC in a parody of the image of diamonds as a seal on marriages made in heaven.

doing this? What do they fear?”<sup>69</sup> As Smillie said, the conflict diamonds story was a cause ready made for advocacy given its ability to attract media attention.<sup>70</sup>

Prominence of the speakers was heightened by the active engagement of congressmen. Furthermore, the NGOs that came to lead the activist campaign; Amnesty International, World Vision and Physicians for Human Rights were already well known, respected and trusted by both policy makers and the public. Together, they presented ordinary people with not just an issue, but one on which they could do something; lobby for legislation, engage in selective purchasing and if all failed boycott the product. Embedded in just about all of the messages was the condemnatory edict of the “abuse of the human rights” of victims and this abuse served as the justificatory imperative for intervention by U.S. citizens.

### Legitimacy

Resonance is closely connected with legitimacy, for to wake up the moral self, a sense of right is essential. It is moral indignation at the conduct complained of that gives people the incentive to act. For this, activists appealed to particular symbolic, cultural and ideational resources Americans could identify with when framing their issue. These frames included American notions of exemplarism, liberalism, religious values and human rights in general.

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<sup>69</sup> Snead, Elizabeth. “Crystallizing opinion” *Los Angeles Times* except on Spinwatch, Monitoring PR and Spin, 10 October 2006

<sup>70</sup> Smillie *supra* October 2001, 4.

MaCartney argues that “the United States has always maintained both a sweeping identification with the whole of humanity and an insular preoccupation with its own lofty distinctiveness, and it has used this paradoxical combination as the basis for claiming its righteous entitlement to lead the world.”<sup>71</sup> U.S. leadership in the world was a code activists appealed to over and over again in calling for U.S. leadership in stopping the violence. The American penchant for exemplarism as an archetype of virtue; the virtues entrenched in its founding documents were a powerful tool in the activists’ discursive armory. The U.S. Declaration of Independence after all declares “That all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness; that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed.”<sup>72</sup>

The campaign was helped by the assumption of such virtue by legislators and administrators alike. Cynthia McKinney testifying at the hearing before the Subcommittee on Trade of the House Committee on Ways and Means on September 13<sup>th</sup>, 2000 for example called on the American ingrained sense of fairness to address the question “why care”?

Why should we care that Africa is being ravaged by war as we speak? Because we bear a good deal of the responsibility for what is happening there. The diamonds that we wear to adorn our bodies and the oil that we pump into our SUVs has a direct bearing on the quality of life that someone in another part of the world in some far-away place. We do not need to hurt people or to allow our

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<sup>71</sup> McCartney, Paul T. “American Nationalism and U.S. Foreign Policy from September 11 to the Iraq War” *Political Science Quarterly* Volume 119 Number 3, 2004 at 400

<sup>72</sup> United States Declaration of Independence, July 4, 1776, Preamble

allies to hurt people to have diamonds or oil, but too often we do.<sup>73</sup>

Senator DeWine also argued that “We have an obligation—a moral responsibility—to help stop the violence, the brutality, the needless killing and maiming.”<sup>74</sup>

If “America was in large part created for religious reasons, and .....(there is) commitment to and extensive practice of religion as distinguishing characteristics of the American people,” then the coalition activists read the script well. There was a heavy presence of religious organizations appealing to American religious values.<sup>75</sup> Early on in 2000 when the open letter to the diamond industry was issued, religious leaders were a big part of the signatory panel.<sup>76</sup> In May 2002 over 80 faith community leaders signed a follow up statement, which urged the U.S. to take leadership on conflict diamonds. Their imperative was faith-based morality as well as human rights. The Interfaith Statement on Conflict Diamonds stated;

It has been written: "Do not profit by the blood of your neighbor...you shall not hate your kinsman in your heart. Reprove your neighbor but incur no guilt because of him. You shall not take vengeance or bear a grudge against your kinsfolk. Love your neighbor as yourself" (Leviticus 19:16-18). Across our faith traditions, we teach all to love others and speak up for those who cannot speak up for themselves. We stand ready to commit what we can to this fight against the use of conflict diamonds which inflict pain and suffering on the innocent.<sup>77</sup>

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<sup>73</sup> McKinney, Cynthia Representative testimony before the Subcommittee on Trade of the House Committee on Ways and Means, September 13<sup>th</sup>, 2000

<sup>74</sup> DeWine, Mike Senator, statement before the Subcommittee on Trade of the House committee on Ways and Means, October 10<sup>th</sup>, 2001 pg 11

<sup>75</sup> Huntington 1999/00

<sup>76</sup> Posted at Africa Action website F:\Diamonds Articles\Africa Action July 13, 2000.htm visited March 28, 2007

<sup>77</sup> Interfaith Statement on Conflict Diamonds, May 11, 2001 Available on the Catholic Relief Services web page [http://www.crs.org/get\\_involved/advocacy/policy\\_and\\_strategic\\_issues/diamonds.cfm](http://www.crs.org/get_involved/advocacy/policy_and_strategic_issues/diamonds.cfm) (visited December 19th, 2006)

Individual religious participants echoed the same message.<sup>78</sup> Some like Reform Judaism even visited responsibility for tainted products on the end user where the spaces of violence were far removed from the consumption sites. It called on the *Mishnah* that:

A man whose wine is mixed with water may not sell it in a shop unless he had told the buyer (that it is mixed); and he may not sell it to a merchant, however, even when he informs him of the fact, because a merchant buys it only with the intention of deceiving the consumers.<sup>79</sup>

This was significant given the Jewish involvement in the diamond industry at all stages of the supply chain.

According to Huntington, religion is the source of conservative concepts of human nature and human relations.<sup>80</sup> While faith communities based their call for responsibility on religious tenets, human rights as a secular ethos were the mantra of the liberals. There is of course a tension between human rights and faith, for faith perceives of wellbeing in terms of gifting from a higher being while human rights grounds wellbeing as inherent in the person irrespective of religious tenets. Interestingly though human rights language has entered the ethical vocabulary of most faith perspectives.<sup>81</sup> In

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<sup>78</sup> General Board of Church and Society, UMC, *Diamond Industry Must End Complicity in African Conflicts, Put Your Faith into Action*, July 17, 2000 and General Board of Church and Society, UMC *Campaign to Eliminate Conflict Diamonds Put Your Faith into Action*, February 7, 2001; United Methodist Committee on Relief (UMCOR) *Do You Know Where Your Diamond Has Been?* on Website <http://gbgm-umc.org/UMcor/emergency/conflictdiamonds.stm> (visited December 19th, 2006); United Methodist Church *Social Principles of the United Methodist Church 2005 – 2008* Washington DC, 2005; Religious Action Center of Reform Judaism, *Jewish Values and Conflict Diamonds* available at [http://rac.org/Articles/index.cfm?id=1702&pge\\_prg\\_id=8104&pge\\_id=2910](http://rac.org/Articles/index.cfm?id=1702&pge_prg_id=8104&pge_id=2910) (accessed on December 28<sup>th</sup>, 2006)

<sup>79</sup> Baba Metzia 4:11 as quoted on the Religious Action Center website above note 82

<sup>80</sup> Huntington, Samuel. "Robust nationalism" *The National Interest* Winter 1999/00

<sup>81</sup> See for example *A Call to Solidarity with Africa* A Statement of the U.S. Catholic Bishops November 14, 2001; <http://www.usccb.org/sdwp/africa.htm> visited April 4th, 2007; United Methodist Church, global Ministries web page lists numerous actions undertaken in the name of both religion and human rights [http://gbgm-umc.org/umw/search\\_results.cfm?criteria=Human%20rights](http://gbgm-umc.org/umw/search_results.cfm?criteria=Human%20rights) visited on April 4<sup>th</sup>, 2007 U.S. Episcopal Church, Executive Council Resolution: "Expressing concern for conflict in Sierra

this way, human rights have become as much a part of the religious ethos as faith tenets. Kane postulates that the attitude of the American public towards human rights is at best ambivalent, however adherence to the human rights ethos is rhetorically if not in fact a part of U.S. public discourse.<sup>82</sup> Almost all of the participants in the campaign referenced civil war and human rights abuses as the imperative for acting on conflict diamonds.<sup>83</sup> World Vision action alerts included sample letters to legislators that called for action on the basis of human rights abuses.<sup>84</sup> Even the church sponsored advocacy offices based arguments for action on human rights abuses.<sup>85</sup>

Human rights are universalistic by nature but as Huntington asserted in the U.S. “Patriotism is a virtue, universalism is not Americanism.”<sup>86</sup> That ought to have made for major difficulty in making the case for conflict diamonds based on rights language. However, human rights was the language adopted not just by activists, but also by the administration. The State Department boasts the protection of human rights as a foundation stone in the founding of the United States and that thus the promotion of human rights is a central goal of U.S. foreign policy.<sup>87</sup> U.S. legislators made similar assertions. At the hearing before the Subcommittee on Trade in October 2001, Rep Levin

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Leone” Executive Council Resolution 021 June 18, 2002 available at [http://episcopalchurch.org/1866\\_70061\\_ENG\\_HTML.htm](http://episcopalchurch.org/1866_70061_ENG_HTML.htm) visited April 4th, 2007

<sup>82</sup> Kane, John. “American Values or Human Rights? U.S. Foreign Policy and the Fractured Myth” *Presidential Studies Quarterly*; Dec 2003; 33, 4; Research Library Core pg. 777

<sup>83</sup> Fawcett, Amalia. “The Cost of Diamonds” *World Vision* at <http://www.worldvision.org.nz/diamond.asp>

<sup>84</sup> A sample action alert is available on the World Vision Web page at <https://secure2.convio.net/wv/site/Advocacy?page=UserAction&cmd=display&id=183&lid=diamonds&lpos=main> visited January 12, 2007

<sup>85</sup> Washington Office on Africa <http://www.woafrica.org/DiamondEdResources.htm> visited January 13th, 2007.

<sup>86</sup> Huntington 1999/00

<sup>87</sup> United States Department of State, *Human Rights at* <http://www.state.gov/g/drl/hr/> visited January 28<sup>th</sup>, 2007.

asserted the reason for acting on conflict diamonds was that war activities and human rights abuses were being perpetrated through illegal diamond trade.<sup>88</sup> NGOs thus called on that U.S. leadership on human rights as compelling it to act on conflict diamonds.<sup>89</sup>

Why was it possible for the many claimants to appeal to human rights? Wilson has argued that human rights lack an ideological basis and in that lies their capacity to be used by all manner of different interests.<sup>90</sup> Kane makes the same point.<sup>91</sup> In this may lie the explanation for their adoption as a taken for granted ethical norm, even when in this case, the abusers were not governments, but challengers to governments and the trade system that enabled funding for the wars. It was a strong moral message on patently egregious practices, but by itself it was not enough.

### **Geo-Political Opportunity Structure**

An activist I interviewed reflected that “the reason that other factors were brought in is because the moral imperative just did not seem to move either the businesses or the Congress. That is one thing we run into quite a bit that the moral argument just doesn’t go very far.”<sup>92</sup> If by themselves the moral arguments; liberal values, religion and human rights did not achieve desired change; what did? I found that business in the form of international trade and U.S. national security interests were major factors in the campaign

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<sup>88</sup> Levin, Sander M, Rep statement before the Subcommittee on Trade of the House Committee on Ways and Means, October 10<sup>th</sup> 2001 Serial No. 107–46 at p6

<sup>89</sup> see for example Adotei Akwei’s testimony before the House Subcommittee on Trade October 10<sup>th</sup>, 2001 at pg 55

<sup>90</sup> Wilson, Richard Ashby. “Afterword to "Anthropology and Human Rights in a New Key: The Social Life of Human Rights" *American Anthropologist*. Washington: Mar 2006. Vol.108, Iss. 1; p77

<sup>91</sup> Kane 2003 *supra*

<sup>92</sup> Interview May 24<sup>th</sup>, 2006 Washington DC

outcome.<sup>93</sup> In this, September 11th significantly altered the way the international community, and in particular the United States, approaches the question of human rights. It signified a transition point between the ascendancy and the sidelining of human rights, from human rights as a definer of international order to human rights as a factor for consideration in the pursuit of essentially U.S. strategic considerations.

### Africa and U.S. Geo-politics

Agnew and Corbridge posit that geopolitics involves explicit actions; “Soldiers and rebels defend territories, trade representatives negotiate access to markets and nongovernmental organizations lobby international and national bodies.”<sup>94</sup> Geopolitical considerations are of course located within their particular geo-historical contexts and two geo-political factors were relevant; the trade regime and security considerations.<sup>95</sup>

Many scholars have postulated that conservatism triumphed during the cold war with the prioritization of national interests in the face of the Soviet security threat.<sup>96</sup> Like other third world areas during the cold war, Africa attracted American and Soviet interest as part of the superpower chessboard for hegemonic supremacy. When the Soviet Union died and the cold war ended, the security imperative was removed. Liberalism came into

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<sup>93</sup> May 24<sup>th</sup> 2006 interview supra

<sup>94</sup> Agnew, John, and Stuart Corbridge. *Mastering Space: Hegemony, Territory, and International Political Economy*. London: Routledge, 1995

<sup>95</sup> Flint, Colin. “Political Geography II: Terrorism, Modernity, Governance and Governmentality” *Progress in Human Geography* 27(1 ):97-106, 2003

<sup>96</sup> Huntington, Samuel. “Robust Nationalism” *The National Interest* Winter 1999/00



its own, and a period of U.S. disengagement from African affairs followed.<sup>97</sup> The attack of September 11<sup>th</sup> 2001 led to a reassessment of Africa in American policy as the master narrative of “war on terror” became the new organizing framework for policy. The U.S. administration’s response to 9/11, which was to harness the legitimating power of nationalism, re-ushered in, an inward looking international policy.<sup>98</sup>

That proved problematic for a conflict diamonds campaign which was seeking to domestically institutionalize an international regulatory system. The until then ascending discourse of universal human rights was now subsumed under domestic U.S. security concerns. The conflict diamonds campaign, which was a form of norm mobilization making claim to both liberalist ideals and human rights, could not escape the impact of the resurgence of national security prioritization and the subordination of moral imperatives.<sup>99</sup> With the intervention of Geo-political factors what should have been a dream lobbying effort, industry in league with activists, got stalled. This reality was expressed in Global Witness’s cynical statement that the “Western world reacts quickly when it is the object of terrorism, but where Africans are concerned, it is much, much slower.”<sup>100</sup> What changed that were the connections made by the Washington Post between diamonds and terror since aAfter 9/11 terrorism became the rallying call for U.S. engagement with the world and with Africa.<sup>101</sup>

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<sup>97</sup> Rothchild, Donald. “The Impact of U.S. Disengagement on African Intrastate Conflict Resolution. In Africa” in *World Politics: The African State System in Flux*, 3rd ed., edited by Donald Rothchild and John W. Harbeson. Boulder, Colorado, Westview, 2000

<sup>98</sup> Flint 2003 *supra*

<sup>99</sup> Ikenberry *supra*

<sup>100</sup> Global Witness Press Releases *Hypocrisy On Countering Terrorism - Why Some Governments Are Failing To Take Action On Conflict Diamonds* 26 October, 2001

<sup>101</sup> Reno, William. *Warlord Politics and African States* Lynne Rienner Publishers May 1998

That this is so is illustrated by the fact that according to the New York Times, the diamond for violence phenomenon had been known to the U.S. State Department for years before 9/11. As Raymond Bonner put it way back in 1999

At the middle levels of the State Department, the African diamonds-for-weapons trade has been under study for several years. But the problem has not penetrated more senior levels because wars in Africa are not generally seen as affecting America's strategic interests.<sup>102</sup>

Until, that is conflict diamonds got linked to Al Qaeda. At the Subcommittee on Africa hearings on May 9, 2000, the director of Global Witness was the only one who raised the link between resources and criminal networks.<sup>103</sup> After the 9/11 attacks just about every speaker on conflict diamonds was using terrorism language in arguing for regulation. In the immediate aftermath of 9/11, World Diamond Council chairman Eli Izhakoff and Jewelers of America president Matthew Runci issued a joint statement emphasizing that the conflict diamond-Al Qaeda connection “underscores dramatically the need for immediate government action to halt the insidious traffic in conflict diamonds.”<sup>104</sup>

The testimony of Susan Rice, former Assistant Secretary of State for African Affairs before Subcommittee on Africa of the International Relations Committee, United States House of Representatives in November 2001 was that; "Terrorist organizations take advantage of Africa's porous borders, weak law enforcement and security services,

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<sup>102</sup> Bonner, Raymond. "U.S. May Try to Curb Diamond Trade That Fuels African Wars" *New York Times, International Section*, August 8, 1999

<sup>103</sup> Gooch, Charmian, May 2000 *supra*

<sup>104</sup> Runci, Matthew and Eli Izhakoff. "Industry Leaders Urge Immediate Government Action to Eliminate Conflict Diamonds in Wake of New Disclosure" *WDC* <http://www.worlddiamondcouncil.com/> visited February 26<sup>th</sup> 2007

and nascent judicial institutions to move men, weapons, and money around the globe."<sup>105</sup> Liberia in the Charles Taylor era came to be seen as highly amenable to Al Qaeda and like-minded terrorist activities.<sup>106</sup> After sometime, even the administration which had been reticent toward conflict diamonds regulation changed its approach.<sup>107</sup> Indeed President George Bush proclaimed; "We will not allow terrorists to threaten African people or to use Africa as a base to threaten the world."<sup>108</sup> Terrorism, which had looked set to be a major impediment to the campaign, became and was utilized as an opportunity by campaigners in the mobilization for human rights.

### Terrorism as Opportunity

Advocates almost immediately started to utilize the U.S. government and the public's absorption by the war on terror as an opportunity for advancing the cause of human rights in the conflict diamonds issue. The Al Qaeda factor was used as both a warning on the consequences of ignoring human rights issues and the reason why it was so compelling to act. Campbell reminded America of its participation in the terror of Sierra Leoneans and warned against double standards;

Developed nations bought Sierra Leone's blood-soaked diamonds without question throughout the 1990s, apparently untroubled that the sales affected millions of Africans in a mostly forgotten and impoverished jungle.

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<sup>105</sup>Rice, Susan E. Testimony before the Subcommittee on Africa of the International Relations Committee, United States House of Representatives, 15 November 2001 Retrieved 1 Feb. 2004 from [http://www.house.gov/international\\_relations](http://www.house.gov/international_relations).

<sup>106</sup> Lyman, Princeton N., and J. Stephen Morrison. "The Terrorist Threat in Africa" *Foreign Affairs* 83(1)75 2004 at 85

<sup>107</sup> Farah, Douglas. "Al Queda Cash Tied to Diamond Trade: Sale of Gems From Sierra Leone Rebels Raised Millions, Sources Say" *Washington Post* November 2nd 2001 at A01; and on administration attitudes see *Professional Jeweler Magazine*, September 18, 2002

<sup>108</sup> George W. Bush, 13 July 2003, in Nigeria, quoted in *The Sunday Independent* 2003

Only after the effects of the RUF's diamond war were slammed home—like a blade through the bones of a forearm—did anyone sit up and take notice. If nothing else, the story of Sierra Leone's diamond war has proved unequivocally that the world ignores Africa and its problems at its peril.<sup>109</sup>

Post September 11, 2001, terrorist funding became a major focus of international organizations' and national governments' attention.<sup>110</sup> Fitzgerald pointed out that one of the fundamental characteristics of cross border terrorism such as the September 11<sup>th</sup> plane hijackings is the need for considerable and continuous financing.<sup>111</sup> The September 11 commission estimates put the cost of pulling off the September 11<sup>th</sup> attacks at half a million dollars for Al-Qaida.<sup>112</sup> Interdiction of funding therefore quickly became one of the core components of the war on terror.<sup>113</sup> If diamonds were being used by terrorists to circumvent formal financial structures, then diamonds too would earn the attention of the administration, the legislature and indeed the public.

The conflict diamond-terror link was however not immediately embraced by the U.S. government and it took persistent investigative reports before the administration responded. Increasingly the argument turned geo-political as the weakness of African and other governments was seen as part of the cause of terror. A *Christian Science Monitor* article argued for example that not only did diamonds play a role, but the very weakness of governments from internal conflict itself provided a breeding ground for illegal

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<sup>109</sup> Campbell, Greg "Illicit diamonds make fabulous profits for terrorists and corporations alike. The trade illustrates with the hard clarity of the gem itself that no matter where human rights violations occur, the world ignores them at its peril." *Amnesty Magazine* available at <http://www.amnestyusa.org/amnestynow/diamonds.html> (visited December 18th, 2006)

<sup>110</sup> FitzGerald, Valpy. "Global financial information, compliance incentives and terrorist funding" *European Journal of Political Economy* Vol. 20 (2004) 387–401 at 388

<sup>111</sup> FitzGerald *supra*

<sup>112</sup> *USA Today*, *Al-Qaeda bought diamonds before 9/11* August 7<sup>th</sup>, 2004

<sup>113</sup> Farah, Douglas. "Al Queda Cash Tied to Diamond Trade: Sale of Gems From Sierra Leone Rebels Raised Millions, Sources Say" *Washington Post* November 2nd 2001 at A01; and Banat, 2002 *supra* at 945

operations such as had happened in Sierra Leone.<sup>114</sup> The Belgian daily *Le Soir* leaked a Belgian military report alleging that Belgian Diamond Merchants were buying diamonds directly from UNITA in Angola.<sup>115</sup> In response, The Diamond High Council requested the Belgian Public Prosecutor to investigate the alleged connections.<sup>116</sup> A European investigation followed and in December 2002 a report was issued confirming a link between diamonds and terror.<sup>117</sup> With that, *The Washington Post* published another article in which it said

An aggressive year-long European investigation into al Qaeda financing has found evidence that two West African governments hosted the senior terrorist operatives who oversaw a \$20 million diamond-buying spree that effectively cornered the market on the region's precious stones. Investigators from several countries concluded that President Charles Taylor of Liberia received a \$1 million payment for arranging to harbor the operatives, who were in the region for at least two months after the Sept. 11, 2001, attacks on New York and the Pentagon. The terrorists moved between a protected area in Liberia and the presidential compound in neighboring Burkina Faso, investigators say.<sup>118</sup>

Illicit diamonds and terror quickly entered the language within Congress. In testimony before the Subcommittee on Trade of the Committee on Ways and Means, House of Representatives (October, 2001) Senator DeWine opened his remarks by pointing to the link between conflict diamonds and terrorism *viz*

Candidly, diamond trading has become an attractive and sustainable income source for violent rebel groups and terrorist networks around the world. In fact, the sale of illicit diamonds has yielded disturbing reports that an associate of bin

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<sup>114</sup> Docking, Timothy W. "Terrorism's Africa Link" *Christian Science Monitor*, November 14<sup>th</sup>, 2001 at 9

<sup>115</sup> *Agance France Presse*. "Belgian Diamond Traders dealing with Angolan rebels" April 23<sup>rd</sup> 2001

<sup>116</sup> *Tacy News Service*. "Diamond High council calls for Investigation into al-Qaeda connection" December 6<sup>th</sup>, 2001

<sup>117</sup> *The Economist*. *A crook's best friend; Regulating the diamond trade*. London: Jan 4, 2003. Vol.366, Iss. 8305; pg. 52

<sup>118</sup> Farah, Douglas. "Report Says Africans Harbored Al Qaeda Terror Assets Hidden In Gem-Buying Spree" *Washington Post* December 29, 2002; Page A01

Laden is involved in the trade, and that there clearly is an established link between Sierra Leone's diamond trade and well-known Lebanese terrorists. ....The February 22, 2001 U.S. District Court trial, *United States vs. Osama bin Laden* attests to this.<sup>119</sup>

At the same hearing Rep. Tony Hall said

I do not know the extent of Al Qaeda's activities, and do not want to be an alarmist. But I do know that diamonds—the most concentrated source of wealth ever known to mankind—should be put off limits to anyone bent on destruction. Especially Osama bin Laden.<sup>120</sup>

Rep. Frank Wolf made the same argument. Indeed so important had the link become that in February 2002 a congressional hearing was held specifically on illicit diamonds and terrorism.<sup>121</sup> The view of the Congressional Research Services personnel was that the 107<sup>th</sup> Congress showed interest in ending the conflict diamond trade because of among other reasons, the potential threats that the trade posed to U.S. national security interests, especially in relation to the possible role of diamonds in terrorist financing.<sup>122</sup>

Lead NGO activists argued terrorism as demonstrated by the testimony of Anderson of World Vision at the October 2001 hearing.

In the wake of the September 11 terrorist attacks, there has been a necessary increased public attention to terrorism. However, terrorism is not a phenomenon that is only rooted in extremist Islamic fundamentalism; terrorism—which is planned, systematic violent attacks against unarmed, non-combatant civilians—has been a central platform to the wars in Sierra Leone, Angola, and the DRC. Terrorism has become a conventional weapon in 21st century warfare, making

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<sup>119</sup> DeWine, Mike Senator, testimony in the Hearing Before the Subcommittee on Trade of the Committee on Ways and Means, House of Representatives 107<sup>th</sup> Congress, First session October 10, 2001 (Serial No. 107-46)

<sup>120</sup> Rep Tony Hall, October 2001 *supra*

<sup>121</sup> "Illicit Diamonds, Conflict and Terrorism: The Role of U.S. Agencies in Fighting the Conflict Diamond Trade," hearing held before the Senate Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia on February 13, 2002.

<sup>122</sup> Cook, Nicolas. "Diamonds and Conflict: Background, Policy, and Legislation" *CRS Report For Congress*, Order Code RL30751, July 16<sup>th</sup> 2003

war more brutal and more costly. Although terrorism has become a conventional method, it is mostly sustained through underground networks of money laundering and weapons smuggling. As an internationally valued commodity, diamonds have become the dollar, particularly in Sierra Leone. ....American gifts of love should not be financing acts of terror.<sup>123</sup>

Activists started to intentionally utilize security concerns as part of their argument. A steering committee member indicated that; “One of the issues was linking the conflict diamonds issue to illicit financing for terrorism, and the research and reporting that showed that some of that was happening was quite helpful in terms of some of the Republicans who have a very security conscious focus.”<sup>124</sup> Another campaign participant confirmed the capitalization on the war on terror as a means for garnering support. As she said;

Yeah we did use it as terrorism was the code word of the day on the hill. So it was a way to open doors and get people to listen to it and to .... You know one of the biggest problems with anything related to Africa and conflict in Africa is that people do not feel its relevant number one to their lives here in America. And number two they don't think there is anything you can do about it. So I think the terrorism articles linking this to Al Qaeda helped us to market the issue basically on the hill at a time when we were losing support because we were having a really hard time and it helped revive it.<sup>125</sup>

Indeed all the activists I interviewed except one, felt that the Al Qaeda connection to diamonds was a contributing factor to the passage of the conflict diamonds legislation.<sup>126</sup> Legislators joined in as exemplified by Senator Leahy's remarks that;

Because of the links between conflict diamonds and terrorism, as well as human rights and humanitarian concerns, it is important that the United States provide technical assistance in order to have the most effective system possible. If

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<sup>123</sup> Anderson, Rory statement of testimony before the Subcommittee on Trade, October 10, 2001 supra at pg 49

<sup>124</sup> Interview with steering committee member, May 30<sup>th</sup> 2006

<sup>125</sup> Interview with activist July 25<sup>th</sup> 2006, Washington DC

<sup>126</sup> Interview with activist May 31<sup>st</sup>, 2006 Washington DC

providing a small amount of funding helps strengthen the KPCS, we should do it.<sup>127</sup>

While the diamond industry was very uncomfortable about the link between diamonds and terror and tried to keep it out of the discourse, the industry too acknowledged the effectiveness of the security issue in getting attention on the Hill and with the administration.<sup>128</sup> Industry fears arose from the fate of Tanzanian tantalite which, when it was linked to terror led to a total cessation of trade.<sup>129</sup>

### Free Trade and Diamonds

Terror was not the only front of opposition the campaign ran into due to the U.S. administration's self interest considerations. The U.S. administration felt that legislative regulation "might complicate relations with nations whose cooperation is needed in the anti-terrorism fight ... (and) that stringent controls might conflict with international trade rules."<sup>130</sup> The government argued that the bill's enforcement would be cumbersome for U.S. customs officers to implement and had to be WTO compliant.<sup>131</sup> Concerns of the administration also included the position of some of the U.S. government's allies. In testimony before legislative committees, Tony Hall and Frank Wolf alleged that the US did not want to offend allies like Israel that were heavily implicated in the illicit trade. As

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<sup>127</sup> Statement of Senator Patrick Leahy On S. 760, The Clean Diamonds Trade Act April 9, 2003 available on his website <http://leahy.senate.gov/press/200304/040903e.html> (visited December 15th 2006)

<sup>128</sup> Interview with diamond industry representative June 21<sup>st</sup>, 2006 New York.

<sup>129</sup> *Wall Street Journal*, November 16, 2001. See also Blackwood, Alisa "Tanzania announces measures to protect tanzanite from terrorism links" *Associated Press*, February 9, 2002; *BBC* "Tanzania fights US gem boycott" 7 February, 2002

<sup>130</sup> Cobb, Charles. "Africa: Administration Shifts On 'Blood' Diamonds Fight" *All Africa.com* November 30, 2001 <http://allafrica.com/stories/200112010002.html> (visited December 15th 2006)

<sup>131</sup> Washington Office on Africa. *Urgent Action Alert: Conflict diamonds* November 16, 2001



they put it, “diamonds account for more than twenty-five percent of Israel’s merchandise exports – and seventy percent of these are exported to the United States.”<sup>132</sup>

The free trade issue was a major hurdle to overcome for the US with its commitment to free trade and the emphasis on not violating the WTO rules. Although as early as May 2000, the State Department put out a press release indicating its support for market based limitation measures aimed at stemming the trade in conflict diamonds; its resistance to interference with the freedom of the market was more determinative of campaign outcomes.<sup>133</sup> Chairs of the Subcommittee on Trade at all of the hearings were emphatic on the non-violability of the free trade rules. None raised the need for non-derogation from the human rights commitments the U.S. made under the Universal Declaration of Human Rights. The debate was rather whether for human rights, the trade rules could be bent. Clearly the trade rules were the givens while the egregious violence was regrettable and reprehensible but not the binding imperative. As one activist legislator put it, the interests of trade were paramount not human rights. “They (the industry) are the ones that Congress pays most attention to. They are the ones that the administration pays attention to; be it Democrat or Republican. That is who they pay attention to.”<sup>134</sup> Getting industry on the side of campaigners thus became a key component to passage of legislation.

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<sup>132</sup> Frank Wolf and Tony Hall, testimony *Conflict diamonds: The Clean Diamonds Trade Act H.R. 2722 Before the subcommittee on oversight of Government Management, Restructuring and the D.C. Commission on Governmental Affairs* 107th Congress, 2002

<sup>133</sup> United States State Department, “U.S. Initiatives on "Conflict Diamonds"” Released by the Office of the Spokesman, [http://www.state.gov/www/regions/africa/fs\\_000523\\_diamonds.html](http://www.state.gov/www/regions/africa/fs_000523_diamonds.html) (visited December 18th, 2006)

<sup>134</sup> Interview with activist May 31<sup>st</sup> 2006 Washington DC

### **The Aftermath; Blood Diamonds and Pop-Culture**

Unlike the capital markets saga which has largely gone silent, the diamonds story has resurfaced at least in popular culture. The glitter and mystique that made the industry captains rich also attracted Hollywood. In 2006, the movie “Blood Diamonds” was released with considerable fanfare. Two documentary films also came out at the same time; “Blood on the Stone” and “Bling: A Planet Rock” that was inspired by Kanye West’s recording, “Diamonds from Sierra Leone.” Bling was produced with assistance from the United Nations Development Program. The History Channel also aired its own “Blood Diamonds” film, which not only recounts the history of the diamond wars in Angola and Sierra Leone but chronicles the events that led to the creation of the Kimberley Process.

The diamond industry is only too well aware of the potential damage a return to the glaring media focus of the early 2000s could do. Its response has been a major public relations campaign. As the industry journal *PJM* put it;

A recent focus on conflict diamonds in popular music and Hollywood is raising questions and concerns among both consumers and the trade. In response, the World Diamond Council, ..... is creating a forceful educational campaign to launch at the JCK Las Vegas trade show in June, 2006.<sup>135</sup>

The conflict diamonds campaign brought an unprecedented amount of attention to the conflict diamond trade, but Partnership Africa Canada one of the founding participants of the campaign against conflict diamonds worldwide, expressed deep concerns about the

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<sup>135</sup> Professional Jeweler Magazine, *The Diamond Industry creates educational campaign on conflict diamonds; The Kimberley Process: What the trade and consumers need to know* May 16, 2006

Kimberley Process because of the loopholes in the system as well as the poor implementation and monitoring.<sup>136</sup> It remains to be seen whether this new media attention will lead to the start of yet another conflict diamonds campaign.

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<sup>136</sup> *Partnership Africa Canada*, “Killing Kimberley; Conflict Diamonds and Paper Tigers” [http://72.32.101.83/pdfs/media/news/2006\\_10\\_31\\_PacPre.pdf](http://72.32.101.83/pdfs/media/news/2006_10_31_PacPre.pdf) visited March 26th 2007

## Chapter 6

### CAPITAL MARKET SANCTIONS CAMPAIGN

#### Introduction

The Capital Markets Sanctions Campaign took place at the confluence of some very powerful forces.<sup>1</sup> Accusations of genocide, slavery, egregious human rights violations and religious persecution lined up against the geo-politics of U.S. national security and free-market neo-liberalism. This potent mix drew in a wide spectrum of passionate advocates and made for a considerably charged public policy contestation. The “kumbaya collection,” as those opposed to capital markets sanctions called the pro-sanctions campaigners, included a surprising diversity of ideological opinion and religious affiliation, each with its own objectives.<sup>2</sup> The free-market, which is a centerpiece of neo-liberal economics, itself tends to be an emotionally charged subject for both adherents and detractors. Intruding on its freedom from political interference, can be like stepping into a minefield and the capital markets sanctions idea aimed to strike at the very center of capitalism; investment capital and the chief market agents, the corporations. Leading sanctions campaigners like Eric Reeves accused corporations of

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<sup>1</sup> The campaign is defined for purposes of this research to encompass all the initiatives that targeted the listing on U.S. financial markets of Talisman Energy and PetroChina i.e. the efforts to get Talisman to either disinvest from Sudan or face expulsion from the New York Stock Exchange, the initiatives to stop PetroChina from listing on the New York Stock Exchange, the efforts to enlist the authority of the Securities and Exchange Commission in demanding inclusion of human rights concerns as material for disclosure as well as the campaign to include a capital markets sanctions as well as disclosure provisions in the Sudan Peace Act.

<sup>2</sup> Steil, Benn. “The Capital Market Sanctions Folly” *The International Economy* Winter 2005

having “...chosen to participate in Sudan's oil development projects despite overwhelming evidence that such participation exacerbates conflict, fuels genocide, and makes peace negotiations between the warring parties more difficult.”<sup>3</sup> The free market advocates’ responded that any move towards capital market sanctions was

naive triumphalism .....(and) rank failures in terms of achieving foreign policy aims, but heroic in the fight itself. ..Never in the course of economic history has so powerful a force been harnessed by so many interests with such passion to so little effect,<sup>4</sup>

The levels of disdain and antagonism each side held for the other were fairly high.

What gave rise to this highly contested campaign? Who were the participants and what factors contributed to the campaign outcomes? Contrary to Human Rights Watch’s assessment that this was a conflict between oil and religious freedom, I found that this was a much more complex contestation involving a much wider range of issues.<sup>5</sup> To borrow Stein’s metaphor, Sudan itself may have been but “only a small footnote” on much deeper and more contentious issues of neo-liberalism, China’s entry into global markets and U.S. national security.<sup>6</sup> In this chapter I give the background to the start of the campaign, a sketch of the actors involved and their motivations as well as the historical process of the campaign itself. This is linked to a discussion of the campaign strategies that were deployed by activists and addresses my first argument; that the campaign operation was based on strategy rather than unanimity of principle. The

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<sup>3</sup> Eric Reeves. “The Sudan Peace Act and the Response to Oil Development in Sudan: A Brief Backgrounder” *Abolish*, (*The Anti Slavery Portal*) <http://www.iabolish.com/act/camp/divestment/reeves-SPA-background.htm>

<sup>4</sup> Steil, 2005 *supra*

<sup>5</sup> Human Rights Watch. *Sudan, Oil, and Human Rights* September 2003

<sup>6</sup> Steil 2005 *supra*

presentation framework in this part is chronological within each issue.<sup>7</sup> The within case analysis follows in Chapter 7.

### **The Campaign Imperatives**

A number of intersecting issues gave rise to this campaign. The prosecution of the civil war in Sudan raised issues of human rights violations, slavery, religious persecution and genocide. The government of Sudan sought to exploit Sudan's oil reserves to fund the war and to do this, it needed to partner with international oil corporations. Some of the corporate partners, including the Chinese, however sought to find the capital they needed on U.S. capital markets. Meanwhile the Sudanese government was or had played host to groups harboring militant hostilities towards the United States.<sup>8</sup> It was the combination of these interrelated factors that motivated social justice activists and religious and security concerns groups to initiate the campaign.

#### **Civil War, Human Rights and Religion**

The civil war in Sudan was one of the longest running wars in the world and the conflict was a complex and long running mix of colonial heritage, power struggles, poverty, race and religion.<sup>9</sup> Present day territorial Sudan, the largest country in Africa, dates back only to the British-Egyptian colonization in 1898. The British administered North and South Sudan as separate units, a precursor to the dividing lines of later

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<sup>7</sup> I marry two of Patton's issue categories here. Michael Quinn Patton. *Qualitative Evaluation and Research Methods* 1990 2<sup>nd</sup> Edition, Sage Publications pg 377

<sup>8</sup> Dagne, Ted. "Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy" *Congressional Research Service* Code IB98043 April 12, 2006 pg 13

<sup>9</sup> Martin, Randolph. "Sudan's Perfect War" *Council on Foreign Affairs* March/April 2002

conflict. Independence from British colonization was achieved in 1956 but conflict persisted and the country saw a succession of military and civilian governments and almost continuous civil war. The fault lines ran along the religious and racial lines of the north, Arabic-Muslim government power base versus the Southern, African and Christian resource rich, but politically powerless region. When the government imposed Sharia law in 1983, the stage was set for conflict along the religious lines that eventually drew the U.S. Christian constituency into the campaign. Paradoxically, it was the Sudan People's Liberation Movement (SPLM) which based its ideology on a secular Sudan that led the armed struggle against the Khartoum government.<sup>10</sup>

The role of oil in the Sudan conflict was a factor of geography. Oil is located in the South from whence a 1000-mile pipeline takes it to the Red Sea for export. Oil development started in the 1970s when Chevron Oil Corporation won a government concession in a 516,000 square kilometer block around the Muglad and Melut areas.<sup>11</sup> In 1979, Chevron made its first oil discovery west of Muglad and it had an estimated production rate of 1,000 barrels per day. More significant discoveries followed in the Unity/Talih oilfield soon thereafter. Between December 1992 and November 1997 corporations including Canadian company Arakis Energy Inc., the Chinese National Petroleum Corporation (CNPC), Malaysian company Petronas and Swedish corporation

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<sup>10</sup> Connell, Dan. "Sudan: Recasting U.S. Policy" *International Relations Center, Foreign Policy in Focus* Volume 5, Number 40 November 2000 (updated August 2001)

<sup>11</sup> *Sudan update* Sudan Conflict and Oil Timeline <http://www.sudanupdate.org/REPORTS/Oil/21oc.html> visited March 30th 2007; International Crisis Group, *Conflict history: Sudan* January 2006 at [http://www.crisisgroup.org/home/index.cfm?action=conflict\\_search&l=1&t=1&c\\_country=101](http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=101) visited March 30<sup>th</sup>, 2007

Lundin Oil joined in the Sudanese oil exploration.<sup>12</sup> With oil production, revenues started to accrue to the Khartoum government and it used the money to maintain its hold on power and to ensure security of the oilfields. Thus although conflict had raged in Sudan long before oil was discovered, oil came to be an inextricable part of the conflict.

To ensure access to and security for oil operations, Sudan pursued a policy and practice of depopulating the oil rich areas of the indigenous people resident therein by using scorched-earth warfare. Details of the brutalities were reported by among others the UN Special Rapporteurs for Sudan, Amnesty International, Human Rights Watch, the Canadian government appointed Harker Commission, and the U.S. appointed Group of Eminent Persons.<sup>13</sup> The reports revealed that government troops in helicopter gun ships strafed villages, cattle herds and the fleeing civilians with aerial gunfire. Some of the gun ships were directly linked to oil companies, a factor which brought charges of direct corporate complicity in the government's human rights violations.<sup>14</sup> There were reports that the government burned whole villages, sometimes with inhabitants still inside and that government backed militias were raping southern women and enslaving the children.

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<sup>12</sup> Human Rights Watch. *Sudan, Oil and Human Rights, Appendix C: Chronology: Oil, Displacement, & Politics in Sudan* September 2003

<sup>13</sup> Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan's numerous reports are available on the UN High Commissioner for Human Rights website; <http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Sudan%20En?OpenDocument&Start=1&Count=15&Expand=2> (visited October 21<sup>st</sup>, 2006) The John Harker report, "Human Security in Sudan: The Report of a Canadian Assessment Mission" Prepared for the Minister of Foreign Affairs Ottawa, January 2000 is available at <http://www.reliefweb.int/library/documents/cansudan2.pdf> Report of the International Eminent Persons Group "Slavery, Abduction and Forced Servitude in Sudan" released by the Bureau of African Affairs, U.S Department of State May 22, 2002

<sup>14</sup> Amnesty International. *Sudan; the Human Price of Oil* May 3<sup>rd</sup>, 2000



To ensure that survivors would not remain in cleared areas, the government also destroyed their food reserves.<sup>15</sup>

Aside from the high casualty rates, the war created one of the worst humanitarian crises in the world in the form of internally displaced people and refugees, rivaled only by the same government's Darfur genocide a few years later. Estimates of the internally displaced were as high as a staggering 4 to 5 million people from the outbreak of war in 1983.<sup>16</sup> As Feitlowitz reported, the impact was phenomenal;

“According to the U.S. Committee for Refugees, the death toll in Sudan is higher than the combined fatalities of Bosnia, Kosovo, Afghanistan, Chechnya, Somalia, and Algeria. Over two million Sudanese have died directly because of the war, or from war-related causes.”<sup>17</sup>

The government's aim was to secure all areas of land which had been designated as exploration concessions for future oil development.<sup>18</sup> The practices were meant to instill such fear in the victims as to banish any thought of returning to their home areas. U.S. lawmakers and NGOs declared the operations genocidal because the targets of the

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<sup>15</sup> Report by *Christian Aid* (UK), March 13, 2001: "The Scorched Earth: Oil and War in Sudan." Report by *Amnesty International*, May 3, 2000: "Sudan: The Human Price of Oil." The report of the Harker Assessment team (commissioned by the Canadian Foreign Ministry), "Human Security in Sudan: The Report of a Canadian Assessment Mission" (Ottawa, January 2000). *Human Rights Watch* Report on Sudan for 2000 (December 2000).

<sup>16</sup> United Nations High Commissioner for Refugees, "UNHCR South Sudan repatriation operation threatened by funding shortfall" Geneva, 15 Sept. 2006

<sup>17</sup> Marguerite Feitlowitz. "Is There Genocide in Sudan?" *Crimes of War Project, The Magazine*, April 2002

<sup>18</sup> Reeves, Eric. "The Sudan Peace Act and the Response to Oil Development in Sudan: A Brief Backgrounder" *Abolish*, (The Anti Slavery Portal) <http://www.iabolish.com/act/camp/divestment/reeves-SPA-background.htm>

military operations were primarily the Nuer and Dinka people that comprise the largest ethnic groups in the South.<sup>19</sup>

As with conflict diamonds, there was a self-reinforcing dynamic to the war. The oil that was extracted from the south provided the revenues that made it possible for the government to expand its military arsenal and capabilities.<sup>20</sup> That in turn emboldened the government to pursue victory on the battlefield rather than negotiate peace. The tragic irony was that Southerners were being killed by the oil from their own land.<sup>21</sup> Before oil exports started in earnest, the Sudanese government was not only heavily in debt; it was in serious risk of defaulting on its loan payments to the International Monetary Fund (the IMF).<sup>22</sup> U.S. imposed economic sanctions were also taking their toll. According to Christian Aid,

...the presence of international oil companies is fuelling the war. Companies from Asia and the West, including the UK, have helped build Sudan's oil industry, offering finance, technological expertise and supplies, to create a strong and growing oil industry in the centre of the country. In the name of oil, government forces and government-supported militias are emptying the land of civilians, killing and displacing hundreds of thousands of southern Sudanese. Oil industry infrastructure - the same roads and airstrips which serve the companies - is used by the army as part of the war. In retaliation, opposition forces have attacked government-controlled towns and villages, causing further death and displacement. Exports of Sudan's estimated reserves of two billion barrels of oil are paying for the build-up of a Sudanese homegrown arms industry as well as paying for more arms imports<sup>23</sup>

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<sup>19</sup> U.S. House of Representatives Resolution 75 on June 15, 1999, found that "the National Islamic Front government is deliberately and systematically committing genocide in Southern Sudan, the Nuba Mountains, and the Ingressa Hills"

<sup>20</sup> Martin, Randolph. "Sudan's Perfect War" *Foreign Affairs*, March/April 2002

<sup>21</sup> Lewis, Damien. "Fight for Sudan's Oil is Killing Civilians; Canadian company part of consortium developing fields being cleared by force in civil war" *Toronto Globe and Mail* 5<sup>th</sup> October 1999

<sup>22</sup> Christian Aid media report "The scorched earth: oil and war in Sudan" A report published by *Christian Aid* 2001

<sup>23</sup> Christian Aid report 2001 *supra*

In 2000 the oil trade was reportedly bringing in about \$450 million a year into what had been a desperately poor Sudan and the revenue was being used to beef up the military.<sup>24</sup> From the human rights activists' perspective, Sudan's oil exploitation in partnership with multinational corporations was underwriting the Sudanese military machine.<sup>25</sup> Activists called for the withdrawal of Talisman from Sudan and denial of access to U.S. capital markets for PetroChina, the two most prominent corporations in the venture. Talisman's home government, Canada had after all appointed the Harker fact-finding mission whose conclusion was that oil development was exacerbating Sudan's civil war and violations of human rights.<sup>26</sup>

What galvanized U.S. citizens' engagement was not just the war or the oil; it was reports of slavery and religious persecution that were accompanying the war effort. Slavery became a major issue for intervention because the victims of slavery were mainly Christian Southerners.<sup>27</sup> The Sudanese government did very little to stop it and in fact according to Human Rights Watch, the Baggara tribe militias that mounted slave raiding parties had government backing.<sup>28</sup> The Sudanese government initially denied responsibility and claimed that slavery was a tribal matter but even when the government

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<sup>24</sup> Katsh, Gabriel. "Fuelling Genocide" *Multinational Monitor*, Oct 2000 v21 i10 p13

<sup>25</sup> Activists were keenly aware of the critical role of oil in the prosecution of the war. In their strategising, it is clear they targeted oil because of this central role of oil. This appears from internal documents made available to the researcher for example the Dutch Lobby Group. "Peace First! Stop Oil from fuelling the War in Sudan" strategy document authored in February 2001 that is in the possession of the researcher.

<sup>26</sup> Harker, John. *Human Security in Sudan: The Report of a Canadian Assessment Mission* Ministry of Foreign Affairs, Ottawa, January 2000; Simon, Bernard. "A Canadian Oilman Gives In", *New York Times*, November 10, 2002; Cattaneo, C. "Talisman Shaken as Ottawa Talks Sanctions" *National Post* (Oct. 27, 1999) F7

<sup>27</sup> Christian Solidarity International spearheaded the fight against the slavery of Christians and published many reports on the practice, available on its website at <http://www.csi-int.org/> visited January 20<sup>th</sup>, 2007

<sup>28</sup> Human Rights Watch, *Slavery and Slave Redemption in the Sudan* Human Rights Watch Backgrounder, Updated March 2002 <http://www.hrw.org/backgrounder/africa/sudanupdate.htm> visited April 20<sup>th</sup>, 2007

finally acknowledged the problem, its promised prosecutions of perpetrators did not yield a single case. The slavery issue became a big rallying point in the U.S. As the *Irish Times* reported, "The highly publicized redemptions have touched millions of hearts - and wallets - across the world but particularly in the US. Celebrities and politicians have chained themselves to railings in protest. Pop stars have given free concerts. Little girls have given their lunch money."<sup>29</sup> However, slave redemptions although popular became problematic as they provided incentives for more slavery motivated by the possibility of payment from foreigners.<sup>30</sup> The redemptions ceased when a number of newspapers exposed substantial fraud involved in the practice, but all the same the redemptions had worked to bring attention onto Sudan.<sup>31</sup>

### The China Factor

Although Sudan's human rights conduct loomed large in the capital markets sanctions campaign, some campaign coalition partners were driven by the Chinese factor. Long before China's forays into international capital markets and its investment in Sudan's oil, international human rights organizations, religious freedom advocates and international labor already had concerns about China's internal policies.<sup>32</sup> In the view of some of them, the Chinese regime was "a one-party state where the Chinese Communist

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<sup>29</sup> The *Irish Times* supra

<sup>30</sup> Connell 2001 supra

<sup>31</sup> *The Irish Times* "The Great Slave Scam" February 23rd 2002; *The Independent on Sunday* "Scam in Sudan - An Elaborate Hoax Involving Fake African Slaves and Less-than-Honest Interpreters is Duping Concerned Westerners", February 24<sup>th</sup> 2002; *The Washington Post* "Ripping Off Slave 'Redeemers': Rebels Exploit Westerners' Efforts to Buy Emancipation for Sudanese", February 26<sup>th</sup> 2002; *International Herald Tribune* "Sudan Rip-Offs Over Phony Slaves", February 27<sup>th</sup> 2002.

<sup>32</sup> International Campaign for Tibet for example "ICT Praises Senate Bill Prohibiting Chinese State-owned Enterprises Access to U.S. Capital Markets" August 2nd, 2001

Party (CPC) bureaucracy constitutes a ruling class exercising a monopoly of power enforced by extensive police control and by the repression of dissident opinion and activity.”<sup>33</sup> The absence of due process in the legal sector, the use of torture and the abuse of the legal process through such practices as predetermined verdicts when China is a signatory to the International Bill of Rights covenants, ensured a significant international human rights China watch. In the time leading up to the initial public offering on the New York Stock Exchange by CNPC subsidiary PetroChina, reports such as those from Amnesty International showed that repression inside China was not abetting.<sup>34</sup> In early 2000 reports from Hong Kong based human rights groups revealed that China was cracking down on the Falun Gong, a spiritually based movement, membership to which is banned in China.<sup>35</sup> There were also reports of detentions, prison labor camp re-education and interference with the judiciary. The reports were publicized by the *Washington Post* just before the proposed PetroChina listing.<sup>36</sup> That helped inspire Chinese pro-democracy, human rights, labor and religious freedom activists to engage actively on the campaign.

The long running Tibet issue was also on the radar screen for the Tibetan diaspora.<sup>37</sup> As acknowledged by the pro-government *China Intercontinental Press* which vehemently denies not only the existence of an independent Tibet, but argues for its impossibility of attainment; as at 1997 “more and more foreign personnel were showing a

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<sup>33</sup> International Union of Foodworkers, Hong Kong *IUF Mission Report*, December 1977, 17

<sup>34</sup> Amnesty International, *AI Report 1999; China*

<sup>35</sup> Japan Econ. Newswire “2000 Falun gong Members Arrested During Spring Festival” February 10, 2000

<sup>36</sup> Sui, Cindy “China Using Asylums to Suppress; Banned Movement’s followers Reportedly Institutionalized” *Washington Post* February 12<sup>th</sup> 2000, at A17

<sup>37</sup> International Campaign for Tibet *supra*

concern about Tibet.”<sup>38</sup> Since China invaded Tibet in 1949, there had been systematic destruction and exploitation of Tibet as well as religious and political oppression, all of which attracted international opposition to China and empathy for the Dalai Lama and the Tibetan government in exile. Students for a Free Tibet became part of the coalition because of this China-Tibet political dynamic.<sup>39</sup>

A sizable constituency of people with issues over various aspects of Chinese internal and external policies thus already existed in the U.S. prior to the Sudan capital markets issue. As the Baker Institute reported;

China’s relationships with the outside world will be colored by the relationships between representatives of and/or advocates for dissidents, political exiles, religious groups, ethnic minorities, and other disaffected groups scattered throughout China but that have external supporters in the U.S. and elsewhere.<sup>40</sup>

What all these actors had lacked were any meaningfully effective mechanisms for forcing the Chinese regime to address human rights concerns. China’s entry bid into global markets helped solve China’s capital needs, but it also opened up a leverage opportunity for human rights activists and anti-China groups.

### **The Campaign Participants**

One of the most intriguing aspects of the capital markets sanctions campaign was the diversity of the groups and individuals that participated and their motivations for doing so. The list was amazing. U.S. black churches, white Evangelicals, the Boston-

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<sup>38</sup> China Intercontinental Press *The Historical Status of China’s Tibet*” Postscript, September 1997 <http://www.china.org.cn/ch-xizang/tibet/main/lishizhengzhie.html> (visited October 27th 2006)

<sup>39</sup> Fidler, Stephen and John Labate. “Left and right unite in protest over PetroChina offering: Concern over Chinese group has brought Seattle-style activism to financial markets” *Financial Times*, London March 21st, 2000 <http://www.studentsforafreetibet.org/article.php?id=443> (visited October 9<sup>th</sup>, 2006)

<sup>40</sup> Baker Institute report supra, 6

based American Anti-Slavery Group, the Congressional Black Caucus, Chuck Colson's Prison Fellowship, the Institute on Religion and Democracy, civil rights leaders such as Joe Madison and Walter Fauntroy, conservatives led by Michael Horowitz of the Hudson Institute, U.S. lawmakers such as Senator Sam Brownback of Kansas, and Frank Wolf of Virginia, Jewish organizations, U.S. labor in the form of the AFL-CIO, and all manner of NGOs were party to the initiative.<sup>41</sup> As Neil King Jr. said in the Wall Street Journal;

Rarely does an issue come along like the civil war in Sudan that raises hackles among U.S. Catholics and evangelicals as well as Wall Street, the Treasury Department, black members of Congress and labor unions. All are riled up, for different reasons, over proposals to end the fighting and to stop the Khartoum government's persecution of Christians and animists in Sudan's southern region.<sup>42</sup>

A précis of the major participants will illustrate the magnitude of diversity.

### Anti-Slavery Groups

Initially attention appears to have focused on Sudan because of the reported practice of slavery and a number of anti-slavery organizations got involved. Among them were the Coalition Against Slavery in Mauritania and Sudan which self describes as an organization that brings “together abolitionists and human rights activists from all races, creeds, and nationalities to collectively fight for the eradication of the chattel enslavement of black Africans.”<sup>43</sup> The American Anti-Slavery Group (AASG) joined in and started by trying to get the attention of U.S. African-American Congressmen and

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<sup>41</sup> Hentoff, Nat. “Genocide: Sudan Found Guilty! A Law Punishing Slavery Now” *The Village Voice* November 1st, 2002

<sup>42</sup> King Jr, Neil. “Bush Taps Former Sen. Danforth As His Special Envoy to Sudan” *Wall Street Journal*. (Eastern edition). New York, N.Y.: Sep 6, 2001. pg. A.24

<sup>43</sup> Coalition Against Slavery in Mauritania and Sudan, <http://members.aol.com/casmasalc/> (visited October 29<sup>th</sup>, 2006)

other leaders on “black African slave trade” in Sudan.<sup>44</sup> According to the AASG, initially Black political leaders were shying away from the serious issue of slavery in Sudan because Louis Farrakhan, the Nation of Islam leader, had aligned himself with the Khartoum government and denied the existence of slavery in Sudan. AASG found that save for Congressman Donald Payne (D-NJ), “White Republicans are really the only individuals who have fought and put together any legislation for the abolition of slavery.”<sup>45</sup> The anti-slavery and some Christian groups became engaged in the controversial “redemptions” of “Christian” southern Sudanese slaves from “Arab Muslim” raiders/masters.<sup>46</sup> In the capital markets sanctions campaign, they saw the possibility for a more effective means to get the Khartoum government to stop the slavery.

### Religious Freedom Groups

Religious freedom groups together with the national security concerns community came to lead the sanctions campaign. In 1999 the U.S. Commission on International Religious Freedom (USCIRF), a congressional committee that was a product of the growing power of the religious constituency, became operational and it provided religious freedom advocates with a focal point for advocacy. USCIRF immediately

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<sup>44</sup> Jacobs, Charles American Anti-Slavery Group, before the Senate Foreign Relations Committee, Washington, D.C., September 28, 2000

<sup>45</sup> Bill Sammon quoting Samuel Cotton of Coalition Against Slavery; Sammon, Bill “Christians, Jews say African slavery being ignored; U.S. black activists deny Farrakhan factor,” *Washington Times*, February 27, 1998

<sup>46</sup> Christian Solidarity International, “Slavery In Sudan: Evidence to Congressional Sub-Committee Hearings, March 1996,” testimony of Baroness Cox, Washington, D.C., March 13, 1996 available at Christian Solidarity International’s website <http://www.csi-int.org/> See also Human Rights Watch, “Background Paper on Slavery and Slavery Redemption in the Sudan,” March 1999, <http://www.hrw.org/backgroundunder/africa/sudan1.htm> and “Slavery and Slave Redemption in Sudan,” March 2002, <http://www.hrw.org/backgroundunder/africa/sudanupdate.htm>



targeted Sudan and China as countries of concern. It mandated an inquiry into Sudan and in October 1999, the Commission met with President Clinton and expressed its concern about the use of revenues from the Sudanese pipeline insulating Sudan's government from the effect of U.S. sanctions.<sup>47</sup> For three years USCIRF continued to call on the U.S. government to impose capital markets sanctions on Sudan.<sup>48</sup>

A spectrum of religious leadership also joined in pressing the administration to act on Sudan. In December, 1999 a group of mostly conservative actors that included former Contra backer Elliot Abrams, Treasury Secretary William E. Simon, Reagan National Security Advisor William P. Clark, Freedom House Chairman Bette Bao Lord, Bishop Robert Morgan, President of the Council of Bishops of the Methodist Church, Clifton Kirkpatrick, the Stated Clerk of the Presbyterian Church and John Busby, National Commander of the Salvation Army sent an open letter to President Clinton raising religious freedom concerns as well as the charges of slavery and genocide in Sudan.<sup>49</sup>

Objectives varied even amongst the religious groups. As Hertzke points out;

long before 9-11 highlighted the threat of militant Islamic ideology, Christian

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<sup>47</sup> United States Commission on International Religious Freedom, Press release "Commission to Examine Capital-Market Sanctions" December 20<sup>th</sup> 1999 available at [http://www.uscifr.gov/mediaroom/press/1999/december/12201999\\_commission.html](http://www.uscifr.gov/mediaroom/press/1999/december/12201999_commission.html) visited on January 17<sup>th</sup> 2007

<sup>48</sup> Report of the U.S. Commission on International Religious Freedom, May 1, 2000 ([www.uscifr.gov](http://www.uscifr.gov)); U.S. Commission on International Religious Freedom 2000 *supra* at pg 4 "OFAC should investigate: a) how much of the debt the China National Petroleum Company intends to retire arose from its Sudanese activities; b) what criteria CNPC will use to decide whether to retire Sudan-related debt from the proceeds of its recent sale of PetroChina shares in the U.S. capital market; c) whether prior to the sale CNPC earmarked any of the proceeds for use in retiring Sudan-related debt; and d) whether U.S. underwriters knew or should have known of any such earmarking." ; U.S. Commission on International Religious Freedom, *Annual Report* May 1<sup>st</sup> 2001 Pg 22, and U.S. Commission on International Religious Freedom, *Annual Report* May 2002 pg 25 both available at <http://www.uscifr.gov/countries/publications/currentreport/index.html> (visited November 1st 2006)

<sup>49</sup> Center for Security Policy, An Open Letter to President William Jefferson Clinton [http://www.centerforsecuritypolicy.org/index.jsp?section=papers&code=99-R\\_143](http://www.centerforsecuritypolicy.org/index.jsp?section=papers&code=99-R_143) (visited October 8<sup>th</sup>, 2006)

solidarity activists and their Jewish allies sounded the alarm about the genocidal aim of Khartoum's self-described Jihad against its African population – a population made up of tribal religionists, Christians, and non-militant Muslims. According to Freedom House, a lead campaigner on Sudan and capital markets sanctions, the Sudanese government was guilty of not just human rights abuses, it was persecuting Christians, killing them, enslaving them and forcing them to convert to Islam.<sup>50</sup>

However, other religious organizations had for long been riled up over China's internal policies on religion but had lacked any effective means of getting at China. Now China was involved in another nation over which there were serious, freedom of religion concerns through its investment in Sudanese oil. As discussed in more detail below, the China National Petroleum Corporation, and later its subsidiary, PetroChina was a major participant in the exploitation of Sudan's oil. As the *Washington Post* indicated

Most of these (religious) groups are already outspoken critics of the Chinese government's suppression of Christian and other religious activities inside China but have found themselves powerless to do anything about it. The Chinese company's bid to raise capital in the United States gave the groups a new opportunity for action.”<sup>51</sup>

Notable amongst the religious groups that were active on Sudan were U.S. Evangelicals.<sup>52</sup> There were copious articles in Evangelical newspapers and magazines and they saw the conflict in Sudan in terms of Islam versus Christianity.<sup>53</sup> Christian

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<sup>50</sup> Center for Religious Freedom. “About the Sudan Campaign” at Freedom House website <http://www.freedomhouse.org/religion/sudan/index.htm> (visited November 1st, 2006)

<sup>51</sup> Ottaway, David. “Chinese Fought on NYSE Listing Groups Cite Oil Firm's Role in Sudan,” *Washington Post*, 27 January 2000

<sup>52</sup> Loconte, Joseph and Michael Cromartie. “Let's Stop Stereotyping Evangelicals” *Washington Post* November 8, 2006; Page A27

<sup>53</sup> Some of the papers I looked at included Christianity Today which self describes as a magazine of Evangelical conviction and has a web version at <http://www.christianitytoday.com/ct/features/news/africa/sudan> ; ChristianNewsWire at <http://www.christiannewswire.com/news/228642717.html> last visited on May 14<sup>th</sup>, 2007; Christian Solidarity International maybe the most vocal of the Evangelical groups posted many news articles on the Sudan Islam versus Christianity in Sudan and redeeming slaves. Its webpage is at <http://www.csi-int.org/> last visited May 14<sup>th</sup>, 2007

Solidarity International became the most vocal, but there were many other Evangelical Christians involved including groups specifically formed on Sudan like the Sudan Evangelical Alliance.<sup>54</sup> They advocated directly with the Bush administration for who they were a big constituency.<sup>55</sup> When they joined in the capital markets sanctions campaign, Evangelical leaders revealed new modes of organizing and forming alliances with groups holding contradictory ethos to their own in order to attain specific goals. As Lindsay put it; “the cultural self-understanding of many evangelicals had previously centered around a sense of "separateness" in which they embraced practices that emphasized their distinction from wider society.”<sup>56</sup> They thus tended to operate and remain on the fringes of political action, but as evidenced by the campaign, this was changing. Evangelicals had moved from the periphery into the mainstream, and that move from “the social margin to the mainstream (has) necessitated new modes of social organization.”<sup>57</sup> The capital markets sanctions campaign offered one such mode.

### Labor

Although not the first to participate in the campaign, U.S. labor through the AFL-CIO participation was one of the most significant. The AFL-CIO brought not only might in the numbers of its members; it brought visible activism and phenomenal financial muscle into the campaign. Labor had several concerns and objectives. China not only

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<sup>54</sup> Sudan Evangelical Alliance; Formed to Spread the Gospel in Southern Sudan at <http://alarm-inc.org/alarm/media/Sudan%20Evangelical%20Alliance.htm> last visited May 14<sup>th</sup>, 2007

<sup>55</sup> Bumiller, Elisabeth. “Evangelicals Sway White House On Human Rights Issues Abroad” *New York Times* October 26, 2003

<sup>56</sup> Lindsay, Michael D. “Elite Power: Social Networks Within American Evangelicalism” *Sociology of Religion* Washington: Fall 2006. Vol.67, Iss. 3; pg. 207

<sup>57</sup> Lindsay supra

prohibited independent trade unions, there was harsh repression of organized labor activities within China. The only union allowed in China was the All-China Federation of Trade Unions, a constituent state body.<sup>58</sup> The restructuring of CPNC that resulted in the creation of PetroChina for purposes of enabling listing on the New York Stock Exchange also resulted in lay offs of Chinese oilfield workers. They took to the streets in protest and were predictably arrested and imprisoned, raising the ire of the labor movement.<sup>59</sup> The CNPC/PetroChina restructuring was also of concern to labor in so far as it was going to deny minority investors a voice in the makeup of PetroChina's board.<sup>60</sup>

Labor's participation was interesting because traditionally, economic nationalism underwrote U.S. labor's policies and it had no solidarity with labor in the international arena.<sup>61</sup> What then prompted U.S. labor to join in the capital markets sanctions campaign and what were its objectives? Part of the answer lies in the process of globalization increasing the mobility of industrialization and commerce. This upset the historical paradigm of U.S. labor's purpose as the protection of U.S. jobs, as mobility significantly devalued the power of labor in the U.S.<sup>62</sup> The geographical migration of company factories to countries with cheaper labor, lower taxes and little or no environmental

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<sup>58</sup> See Human Rights Watch. *China* <http://hrw.org/english/docs/2006/01/18/china12270.htm> visited April 17<sup>th</sup> 2007

<sup>59</sup> *Amnesty International*, press release "'Subversion charges' Must not be Used to Imprison Rights Activists" January 14<sup>th</sup> 2003

<sup>60</sup> AFL-CIO report "Proposed \$5 Billion PetroChina IPO Laced With Investment Risks And Human Rights Violations; Money Managers Urged to Review Findings" Jeffrey Lerner. 202/842-3100 available at [www.PetroChinaWatch.com](http://www.PetroChinaWatch.com) ; Frutiger, Dean. AFL-CIO China Policy: Labor's New Step Forward or the Cold War Revisited?" *Labor Studies Journal* 27.3 (2002) 67, Clifford, Mark L. "Commentary: The Chinese Need Capital--and Condemnation" *BusinessWeek Online* [http://www.businessweek.com/2000/00\\_16/b3677107.htm](http://www.businessweek.com/2000/00_16/b3677107.htm) (visited November 1st, 2006)

<sup>61</sup> Frutiger 2002 *supra*, 67

<sup>62</sup> Zwiebach, Peter. "An American Tragedy: The Decline of U.S. Unionism and its Human Rights Implications" *Human Rights & Human Welfare* Vol 5, 2005 pg 101

regulations meant the loss of jobs in the U.S. and that corporations no longer had to deal with labor. They could cut and run. That triggered a rethink of policy in U.S. labor. As Frutiger put it, “Finally, after more than seventy-five years, the AFL-CIO recognizes the need for an international labor solidarity that intimately ties the economic well being of U.S. workers with that of workers around the world.”<sup>63</sup> When the AFL-CIO found solidarity with its global brothers and sisters it immediately went into high gear on international issues with a Campaign for Global Fairness, as well as participation in the capital markets sanctions, bringing into the campaign an additional dynamic.

#### National Security Concerns Groups

Led by Roger W. Robinson, Jr., chairman of the William J. Casey Institute of the Center for Security Policy and a former official in President Ronald Reagan’s National Security Council, the Center for Security Policy had different reasons for objecting to PetroChina’s initial public offering (IPO) on the New York Stock Exchange.<sup>64</sup> PetroChina’s parent corporation, CPNC associated with countries that were designated by the U.S. as sponsors of terrorism such as Iran, Iraq and Sudan and that raised concerns for

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<sup>63</sup> Frutiger, 2002 supra 68

<sup>64</sup> An IPO is the first sale of a corporation’s common shares to investors on a public stock exchange such as NASDAQ or the New York Stock Exchange. The major purpose of the IPO is to raise capital for the corporation although it has other significant advantages for the corporation. The money paid by investors for the newly-issued shares goes directly to the corporation as compared to later trade of shares on the exchange, where the money passes between investors. Thus an IPO allows a corporation to tap a wide pool of stock market investors to provide itself with large volumes of capital. The corporation is never required to repay this capital as the new shareholders rather acquire a right to future profits distributed by the company. Additionally, once a company is listed it will be able to issue further shares through a rights issue, thereby again providing itself with capital for expansion without incurring any debt. This regular ability to raise large amounts of capital from the capital market, rather than having to seek individual investors, is a key incentive for many companies seeking to list on the stock exchange

the national security interest groups.<sup>65</sup> For the Casey Institute the possibility that Americans would underwrite China's investment in countries that sponsored terrorism against America was a fundamentally compelling reason for involvement.<sup>66</sup> As Pener, (writing for the Institute) put it, the "delisting" of PetroChina and Talisman from the New York Stock Exchange....would also signal to global energy firms that partnering with terrorist-sponsoring states could conflict with corporate fundraising objectives."<sup>67</sup> In the institute's view, the global financial community ought to "institute greater voluntary transparency and conduct new, non-financial "due diligence" in the areas of national security and human rights."<sup>68</sup> Legislatively mandated capital market interdiction would ensure that the greater portion of the global financial community would stay away from terror sponsoring countries.

### Human Rights Groups

In its World Report 2000, Human Rights Watch (HRW) documented the grievous human rights violations by the government of Sudan in the southern part of the country, but HRW did not join in the call for sanctions.<sup>69</sup> Neither did any of the traditional human rights groups.<sup>70</sup> That prompted Nina Shea of Freedom House to criticize the mainstream

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<sup>65</sup> Gaffney, Frank J. Jnr. "A New bipartisanship in security policy?" *Jewish World Review* August 7, 2001 / 18 Menachem-Av, 5761. Gaffney, the president of the Center for Security Policy has maintained the debate even though the Capital Markets Sanctions provision failed and in 2007, he published another piece for the Washington times entitled "Invest terror-free" *Washington Times*, March 13, 2007

<sup>66</sup> Pener, Adam M. "Capital Markets transparency and Security, The Nexus Between U.S. – China Security Relations and America's Capital Markets" *William J Casey Institute for Security Policy*, June 29, 2001, 2

<sup>67</sup> Pener supra 1.

<sup>68</sup> Center for Security Policy Dec 1999 supra

<sup>69</sup> Human Rights Watch, World Report 2000 Sudan

<sup>70</sup> Human Rights Watch, World Report 2001 Sudan <http://www.hrw.org/wr2k1/africa/sudan.html> (visited November 1st 2006)

human rights groups for not coming out strongly and openly against slavery in Sudan.<sup>71</sup> I asked mainstream human rights activists about this. Almost all interviewees from the mainstream human rights NGOs confessed that they did not give capital markets sanctions “a snowball’s chance in hell” of going anywhere and therefore stayed away from them.<sup>72</sup> As one activist put it;

I think churches on the left, and I speak very openly and very honestly about the position from where I stand, on Sudan and capital market sanctions because I think we were very slow in part because it seemed like a very complicated economic issue.... I was very intimidated.... the opposition is fierce and well formed and incredibly powerful and well funded.<sup>73</sup>

In addition, some activists were also hesitant about associating with conservative religious voices such as Freedom House.<sup>74</sup> Thus paradoxically, capital markets sanctions remained the preserve of security and religious conservatives.<sup>75</sup> I suggest some reasons as to why this would be the case here and not in the conflict diamonds campaign in the cross case comparative analysis in Chapter 8. The few exceptions were lesser-known NGOs such as Survivors' Rights International that were concerned about genocide.<sup>76</sup> Genocide, which is of course a human rights issue as well, drew in the Jewish interest given the

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<sup>71</sup> Shea, Nina in interview on NewsHour with Jim Lehrer, *Crisis in Sudan* May 31, 1999 (transcript and stream audio) available at <http://www.pbs.org/newshour/bb/africa/jan-june99/sudan.html> visited April 20th, 2007

<sup>72</sup> Interviews with human rights activists on Sudan May 15<sup>th</sup> and 31st, 2006 Washington DC and Greensboro, North Carolina

<sup>73</sup> Interview with activist June 17<sup>th</sup> 2007 Washington DC

<sup>74</sup> Interview with activist June 17<sup>th</sup> supra

<sup>75</sup> Green, Joshua. “God's Foreign Policy” *Washington Monthly* November 2001

<sup>76</sup> Survivors' Rights International, Inc Alert. “Genocide vs. Investment Firms’ Profits, Capital Markets Sanctions Remain Key to Cessation of Atrocities and Peace in Good Faith by Khartoum, Sept. 7, 2001 [http://www.survivorrightsinternational.org/sri\\_news/alert\\_urgent.mv](http://www.survivorrightsinternational.org/sri_news/alert_urgent.mv) (visited October 30th, 2006)

holocaust experience. The Religious Action Center of Reform Judaism was for that reason one of the most active participants in the campaign.<sup>77</sup>

### The Legislators

Before the late 1990s, there were very few legislators with any interest on Sudan and these included Congressmen Donald Payne (D-NJ), Tony Hall (D-OH), and Frank Wolf (R-VA). The interest of the conservative Christian groups and their activism on the enslavement of Christians prompted greater interest in legislators such as Congressman Tom Tancredo (R-CO), Senators Sam Brownback (R-KS) and Chris Smith (R-NJ) for whom Christians were major constituents.<sup>78</sup> Senator Bill Frist (R-TN), a medical doctor who had gone to Southern Sudan with World Vision in 1998 also became interested. As Senate Majority Leader (from 2002) Sen. Frist's voice was fairly powerful. Sen. Frist however went quiet once the White House indicated its strong opposition to the sanctions and disclosure provisions in the Sudan Peace Act.

### Individuals

Numerous individuals also participated independently. A notable campaigner was Eric Reeves, an English Professor at Smith College who took unpaid leave in order to campaign for peace in Sudan. Reeves started working on Sudan as in his words, "a professional researcher" in 1999 but soon turned into an ardent advocate and commentator. Aside from writing copious articles on Sudan, Reeves set up a website on

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<sup>77</sup> Reform Judaism web page [http://rac.org/Articles/index.cfm?id=751&pge\\_prg\\_id=8184](http://rac.org/Articles/index.cfm?id=751&pge_prg_id=8184)

<sup>78</sup> Hertzke 2004 *Annual Paul Henry Lecture* supra page 10



Sudan on which he regularly posted developments relating to the campaign and he spoke widely on the issue.<sup>79</sup>

So this was a disparate coalition with multiple objectives. Some of their opponents argued in fact that; “Whereas most of PetroChina’s detractors expressed concern for human and religious rights in Sudan, they were united only in their loathing of China.”<sup>80</sup> Despite the diversity, this extraordinary ad hoc coalition was nevertheless able to prosecute a highly visible campaign.<sup>81</sup> How were these diverse agents able to collaborate? I make the case that what made it possible for such a diverse group to function was its strategic basis of operation.

### **A Strategic Campaign Operation**

The capital market sanctions campaign was never a formalized initiative nor did it have a centralized steering committee unlike the conflict diamonds initiative. The coalition’s formation and its process remained a fairly loose affair throughout. As one of the participants I interviewed put it, Roger W. Robinson Jr. of the Casey Institute came up with the idea and others simply joined in the activism.<sup>82</sup> Almost all the participant groups were in existence prior to the campaign meaning that each already had their own agenda. As discussed above, what each hoped to get out of the campaign differed and thus the loose coalition presented a mechanism well suited to that diversity. The

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<sup>79</sup> Sudanreeves.org <http://www.sudanreeves.org/>

<sup>80</sup> Steil, Benn. “The Capital Market Sanctions Folly” *Council on Foreign Relations*, Winter 2005

<sup>81</sup> Fidler and Labate 2000 *supra* at 6

<sup>82</sup> Interview with activist, Baltimore, Maryland May 12, 2006

specificity of capital markets sanctions as a goal and the leverage they offered as a tool for change provided an outcome the various actors could sign onto.

One of the activist groups' strategizing explained well the rationale of operation.<sup>83</sup> As activists they were aware of a number of things; that their target audience was subject to a deluge of information and participation messages: that the public's attention time span was extremely limited and that therefore for any message to have any hope of being heard it had to be compressed and simplified to the absolute bare minimum otherwise people would lose interest.<sup>84</sup> Sudan on the other hand was an extremely complex set of issues.<sup>85</sup> No one group could hope to comprehensively explain the whole issue or do everything. Thus disparate groups were critical. The strategic solution was to focus on a specific and achievable outcome around which each activist group could rally their mobilization. Each group took a piece of the campaign and sold it to their constituencies in the language that those constituents could relate to.<sup>86</sup>

Networking was of critical importance; knowing who had what resources especially knowledge as well as researched facts.<sup>87</sup> And so conservative Christians presented capital market sanctions as the solution to the Sudanese government's persecution of Christians; the anti-slavery groups presented sanctions as a way of denying the Sudanese government the resources that enabled it to enslave Southerners; and sanctions were touted as the way to stop China from entering the global market using

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<sup>83</sup> Dutch Lobby Group on Sudan 2001,18

<sup>84</sup> Interviews with activists; Greensboro, North Carolina May 15<sup>th</sup> 2006, Washington DC June 17<sup>th</sup>, June 21<sup>st</sup> 2006,

<sup>85</sup> A feeling confirmed by most of the interviewees, but especially the interview on June 17<sup>th</sup> 2007 Washington DC

<sup>86</sup> Dutch Lobby Group on Sudan, 2001 supra t 18

<sup>87</sup> Interview with activist June 21<sup>st</sup> 2006, Washington DC

American money. Because resources in the social justice advocacy world are limited, combining resources also served to multiply the power of the coalition.<sup>88</sup>

As in the conflict diamonds campaign, part of what enabled participants to collaborate was a mutual agreement to not proselyte on principles.<sup>89</sup> Getting labor and conservative national security adherents to achieve commonality of principle would have been a divisive and resource intensive exercise. Thus for example rather than argue differences, when labor released its report and appealed to its constituents, it simply did not speak about national security and religious persecution.<sup>90</sup> Groups would collaborate on specific pieces of action such as open letters, but there were no criteria for what a group or activist could do. When the Denver schoolteacher and her students started the Slavery That Oppresses People (STOP) campaign, they did not need to seek the authorization of any organization. Action coalesced around the legislative process when it became necessary to lobby for passage of legislation, and groups would call on each other and even meet to discuss strategy, but there was no hierarchy.<sup>91</sup> Some of this was made possible by the existence of formalized NGO networks.

Two examples of advocacy networks that facilitated conversations amongst their members on Sudan were InterAction (American Council for Voluntary International Action) and Advocacy Network on Africa (ADNA). Interaction is an organization of over 160 U.S.-based, international development and humanitarian nongovernmental organizations. As it says of itself; “InterAction convenes and coordinates its members so

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<sup>88</sup> Interview with activists, Baltimore May 12, 2006 and Washington DC May 30<sup>th</sup>, 2006

<sup>89</sup> Interview with activist May 30<sup>th</sup> 2006

<sup>90</sup> AFL-CIO report 2002 *supra*

<sup>91</sup> Interview with activists Washington DC May 30<sup>th</sup> 2006

in unison, they can influence policy and debate on issues affecting tens of millions of people worldwide and improve their own practices.”<sup>92</sup> However, decision making in InterAction is through consensus. Similarly in ADNA, working groups would form around issues or geographical areas of interest and from these groups coordination of efforts would emanate.<sup>93</sup> The ADNA Sudan working group took the lead in coordinating the sanctions campaign work for ADNA members.<sup>94</sup> Strategy appears to also have been the operative principle in congress. Congressman Payne (Democrat - Black Congressional Caucus) and Frank Wolf (Republican) worked hard for the Sudan legislation whereas they more or less disagreed on everything else.<sup>95</sup>

In pursuing the specific legislative and divestment outcomes that activists wanted, the usual campaign actions were undertaken; lobbying, demonstrations, letters to newspapers, adverse media publicity, op-eds and reports. Collection of money to free Christians enslaved by Muslims served not just to buy slaves freedom, it provided a means for people to get involved.<sup>96</sup> The cause was taken up by schoolchildren and that appealed to many across party lines.<sup>97</sup> Students across the country attended meetings on how to organize letter writing campaigns, set up web pages on slavery, create Sudan slavery maps, set up mock slave pens and created newsletters about human rights abuses

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<sup>92</sup> Interaction webpage, About Interaction <http://www.interaction.org/about/index.html> visited February 2007

<sup>93</sup> I was a member of ADNA, its co-chair and membership coordinator in 2002-2003 and thus participated directly in some of the coordinating activities.

<sup>94</sup> Interview with ADNA activist June 17<sup>th</sup>, 2006 Washington DC

<sup>95</sup> Interview with congressional researcher May 30<sup>th</sup>, 2006 Washington DC

<sup>96</sup> Human Rights Watch. *The United States; Diplomacy Revived Overview* November 2003

<sup>97</sup> Gardner, Christine J. “Redeeming Sudan’s Slaves Americans are becoming instant abolitionists. But is the movement backfiring?” *Christianity Today* August 9, 1999

in Sudan.<sup>98</sup> In every state, a S.T.O.P. campaign was launched by schools.<sup>99</sup> This was an anti-slavery constituency action possible to do independent of the other campaign actors.

Similarly labor appealed to a different constituency. The AFL-CIO commanded the support of some 13 million potential voters and had the ability to stage demonstrations like its “counter road show” to the PetroChina’s “roadshow” at the St Regis Hotel in New York.<sup>100</sup> The drama of forcing PetroChina and its representative, Goldman Sachs to move their “road Show” to an alternative location and attract considerable media attention could not have been a joint action with participants like the Casey Institute. Again only the strategy of leaving well alone made it possible for the Casey Institute to hail the entry of labor into the campaign even though the AFL-CIO also used financial strong arm tactics like urging its members to shun investing in PetroChina.<sup>101</sup> Interestingly, the conservative constituency did not renounce its alliance with business in order to collaborate with labor. Labor for its part was also “trying to influence corporate behavior by thinking like a shareholder and investor.”<sup>102</sup> With union sponsored pension funds managing around \$400 billion in financial assets that was a powerful leverage.<sup>103</sup> The results were very immediate and very visible; “Within a few days of the AFL-CIO intervention, both TIAA-Cref and CalPERS (two major pension

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<sup>98</sup> NewsHour with Jim Lehrer, *Crisis in Sudan* May 31, 1999 (transcript and stream audio) available at <http://www.pbs.org/newshour/bb/africa/jan-june99/sudan.html> visited April 20th, 2007

<sup>99</sup> Vogel, Barbara. “S.T.O.P: A Message from Barbara Vogel” available at [http://www.iabolish.com/activist\\_ctr/stop/letter.html](http://www.iabolish.com/activist_ctr/stop/letter.html) visited April 15th, 2007

<sup>100</sup> Shell, Adam. “Goldman Moves Pitch for IPO to Avoid clash, AFL-CIO Urges Investors to Avoid PetroChina Stock, *USA Today*, March 23, 2000

<sup>101</sup> Reeves, Eric. *Growing Opposition to Talisman Energy in Sudan* Sudanreeves.org, March 1, 2000 <http://www.sudanreeves.org/Sections-index-req-viewarticle-artid-69-page-1.html> (visited November 1st, 2006)

<sup>102</sup> Cox, James. “AFL-CIO flexes muscle against China IPO” *USA TODAY*, March 10, 2000, 9

<sup>103</sup> Diamond supra at 69

funds) announced their intention not to purchase shares in the IPO.”<sup>104</sup> There was no criticism of this action from the conservative groups in the campaign. The adoption of a strategy based collaboration in which each participant steered clear of the others’ principles made possible the activism of labor and strategic think tanks.

The Holocaust Memorial Museum added a different piece to the campaign when it placed a genocide watch on Sudan and proceeded to hold public forums. One of the most symbolic actions it took was when it put up a special exhibit on Sudan; the first time that space in the museum was used to address a contemporary situation outside of Europe.<sup>105</sup> A website with information about Sudan was also maintained by the museum. It started to include Sudan prominent campaigners like Congressman Wolf on its roster of speakers. In raising the specter of genocide in Sudan, the museum significantly raised the profile of the capital markets and Sudan issue, but for it too the objectives were not the same as those of labor.<sup>106</sup>

Individuals engaged in their own independent actions. Eric Reeves ran a prolific one-man email campaign, focusing first on the oil industry and divestment of Talisman shares, then on the capital market sanctions amendment.<sup>107</sup> He researched on Sudan and published extensively on it. Reeves testified several times before Congress and lectured widely in academic settings. As well he served as a consultant to a number of human

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<sup>104</sup> Diamond *supra* 69

<sup>105</sup> United States Holocaust Memorial Museum, Briefing on Sudan by John Prendergast, Thursday, January 31, 2002 <http://www.ushmm.org/conscience/analysis/details.php?content=2002-01-31> (visited October 30<sup>th</sup>, 2006)

<sup>106</sup> Wolf, Frank Congressman “Wolf says oil companies inadvertently fueling death and destruction in Sudan” March 13, 2001 [http://www.house.gov/wolf/news/2001/03-13-Sudan\\_Trip.html](http://www.house.gov/wolf/news/2001/03-13-Sudan_Trip.html) (visited October 30<sup>th</sup>, 2006)

<sup>107</sup> Reeves set up maybe the most extensive webpage on Sudan issues, [sudanreeves.org](http://www.sudanreeves.org/) on which he posted regular updates on all aspects of Sudan issues; <http://www.sudanreeves.org/> Reeves also gave testimony before congress and wrote numerous op-eds on Sudan.

rights and humanitarian organizations operating in Sudan.<sup>108</sup> He claimed throughout that his objectives were humanitarian and scholarly.<sup>109</sup>

Thus it was that due to the lateral and loose nature of the coalition, not only were groups and individuals with widely varying ideologies and objectives able to collaborate, but that different kinds of action were possible to undertake without conflict from within the campaign. The timeline of this innovative campaign is presented by combination of issue and chronology.

### **The Campaign Process; a timeline**

#### 1997: U.S. Economic Sanctions

Sudan's involvement with militant groups made it the object of U.S. punitive measures in the 1990s. In November 1997 President Clinton issued an executive order in terms of the *International Emergency Economic Powers Act* imposing criminal penalties on any U.S. persons doing business with Sudan.<sup>110</sup> The basis of the order was that Sudan's

continued support for international terrorism; ongoing efforts to destabilize neighboring governments; and the prevalence of human rights violations, including slavery and the denial of religious freedom, constitute an unusual and extraordinary threat to the national security and foreign policy of the United States...<sup>111</sup>

Sudan was also on the U.S. state terrorism sponsor list which entailed other economic sanctions as well. State sponsors of terrorism are countries designated by the Secretary of

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<sup>108</sup> Guardian Unlimited, *Profile*; Eric Reeves [http://commentisfree.guardian.co.uk/eric\\_reeves/profile.html](http://commentisfree.guardian.co.uk/eric_reeves/profile.html)

<sup>109</sup> Sudanreeves website supra

<sup>110</sup> Clinton, William J. *Executive Order 13067—Blocking Sudanese Government Property and Prohibiting Transactions With Sudan* November 3rd, 1997 available at <http://www.presidency.ucsb.edu/ws/index.php?pid=53505> visited April 2<sup>nd</sup>, 2007

<sup>111</sup> Clinton 1997 supra

State under Section 6 (j) of the *Export Administration Act* of 1979 as any country that has “repeatedly provided state support for acts of international terrorism.” Thus by 1999 when religious and security groups turned their attention on Sudan, there were no U.S. corporations doing business in Sudan except for trade in gum-arabic. Under pressure from industry, the Administration had waived the 1997 sanctions on the import of gum-arabic, a substance derived from the sap of the Sudanese acacia tree that has wide industrial and food processing uses such as in candy making and soft drinks.<sup>112</sup> Gum-arabic though was not making anywhere near the amounts of revenue that oil could give to the Sudanese government, but the exploitation of oil necessitated external investment. A consortium of foreign companies and a Sudanese entity called the Greater Nile Oil Project (GNOP) undertook the project. Because these were not U.S. companies, U.S. imposed sanctions were not going to affect the investment.

#### 1998 : Anti- Slavery Movement

In February 1998, Barbara Vogel a Denver, Colorado schoolteacher who was associated with the American Anti-Slavery Group (AASG) and her students initiated the S.T.O.P. Campaign.<sup>113</sup> Shocked and inspired by reports of slavery in that day and age, she developed a curriculum that sought to educate young students about modern day slavery and get them active in the fight to end it. Over 100 schools adopted the

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<sup>112</sup> Phillips, James. “To Stop Sudan's Brutal Jihad, Support Sudan's Opposition” *The Heritage Foundation*, June 13, 2001

<sup>113</sup> iABOLISH, American Anti-Slavery Group, [http://www.iabolish.com/activist\\_ctr/stop/letter.html](http://www.iabolish.com/activist_ctr/stop/letter.html) accessed April 15th 2007



curriculum across the country and slavery became a school children's issue.<sup>114</sup> That made it news and it spread. As Vogel narrated,

Our message against silence and for freedom resonated with Americans from all walks of life and garnered coverage of our campaign in Education Week, Time Magazine, The New York Times, and Marie Claire -- as well as on CBS Evening News, NBC World News Tonight, NPR, and Nickelodeon's Nick News. In February, my students spoke before a worldwide audience at the Simon Wiesenthal Center's international symposium on slavery in North Africa.

Sudan and slavery joined security issues in being the focus of American attention. With the development of oil in Sudan, oil was soon implicated and two corporations; Canadian Talisman Energy and Chinese CNPC became the primary targets of social justice activism.

#### 1998 - 1999 Oil Corporations Accused

##### *Talisman Energy*

Despite the nascent opposition of non-governmental organizations and church groups concerned with the human rights violations by the Sudanese government, in 1998 Canadian corporation Talisman Energy Inc. acquired Arakis Energy's Sudanese investment.<sup>115</sup> As happened in the conflict diamonds campaign, the initial reaction of the corporation to activists' complaints was disdain. It dismissed allegations of government atrocities, slavery, and genocide as mere rant from a few activists.<sup>116</sup> In classical

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<sup>114</sup> Abolish "Our History" [http://www.iabolish.com/our\\_history/](http://www.iabolish.com/our_history/) accessed April 15<sup>th</sup>, 2007

<sup>115</sup> Examples of Canadian calls for Talisman to disengage from Sudan include those from the Inter-Church Coalition on Africa (<http://www.web.net/~iccaf>) Project Ploughshares "Canadian corporate responsibility and the war in Sudan" *The Ploughshares Monitor* March 2000, volume 21, no. 1 <http://www.ploughshares.ca/libraries/monitor/monm00a.html>

There were protests at Talisman's annual shareholders' meetings

<sup>116</sup> Katsh, Gabriel. "Fueling Genocide; Talisman Energy and the Sudanese Slaughter" *Multinational Monitor* October 2000 Volume 21 - number 10

separation of economics from politics argument, Talisman further argued that it did not take sides in the Sudanese conflict nor did it have an interest or indeed the power to intervene in the internal affairs of Sudan.<sup>117</sup>

The stories of the government's atrocities were soon confirmed by several reliable sources.<sup>118</sup> The Canadian government appointed Harker commission of inquiry into oil and war in Sudan carried out its investigations in 1999 and presented its report in January 2000.<sup>119</sup> The Harker Commission's findings were damning for the corporation. It found oil exploitation to be directly implicated in human rights abuses.<sup>120</sup> Confronted with solid evidence, Talisman shifted its defense to two bases: it argued that it in fact was doing good in Sudan because oil development would benefit the Sudanese and further that in any case if Talisman left, someone else would take its place and that someone might not be bothered at all about human rights concerns.<sup>121</sup> In arguing on the basis of constructive engagement, Talisman showcased its construction of hospitals that it claimed were benefiting the Sudanese in the areas where it operated, as a moral defense of its investment.<sup>122</sup> According to *The Economist*, Talisman did indeed introduce a system of monitors to record human rights violations and offered to train government soldiers protecting the oil installations on human rights.<sup>123</sup>

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<sup>117</sup> Talisman Energy. "Corporate Social Responsibility Report 2000," April, 2001.

<sup>118</sup> Christian Aid. *The regulatory void: EU company involvement in human rights violations in Sudan* /05/01 available at <http://www.christian-aid.org.uk/indepth/0105suda/sudan.htm> visited January 2nd 2007

<sup>119</sup> Harker, John *Human Security in Sudan: The Report of a Canadian Assessment Mission Prepared for the Minister of Foreign Affairs*, Ottawa, January 2000

<sup>120</sup> CBC "Talisman oil operations prolong Sudan civil war," November 11, 2000

<sup>121</sup> Katsh *supra*

<sup>122</sup> *The Economist* "Sudan's oil - Fuelling a fire" August 31, 2000

<sup>123</sup> *The Economist* above

These arguments did not sell with social justice activists in North America. To them, Talisman was offering charity as a substitute for justice; charity that in their view did not get to the poor victims of the Sudanese government's genocidal campaign. The water wells Talisman was showcasing were being contaminated by the government in an effort to clear the oil areas of human occupation and Talisman's airstrips were also being used by military planes for launching attacks on the villagers.<sup>124</sup> There was no dispute that Talisman provided jobs at its oil operations, but compared to the numbers that were being internally displaced the benefits were miniscule. Justification of moral wrong on the basis that others would do it too, even if 100% guaranteed to be right as did indeed happen when India and Malaysia bought out the Talisman shares, was seen by social justice activists as the epitome of depravity; the justification of wrong with wrong. Far from being persuaded to relent, the campaign intensified. Since Talisman was already listed on the New York Stock Exchange (NYSE) activists called for Talisman's expulsion from the NYSE as well as for divestment from the corporation.<sup>125</sup>

#### *China National Petroleum Corporation/PetroChina*

In mid 1999 China's growing involvement in Sudan also started to surface. By then China's main oil company, the China National Petroleum Company (CNPC) had reportedly invested approximately \$1.5 billion in Sudan's oil development and was poised to invest billions in addition. According to Amnesty International;

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<sup>124</sup> Amnesty International, *Sudan; the Human Price of Oil* May 3<sup>rd</sup> 2000

<sup>125</sup> Reeves, Eric. "As in South Africa, It's Time to Let Our Wallets Do the Talking," *The Los Angeles Times*, August 30, 1999.

In 1998, CNPC's construction arm, China Petroleum Engineering & Construction (Group) Corporation (CPECC), participated in the construction of the 1,500-kilometer-long GNPOC pipeline from Blocks 1 and 2 to the Red Sea. It also built a refinery near Khartoum with a 2.5 million-ton processing capacity. It further engaged in "10 million tons oilfield surface engineering."<sup>126</sup>

CNPC claimed that it did not make a profit from the pipeline, the refinery or its two oil well projects in Sudan. That prompted arguments by campaigners that the creation of CNPC subsidiary, PetroChina, was therefore merely a front and that the capital raised on U.S. markets through PetroChina would be used to pay for some of these CNPC investments.<sup>127</sup>

As one of the major initiatives by China to raise capital on international markets, in April 1999, CNPC announced that it would begin selling shares to the public in China and overseas.<sup>128</sup> This, the first Chinese government controlled state enterprise initial public offering (IPO) was set to be the first time a Chinese company traded on the New York Stock Exchange and at \$10 billion, the biggest in Wall Street history.<sup>129</sup> There was immediate trouble for the listing however from a combination of interest groups including China critics, anti-slavers, religious freedom advocates and human rights activists. There had been reports that oil exports coincided with a significant increase of Sudanese government attacks on the south, as did the counter attacks on oil

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<sup>126</sup> Representative Frank Wolf correspondence to SEC Chairman Arthur Levitt, September 30, 1997  
CNPC release, "China Extensively Enter into International Oil Market," January 11, 2001,  
<http://www.CNPC.com.cn/english/news/index.html>

<sup>127</sup> Peneer, Adam M. "Capital Markets Transparency and Security: The Nexus Between U.S.-China Security Relations and America's Capital Markets" *William J. Casey Institute of the Center for Security Policy* June 29, 2001

<sup>128</sup> Human Rights Watch. "China's Involvement in Sudan: Arms and Oil"  
<http://www.hrw.org/reports/2003/sudan1103/26.htm> (visited October 14, 2006)

<sup>129</sup> Human Rights Watch above

installations.<sup>130</sup> Completion of the oil pipeline that enabled Sudanese export of oil in 1999 exacerbated the opposition to corporations investing in Sudan.

To quell the rising opposition to its IPO, CNPC restructured itself by severing its Sudanese enterprise from its other overseas operations. A new company PetroChina, that would seek listing, was created and it became the fourth largest energy company in the world.<sup>131</sup> PetroChina would ostensibly not have anything to do with oil development in Sudan. That corporate restructuring did not assuage coalition members' concerns however since ownership of PetroChina remained 100% vested in the Chinese government and 90% controlled by CNPC. The opposition far from dying down, in fact expanded.<sup>132</sup> In February 2000, the coalition got bigger with the signing on of the Tibet freedom community, some environmental groups and the AFL-CIO with its massive labor constituency. Pener reports that by this time the coalition had a constituency of some 20 million Americans.<sup>133</sup>

#### 1999 – 2002 Legislative Initiatives

An analysis of the legislative process reveals that although in the end it was the House of Representatives that championed capital markets sanctions, in fact the capital market sanctions idea was first broached in the Senate. As the activism on slavery was increasing especially with the schoolchildren's S.T.O.P. campaign, the House responded

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<sup>130</sup> Amnesty International Report; *Sudan* 2001  
<http://web.amnesty.org/web/ar2001.nsf/webafrcountries/SUDAN?OpenDocument> (visited October 14<sup>th</sup>, 2006)

<sup>131</sup> Ottaway, David. "Chinese Fought on NYSE Listing," *Washington Post*, January 27, 2000:

<sup>132</sup> Lampman, Jane. "Battle Against Oppression Abroad Turns to Wall Street," *Christian Science Monitor* March 3, 2000

<sup>133</sup> Pener 2001 *supra*

by passing Resolution 75 on June 15, 1999. That resolution condemned Sudan's National Islamic Front (NIF) government for its genocidal war against Southerners and the practice of slavery, but there was no mention yet of sanctions or risk disclosure.<sup>134</sup> It was in the Senate not long thereafter that capital markets sanctions language first appeared. Section 7 (b) of The Sudan Peace Act introduced in July 1999 by Senator Bill Frist and co-sponsored by Senators Sam Brownback, Joseph Lieberman and Russ Feingold provided a sense of congress that:-

the sanctions in subsection (a) and in the President's Executive Order of November 4, 1997, should be applied to include the sale of stocks in the United States or to any United States person, wherever located, or any other form of financial instruments or derivatives, in support of a commercial, industrial, public utility, or government project in or with Sudan."<sup>135</sup>

This language was however removed in the Senate Foreign Relations Committee and that version of the Sudan Peace Act passed in the Senate without a sanctions provision.

The same year 1999, two congressional commissions published reports that had direct implications for capital market operations. The first was the *Congressional Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China (PRC)* chaired by California Rep. Christopher Cox. Its focus was on the activities of companies linked to Chinese military and intelligence agencies. One of the commission's conclusions was that:

Increasingly, the PRC (People's Republic of China) is using U.S. capital markets both as a source of central government funding for military and commercial

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<sup>134</sup> 106th Congress, 1<sup>st</sup> Session H. CON. RES. 75 in the Senate of the United States, June 16, 1999 available at <http://thomas.loc.gov/cgi-bin/query/z?c106:H.CON.RES.75.RFS>: visited April 29<sup>th</sup>, 2007

<sup>135</sup> Sudan Peace Act: S. 1453: July 28, 1999, also Pene supra at 289

development and as a means of cloaking technology acquisition by its front companies with a patina of regularity and respectability.<sup>136</sup>

The Cox report was followed by a report by the federal *Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction* chaired by former CIA director John Deutch. That commission observed that;

There is currently no national security-based review of entities seeking to gain access to our capital. (and)...investors are unlikely to know that they may be assisting in the proliferation of weapons of mass destruction by providing funds to known proliferators.<sup>137</sup>

The Cox and Deutch reports caused uproar on Capitol Hill and brought public and legislative attention to focus sharply on U.S. capital markets and inevitably China's activities.<sup>138</sup> Activists started to press the U.S. administration to use its power to exclude from U.S. capital markets, companies linked to countries considered national security risks. Those countries coincidentally were also abusers of human rights and had questionable records on religious freedom. Sudan and China both appeared on the list. Capitalizing on the findings of the Cox and Deutch commissions, on October 19<sup>th</sup> 1999, a U.S. Commission on International Religious Freedom delegation met with President Clinton, national security adviser Samuel R. Berger and White House chief of staff John

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<sup>136</sup> United States Congress, House Report 105-851 *The Select Committee on U.S. National Security and Military/Commercial Concerns with the People's Republic of China* Submitted by Mr. Cox of California, chairman. Available at <http://www.gpo.gov/congress/house/hr105851-html/index.html> visited February 20<sup>th</sup> 2007

<sup>137</sup> Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction *Combating Proliferation of Weapons of Mass Destruction* July 14<sup>th</sup> 1999 available at <http://web.mit.edu/chemistry/deutch/policy/48ComWMDReport1999.pdf> visited February 21<sup>st</sup>, 2007

<sup>138</sup> O'Connell, Jack. "A Tangled Web: When State Agencies Do Business Overseas" *Comstock's Business magazine*, June 2000

D. Podesta and asked them to bar CNPC from listing on American stock markets.<sup>139</sup> The administration commended the Commission for its work but made no promises save to look into the issue.

The next Sudan Peace Act passed by the House in October 2000 did not have either sanctions or disclosure provisions, but it contained a sense of Congress language for disclosure and sanctions measures.<sup>140</sup> On January 25, 2001, Senator Bill Frist introduced another Sudan Peace Act, S 180 but in a retreat from the sanctions issue, the bill did not have either the sanctions or the disclosure provisions.<sup>141</sup> Meanwhile reflecting the increasing House of Representatives attention on capital markets, Representative Donald Payne introduced two related resolutions in the House on April 26, 2001, H.Con.Res. 112 and H.Con.Res. 113.<sup>142</sup> Resolution 112 condemned the government of Sudan for its human rights abuses and practice of slavery. Resolution 113 called for capital markets sanctions, divestment from oil corporations investing in Sudan and a boycott of Sudanese Oil. Resolutions do not of course have binding effect, but they raise the level of attention on an issue and in this case the resolution reflected a rapidly growing sense of the House that U.S. capital should not be accessible to entities with questionable human rights and religious freedom practices.

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<sup>139</sup> Religious Freedom Commission Press release *Religious Freedom Commission Meets With President, Urges Action on Sudan and China*, October 19, 1999

<sup>140</sup> 106<sup>th</sup> Congress, Sudan Peace Act S 1453 pg 13; Dagne, Ted “Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy” *Congressional Research Services* IB98043 April 23, 2003 pg 10

<sup>141</sup> Sudan Peace Act S. 180 available at [http://www.survivorrightsinternational.org/ms\\_word\\_files/Senate\\_july19\\_SPA.doc](http://www.survivorrightsinternational.org/ms_word_files/Senate_july19_SPA.doc) visited April 30th 2007

<sup>142</sup> United States Commission on International Religious Freedom, *107th Congress: 2001-2002* available at <http://www.uscirf.gov/washingtonupdate/legislation/107.html#10> visited April 30<sup>th</sup> 2007



On June 5, 2001, Rep. Tom Tancredo introduced a new Sudan Peace Act, H.R. 2052.<sup>143</sup> On June 13, 2001, Rep. Spencer Bachus introduced an amendment that created a firestorm not just on Sudan, but the whole new vista of regulating U.S. capital for policy ends.<sup>144</sup> The amendment prohibited companies engaged in oil exploration and production related activities in Sudan from raising capital in the United States and/or trading securities in any capital market in the United States or alternatively required that corporations must disclose such investment to potential investors. The House passed H.R. 2052 with the Bachus amendment by a vote of 422 to 2 the very next day on June 14, 2001. The Bush Administration immediately announced that it would oppose both the disclosure and the capital market sanctions provisions of the act.<sup>145</sup>

The Bachus amendment signaled a stepping up of the utilization of capital markets leverage in achieving U.S. foreign policy objectives. Instead of just stopping trade with foreign countries that incurred the displeasure of the U.S., denying access to U.S. markets would go further and hit foreign companies. Precluding U.S. entities from holding or trading the stock of those foreign companies operating in Sudan, irrespective of the U.S. exchange on which the targeted entity would be listed was potentially devastating for corporations because U.S. capital markets dominate global trade as discussed in Chapter 1. Disclosing risk to potential investors also had serious implications, as investors would be wary of putting their money in high-risk investment.

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<sup>143</sup> H.R. 2052 <http://www.congress.gov/cgi-bin/query/D?c107:1:./temp/~c107Iz4CQq::> visited April 30<sup>th</sup> 2007

<sup>144</sup> Amendment H.AMDT.77 to H.R.2052 available at <http://thomas.loc.gov/cgi-bin/bdquery/z?d107:HR02052:@@L&summ2=m&#amendments> visited on April 30<sup>th</sup> @007

<sup>145</sup> *Washington Post*, August 15, 2001

The penalty for non-disclosure could be de-listing from U.S. stock exchanges, which ultimately would have the same effect as exclusion.

Due apparently to administration and Wall street opposition, the Senate excluded the Bachus Amendment from its version of the Sudan Peace Act passed in late July 2001. That necessitated a conference for the reconciliation of the two bills. Intensive lobbying ensued and the debate was sharply divided between those in favor and those opposed to capital markets. Reeves' opinion piece in the *Washington Post* on August 20<sup>th</sup>, 2001 presented the competing imperatives.<sup>146</sup> Campaigners backed by their partners on the ground in Sudan lobbied in favor of sanctions as exemplified by the case of the Catholic bishops.<sup>147</sup> The opposing camp at this point was grounded on the defense of freedom of the markets. On July 24, 2001 Federal Reserve Chairman, Alan Greenspan strongly opposed capital markets sanctions before the Senate Banking Committee arguing that if these provisions passed, they would undermine the U.S. economy. The Bush administration indicated that it would veto the legislation if congress passed it.<sup>148</sup> Rather than act on the sanctions legislation, on September 6, 2001, President Bush appointed former Senator John Danforth as Special Envoy for peace in Sudan.

Then September 2001 happened and the climate in Washington changed. The House remained committed to both disclosure and sanctions provisions and the

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<sup>146</sup> Reeves, Eric. "Capital Crime in Sudan" *Washington Post* August 20<sup>th</sup> 2001.

<sup>147</sup> Correspondence between Sudan Catholic Bishops conference and United States Conference of Bishops, 2001. Correspondence in possession of researcher.

<sup>148</sup> Green, Joshua. "God's Foreign Policy" *Washington Monthly* November 2001; Alden, Edward and Ken Warn. "US business gears up to derail Sudan delisting law" *The Financial Times*, June 20, 2001

Congressional Black Caucus for example lobbied the Senate to pass a similar bill.<sup>149</sup> On November 29<sup>th</sup> 2001 the House unanimously consented to a conference and named its conferees. However, with Sudan by then a newfound ally of the U.S. on the war on terror, the Republican leadership in the senate blocked progress on conferencing through a hold on naming Senate conferees that was placed by Senator Gramm (R-TX).<sup>150</sup> Reports indicate that the hold was being made on the instructions of the White House, which wanted to pursue cooperation with Sudan.<sup>151</sup> That meant the bill could not move forward until the hold was removed. Sessions of Congress last two years, and at the end of each session all proposed bills and resolutions that have not passed are cleared from the books. Through affluxion of time, H.R. 2052 never became law.

Support for sanctions persisted in the House however and at a June 5<sup>th</sup> 2002 hearing, House International Affairs Committee Members criticized the Administration's opposition to capital markets sanctions. For its part, the Administration maintained its opposition to the sanctions provision, but retreated from opposition to the provision on disclosure requirements for companies operating in Sudan.<sup>152</sup> Resolutely opposed by an administration now with two imperatives, free markets and national security, as discussed in the geo-political opportunity structure section below, capital markets sanctions did not make it. A new Sudan Peace Act, H.R. 5531 without the sanctions or disclosure

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<sup>149</sup> Letter signed by 38 members of the Congressional Black Caucus to Senate Majority Leader Tom Daschle

<sup>150</sup> Lobe, Jim Sudan. "Growing Pressure for Harder Line Against Khartoum" *Global Affairs Commentary*, July 1, 2002

<sup>151</sup> Johnson, Jeff. "White House Accused of Blocking Sudan Peace Act" CNSNews.com Congressional Bureau Chief, June 06, 2002  
<http://www.cnsnews.com/ViewPolitics.asp?Page=%5CPolitics%5Carchive%5C200206%5CPOL20020606a.html> (visited November 1st, 2006)

<sup>152</sup> Organization for International Investment *Capital Market Sanctions; Background* available at [http://www.ofii.org/issues/background/background\\_sanctions.cfm](http://www.ofii.org/issues/background/background_sanctions.cfm) visited January 12th 2007

provisions was introduced on October 2<sup>nd</sup> 2002 and was passed by the House on October 7<sup>th</sup>. The Senate passed it by unanimous consent on October 9<sup>th</sup> and it became Public Law No: 107-245.<sup>153</sup> The President signed it into law on October 21<sup>st</sup> 2002 effectively ending the sanctions legislative campaign.

#### 1999 – 2001 Disclosure and the Securities Exchange Commission

The draft legislative pieces of 1999 and 2000 broached the subject of disclosures by entities of their engagement in any commercial activity in Sudan as well as the nature and extent of these activities to the Securities and Exchange Commission if the companies were seeking capital on U.S. markets. Such a provision as noted above was included in the draft Sudan Peace Act HR. 2052. Prior to legislative regulation however, and as far back as September 30<sup>th</sup> 1999, U.S. Representative Frank Wolf had written the U.S. Securities and Exchange Commission (SEC) urging it to disapprove the CNPC's proposed listing on the NYSE. If CNPC was able to raise capital on U.S. markets, that would be tantamount to Americans investing in slavery, genocide, and terrorism argued Wolf.<sup>154</sup> Rep. Frank Wolf also wrote Richard A. Grasso, chairman of the NYSE urging him to stop CNPC's public offering.<sup>155</sup> Neither Levitt nor Grasso was forthcoming, preferring not to enter what was fast becoming a very hot potato in policymaking. Rep.

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<sup>153</sup> PUBLIC LAW 107-245—OCT. 21, 2002

<sup>154</sup> Berlau, John. "Is China Stock a Security Risk?" *Investor's Business Daily* (Los Angeles), October 5, 1999. Wolf's letter to SEC chairman Arthur Levitt Jr, copy in possession of researcher.

<sup>155</sup> Diamond, Stephen F. "The PetroChina Syndrome: Regulating Capital Markets in the Anti-Globalization Era" Cornell Law School Working Papers Series, Paper 11, Year 2003 pg 60; Steil pressed both the predecessors and successors to Unger to distance themselves from Unger's letter. From the transcript of the interview, they neither committed to the letter nor did they disown it; Council on Foreign Relations, "The Securities and Exchange Commission in a Globalizing Market: A Conversation with the Past Four Chairmen" [Rush Transcript; *Federal News Service*, Inc.] February 22, 2006

Wolf also wrote Treasury Secretary Lawrence H. Summers and asked if the presidential executive order that barred U.S. companies from investing in Sudan was applicable to foreign companies. The response was to the effect that the administration could only stop PetroChina from listing if the offering was for capital for direct investment in Sudan but that the administration was wary of going that route for fear of creating uncertainties about the U.S. commitment to open markets and the free flow of capital.<sup>156</sup> Other members of congress also wrote to the administration urging the Clinton administration to block PetroChina from listing.<sup>157</sup> In December 1999, 170 human rights and religious leaders added their voice through a letter to President Clinton asking him to extend the applicability of the U.S. sanctions on Sudan to foreign companies seeking to raise capital on U.S. markets.<sup>158</sup> The administration refused.<sup>159</sup>

Rep. Wolf persisted and in April 2001 he wrote Levitt's replacement at the SEC, Laura Unger.<sup>160</sup> Unger's now famous reply to Wolf dated May 8<sup>th</sup>, 2001 was described by the *Financial Times* as nothing short of a bombshell.<sup>161</sup> The letter did not seek to change existing regulations, but it significantly raised the level of disclosures required of foreign companies when they invested in countries under U.S. sanctions by designating such investment as material risks for investors. A lengthy memorandum from the SEC Division of Corporate Finance that was attached to the letter extended the coverage of

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<sup>156</sup> Letter dated December 27, 1999, from Linda Robertson, Assistant Secretary, Department of the Treasury, to Congressman Frank Wolf; Letter dated December 13, 1999, Robertson to Wolf.

<sup>157</sup> Correspondence from U.S. Congressmen to President William Clinton. Letters had some 25 signatories each.

<sup>158</sup> *Human Rights Watch*, "China's Involvement in Sudan: Arms and Oil", November 2003

<sup>159</sup> Newcomb, Richard R director, Office of Foreign Assets Control, Department of the Treasury, letter to Sen. Russell D. Feingold, Washington, D.C., April 13, 2000.

<sup>160</sup> Rep. Frank Wolf's letter dated April 2<sup>nd</sup>, 2001 copy in researcher's possession

<sup>161</sup> Alden, Edward. "SEC chief inherits disclosure bombshell; Capital markets watchdog's expanded role may cause sea change in the way foreign companies list in us" *Financial Times* May 11, 2001

countries to include sponsors of terrorism and countries designated by the State Department as violators of religious freedom.<sup>162</sup>

For the campaigners, this was a major victory.<sup>163</sup> However, the letter was not legislation and could be ignored or reversed by subsequent chairs. Campaigners therefore sought to have this codified through legislative fiat using the Sudan Peace Act. Meanwhile, they kept up the momentum by immediately approaching Unger's replacement at the SEC.<sup>164</sup> Business interests, including the National Foreign Trade Council at the same time were also pressuring new SEC chair, Pitt to back down from Unger's guidance.<sup>165</sup> Harvey Pitt did not display the same enthusiasm for disclosure as his predecessor. On July 19, 2001 in response to a question at his confirmation hearing, Pitt voiced concerns about capital market sanctions, maintaining the position that SEC disclosure requirements should be based on financially material information, not social or political causes.<sup>166</sup> Legislation therefore remained imperative as the long-term guarantee of market regulation.

### 1999 – 2000 Divestment

In the summer of 1999, the American Anti-Slavery Group launched a divestment campaign against Talisman Energy, the only North American oil company doing business

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<sup>162</sup> Martin, David "Response to Letter dated April 2, 2001 from Congressman Wolf" Memorandum May 8<sup>th</sup> 2001 (copy in researcher's possession)

<sup>163</sup> Gaffney, Frank, Jr. "A Tale of Two Horatios" *Jewish World Review* May 15, 2001

<sup>164</sup> Senator Fred Thompson (Senate Finance Committee member) wrote to Pitt October 2001 advocating limitation of capital access to supporters of terrorism. See Jenny Anderson "Capital Punishment" *Institutional Investor*, November 2001 at 85

<sup>165</sup> King, Neil Jr. and Michael Schroeder. "House Bill to Impose Sanctions on Firms Doing Business With Sudan Spurs Debate" *Wall Street Journal* 8/27/01

<sup>166</sup> Pitt record of confirmation proceedings copy in researcher's possession.

in Sudan at the time. The outcome was spectacular. Divestment advocates turned up the pressure on TIAA-CREF, which serves higher education employees and is the largest private pension plan in the world. At a rally in Boston on December 3, 1999, students from Harvard, Tufts, Simmons, Suffolk, and Boston Universities chastised TIAA-CREF's investment in Talisman. Four days later TIAA-CREF sold all its 300 000 shares in Talisman.<sup>167</sup> In January 2000, the State of New Jersey divested completely of its 680,000 shares in Talisman Energy. According to Reeves, a "roaring American divestment campaign produced the sale of 2.5 million shares" of Talisman Energy by February 2000.<sup>168</sup> Every major public institutional investor sold its shares of stock in Talisman: the state of New York (353,000 shares); the California Public Employees Retirement System (300,000 shares); the Texas Teachers Retirement System (100,000 shares); New York City (186,000 shares); and the state of Wisconsin (180,000). Other non-public investors included Vanguard Mutual Funds, Manning & Napier Investments, and the Presbyterian Church USA.<sup>169</sup>

In January, 2000 the coalition stepped up the pressure by adding an appeal to potential subscribers to shun the PetroChina IPO in case appeals to the U.S. government, the New York Stock Exchange and the Securities and Exchange Commission did not succeed. Campaigners including legislators Reps. Spencer Bachus, (Rep), and Dennis Kucinich, (Dem) sent letters to all 50 state treasurers and attorneys urging them to review

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<sup>167</sup> *Yale Insider*. "Endowment Reports; Oil and the Civil War in Sudan" June 17<sup>th</sup> 2002

<sup>168</sup> Reeves, Eric. "The nascent divestment campaign against Talisman Energy," *PostNuke* February 18, 2000

<sup>169</sup> India Resource Center, "Divestment Campaign to Get Talisman Out of Sudan" *Boston Phoenix*, July 12, 2001 at <http://www.indiaresource.org/issues/energycc/2003/sudandivestment.html> visited January 18th, 2007

state investment portfolios for stocks and bonds in foreign firms that might threaten U.S. national security.<sup>170</sup> A coalition of over two hundred campaigners also wrote to the senior managers of U.S. pension and mutual funds, the biggest potential sources of funding.<sup>171</sup> They made the moral argument about human rights violations in Sudan, but also indicated a scarcely veiled threat that should the listing proceed, a divestment campaign similar to that against Talisman Energy would be initiated against PetroChina.<sup>172</sup>

According to the India Resource Center it was the most successful divestment protest since the 1980s campaign to get investors out of South Africa.<sup>173</sup> Although this was mainly an American shareholders' divestment, the Canadian investors also got worried. They pressed Talisman for clarity on ethical issues regarding operations in Sudan. One outcome was the Talisman Corporate Social Responsibility Report in which the company acknowledged "instances of non-defensive usage of the Heglig airstrip in 2000."<sup>174</sup> Major Canadian investors such as the Ontario Teachers' Pension Plan joined in the threat to sell their shares if the company did not pull out of Sudan. Despite huge profits, Talisman's stock steadily fell.<sup>175</sup> In 2003 after the combination of threat of capital market sanctions and the divestment campaign, Talisman agreed to pull out of Sudan.

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<sup>170</sup> Waller, J. Michael. "China cashes in on US capital markets" *Insight magazine*, 24 January 2000

<sup>171</sup> Waller 2000 *supra*

<sup>172</sup> William J. Casey Institute, "Human Rights and Religious Leaders Urge Hundreds of Pension and Mutual Funds to Forego Imminent PetroChina IPO on NYSE," January 28, 2000.

<sup>173</sup> India Resource Center *supra*

<sup>174</sup> Talisman Energy. *Talisman Corporate Social Responsibility Report 2000*

<sup>175</sup> Sudan Divestment Taskforce, A project of the Genocide Intervention Network "Efficacy of Targeted Divestment at a Glance" available at [http://www.sudandivestment.org/docs/efficacy\\_glance.pdf](http://www.sudandivestment.org/docs/efficacy_glance.pdf) visited May 7th, 2007



### 2001 – 2006 Alien Torts Claim

On November 8<sup>th</sup> 2001 the Presbyterian Church of Sudan filed a lawsuit in the U.S. District Court of New York on the basis of the Alien Tort Claims Act (ATCA).<sup>176</sup> In this case the plaintiffs' claim was that the Sudanese military engaged in a war of genocide against the Southern non-Muslim population of Sudan, and that the Sudanese government used revenues generated from oil reserves in Southern Sudan to construct an arms industry and to purchase arms for its war of genocide.<sup>177</sup> Talisman was being sued because it aided and abetted or, alternatively, facilitated and conspired in the ethnic cleansing by the Islamic government of Sudan. The claim was that it did this by building infrastructure such as roads and airstrips that were used by the army in committing human rights violations and it contracted with the Sudanese army to protect oil operations while providing the army with vehicles and fuel. Plaintiffs alleged further that Talisman was aware that the troops and the logistical support the company provided were to be used to commit atrocities. Jurisdiction was sought based on the presence of Talisman subsidiaries in the United States generally.<sup>178</sup> The plaintiffs alleged that Talisman subsidiaries were the alter-egos of their Canadian parent company.

On May 13, 2002, Talisman filed a motion to dismiss, but the courts dismissed the motion on March 19, 2003. No less than 15 legal scholars and human rights organizations added their voices in support of the plaintiffs through filing *amicus curiae*

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<sup>176</sup> *The Presbyterian Church of Sudan, et al. v. Talisman Energy, Inc., et al.*, 244 F. Supp. 2d 289 (S.D.N.Y. 2003)

<sup>177</sup> Berger & Montague PC, Civil & Human Rights Case Summary, *Talisman Energy ; Presbyterian Church of Sudan, et. al., v. Talisman Energy, Inc., and the Republic of Sudan*. 01 CV 9882 (AGS)

<sup>178</sup> Developments in international law, prepared by the Editorial Staff of International Legal Materials The American Society of International Law, June 28, 2005 at webpage <http://www.asil.org/ilib/2005/06/ilib050628.htm#J2> visited April 30<sup>th</sup>, 2007

*briefs.*<sup>179</sup> In September 2006 however, the district court dismissed the case, partly because the court did not find that enough evidence had been adduced to hold Talisman liable for the atrocities in Sudan. The court also refused to pierce Talisman's corporate veil. It rejected the plaintiffs' arguments that Talisman be held liable on the basis of parent-subsidary liability, agency liability, and joint venture liability.<sup>180</sup>

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<sup>179</sup> See for example Brief *amici curiae* of international law scholars and human rights organizations in support of plaintiffs No. 01 Civ. 9882 available on the net at [http://www.humanrightsfirst.org/international\\_justice/w\\_context/ATCA\\_Talisman\\_amicus0603.pdf](http://www.humanrightsfirst.org/international_justice/w_context/ATCA_Talisman_amicus0603.pdf) visited May 1st, 2007

<sup>180</sup> The Court's judgment is available at <http://www.velaw.com/pdf/resources/TalismanSDNY.pdf> ; See also Simons, Marco. "Presbyterian Church of Sudan v. Talisman Energy" *EarthRights International* 19 April 2007

## **Chapter 7**

### **CAPITAL MARKETS SANCTIONS CAMPAIGN**

#### **Within Case Analysis**

##### **Opportunity Structures**

As with the conflict diamonds campaign, several factors external to campaign organizing helped to account for the way the capital markets sanctions campaign evolved as well as for its outcomes. The second and third segments of my arguments are grounded in the opportunities that enabled and impeded the prosecution of the campaign and I again use the framework of the tripartite opportunity structure to discuss the factors external to activist control.

##### **Institutional Opportunity Structures**

The main institutional opportunities that availed to the campaigners included capital financing regimes, international NGO networking, the U.S. legislative and regulatory systems, corporate public trading structures and the Alien Tort Claims Act.

##### **Capital Markets**

The prime instrument deployed by campaigners rested on the nature of the operation of capital markets and the rules that have evolved relevant to those operations. Traditionally, finance suppliers were provided by banks as the repositories of savings, but

a new range of financial intermediaries have emerged on the global markets in the form of pension funds, mutual funds, university endowments and individual investors.<sup>1</sup> Starting from before the sanctions campaign, more and more capital is being raised on capital markets than through savings, and the trend appears set to continue. As at March 2000, the U.S. stock market was valued at \$16 trillion dollars.<sup>2</sup> According to Pener, “U.S. entities account for between 40 and 60 percent of global demand for securities.<sup>3</sup> Similarly, the U.S. debt and equity markets account for as much as 50 percent of funds raised through securities offerings globally.”<sup>4</sup> This form of capitalization concentrates the power of capital and investment through a finite number of markets in which the U.S. is dominant.<sup>5</sup>

For the longest time the U.S. capital markets were shielded from political interference and that in turn served to attract investors seeking to raise capital without having to worry about social or moral responsibility. That immunity from political questioning became one of the pillars of the American economy.<sup>6</sup> One of the significant factors for the capital markets sanctions campaign is that some of the intermediaries to the new form of financing turned out to be labor controlled. As indicated above, in 2000 AFL-CIO affiliates controlled pension funds worth over \$400 billion and were trustees

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<sup>1</sup> Edwards, Franklin R. *The New Finance: Regulation & Financial Stability*, 1996

<sup>2</sup> Marotta, George. “The United States: Capitalist model to the world” *Vital Speeches of the Day* New York: Oct 1, 2002. Vol.68, Iss. 24; pg. 78

<sup>3</sup> Pener supra 4

<sup>4</sup> Pener supra, 4

<sup>5</sup> Edwards, supra 1996

<sup>6</sup> Hearing on the Federal Reserve’s Report on Monetary Policy Before the Senate Banking, Housing and Urban Affairs Committee, July 20, 2000 (statement of Alan Greenspan, Chairman, Board of Governors, Federal Reserve System).

for over another \$5 trillion.<sup>7</sup> China's quest for oil and capital and Sudan's desire for oil exploitation piqued at the same time as these shifts in global financial structures, bringing the two countries into U.S. capital markets. For the campaign, this was a key opportunity. It gave labor enormous leverage at just the time when labor was finding common ground with human rights.

The shift in the financing regime had another important implication for the campaign. U.S. labor, whose power had waned significantly due to globalization's freeing of corporations from the limitations of geographically fixed location, became relevant again, this time as a controller of finance. Capital markets afforded labor the opportunity to utilize its newfound power to force companies to listen again. Given the sheer size and dominance of U.S. capital markets, such leverage extended beyond U.S. borders and represented an enormously powerful tool for U.S. human rights activists with who labor now partnered. To the repertoire of naming and shaming as well as the problematic mechanism of boycott was now added the potentially very effective tool of finance regulation.

But markets in general are also traditionally notoriously resistant to policy interference and have a strong and dedicated constituency that is committed to the separation of policymaking from moneymaking. As Greenspan declared; "the campaign to expand free trade is never won. It is a continuing battle."<sup>8</sup> Not only was freedom of the market sacrosanct in Greenspan's view, but he did not see its deleterious effects as cause enough for halting the perpetual battle for market freedom. As he put it, "It would be a

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<sup>7</sup> Diamond *supra* 84

<sup>8</sup> Greenspan, Alan Testimony before the Committee on finance, U.S. Senate, April 4 2001

great tragedy were we to stop the wheels of progress because of incapacity to assist the victims of progress.”<sup>9</sup> From his perspective and others of like mind, free markets represent the only long-term route to progress and the casualties of the process are regrettable but unavoidable collateral damage. Thus while the market provided an opportunity for campaigners, it was a heavily contested opportunity.

Although free markets advocates argued against any precedent setting, it must be noted that markets have never been completely free from policy interference and government management. Trade sanctions have a long history of use as an instrument of policy. As Newcomb, Elshihabi and Bechky say; “For years the US has imposed economic sanctions on certain nations it deems undesirable.”<sup>10</sup> And when unilateral sanctions have failed, the U.S. has even sought to impose sanctions with extraterritorial impact, for example the *Helms-Burton Act* that targeted foreign companies investing in Cuba, and the *Iran-Libya Sanctions Act* aimed at stopping European companies from investing in Iranian and Libyan oil.<sup>11</sup> Hufbauer and Oegg point out correctly that neither was ever enforced because they were unpopular with the U.S.’s allies, but the fact remains, the willingness to use these measures has been a part of U.S. policymaking dating to well before the capital markets sanctions campaign.<sup>12</sup> What the campaign was seeking to do though was to enlarge the scope of acceptable sanctions into the realm of finance. Free markets advocates meanwhile were already unhappy with the existing

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<sup>9</sup> Greenspan April 4, 2001 *supra*

<sup>10</sup> Newcomb, Danforth, Saamir Elshihabi and Perry Bechky. “Congress turns to capital markets to support sanctions” *International Financial Law Review*. London: Sep 2001. Vol.20, Iss. 9; pg. 38

<sup>11</sup> Hufbauer, Gary Clyde and Barbara Oegg “Capital-Market Access: New Frontier in the Sanctions Debate” *Institute for International Economics*, Policy Brief 02-6, May 2002

<sup>12</sup> Hufbauer and Oegg, 2002 *supra*

intrusions and to them this was “a new idea, a bad idea, and a frontier that should not be crossed.”<sup>13</sup> As demonstrated by the reaction of Talisman Energy and the effect on PetroChina’s IPO, this was indeed a powerful tool and its institutionalization was fought off with tenacity.<sup>14</sup>

A dimension of the capital markets that also learnt the campaigners an opportunity for advocacy were developments in the Chinese economy. China had been and continues to experience significant economic growth and with it a phenomenal increase in its energy demands. According to a 1999 James Baker Institute study;

China’s economy experienced double-digit growth in the first half of the 1990s and over 8 to 9 percent per annum since 1996. Total primary energy use has risen from 665 million tons of oil equivalent (mtoe) in 1990 to 935 million mtoe in 1996. Total primary energy consumption in China could grow from 916 million tons of oil equivalent (mtoe) in 1995 to 1,405 mtoe to 1,774 mtoe by they year 2010 and 1,762 mtoe to 2,691 mtoe by 2020<sup>15</sup>

This increased consumption forced China to go onto the global market as an oil importer, practicing a “socialist market economy” with all the risks that move entailed. State controlled CNPC was the main Chinese response to increased oil demand. CNPC started making huge investments in foreign oil fields including Peru, Venezuela, and Sudan. However, given the Chinese central government’s budget deficit, capital shortage was a significant challenge.<sup>16</sup> The Chinese government’s strategy to counter this was

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<sup>13</sup> Hufbauer, Gary Clyde and Barbara Oegg “Capital-Market Access: New Frontier in the Sanctions Debate” *Peterson Institute for International Economics*, May 2002

<sup>14</sup> For wider implications of the PetroChina IPO outcome see Braden Penhoet. “Wall Street Sings the Dragon; PetroChina’s Failed IPO” *Multinational Monitor* MAY 2000: Volume 21 Number 5

<sup>15</sup> The James A. Baker III Institute for Public Policy of Rice University “China and Long-range Asian Energy Security- An Analysis of the Political, Economic, and Technological Factors Shaping Asian Energy Markets” at

[http://www.rice.edu/energy/publications/studies/study\\_11.pdf#search=%22baker%20institute%20study%20no.%2011%22](http://www.rice.edu/energy/publications/studies/study_11.pdf#search=%22baker%20institute%20study%20no.%2011%22) (visited October 7<sup>th</sup>, 2006)

<sup>16</sup> Baker Institute supra page 4

“massively penetrating the U.S. debt and equity markets.”<sup>17</sup> The intended listing by PetroChina was to mark the biggest public offering of stock by a Chinese government controlled enterprise, a major step in Chinese entry into global markets and a triumph for free market advocates generally.<sup>18</sup>

But that entry caused alarm in U.S. security circles as evidenced by the findings of the Cox and Deutch commissions and it led to the rather strange commonality of purpose amongst national security, religious freedom and human rights groups. Again according to the Baker Institute report;

the situation of certain suppressed religious and ethnic groups remains a major thorn in China’s side in its interactions with the international community and media. The human rights issues raised by these groups throw a huge amount of unpredictability into China’s future development and its relationship with the U.S. and other nations.<sup>19</sup>

As already pointed out above, it also got the attention of the U.S. newly internationalist labor movement due to labor related issues within China.<sup>20</sup> The Chinese market developments happened to be taking place at the very same time as U.S. labor was breaking out of its narrow focus on American domestic worker rights.<sup>21</sup> Faced with the threat of a globalizing capitalism, the AFL-CIO had just launched its American Center for International Labor Solidarity in 1997 in order to “tackle the enormous challenges

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<sup>17</sup> Center for Security Policy, *Sinopec Case Again Points to Beijing's Deception in U.S. Equity Market* *Far Eastern Economic Review* *Scorches S.E.C and Wall Street* Publications of the Center for Security Policy No. 00-F 52, 27 October, 2000 <http://www.security-policy.org/papers/2000/00-F52.html> (visited October 9th, 2006)

<sup>18</sup> Diamond, S.F. “The Chinese Market: An enigma Unravelling” *Dissent* 95, Summer 2002

<sup>19</sup> Baker Institute report *supra*, 6

<sup>20</sup> Lee, Ching Kwan. “From the Spectre of Mao to the Spirit of Law; Labour Insurgency in China” *Theory and Society*, 189 April 2002

<sup>21</sup> Solidarity Center <http://www.solidaritycenter.org/content.asp?contentid=409>



workers face in the global economy.”<sup>22</sup> This boded ill for China and the free market lobby but was a boon in the hands of human rights and religious freedom advocates.

### International NGO Networking

There was not as much congruency between international human rights efforts and local initiatives as in the conflict diamonds campaign. One reason was that the issue of capital markets sanctions was more localized, even though the activists drew from the expertise and research of other NGOs that were campaigning for divestment in Europe and Canada. The role of the UN was also minimal on Sudan as noted by international NGOs.<sup>23</sup> The international institutional opportunity that availed so significantly in the conflict diamonds campaign did not materialize as much in the capital markets sanctions campaign.

### Securities and Exchange Regulation

A more significant institutional opportunity came out of the lessons learnt from the disaster of the Great Depression. The Wall Street Crash of 1929 was one of the most devastating stock-market crashes in American history.<sup>24</sup> Prior to 1929, government had stayed out of the business of regulating stock markets, but the trauma of the crash led to government regulation of trading on the markets in order to protect the investor. Post-1929, any transaction involving the sale of a security on a United States market was

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<sup>22</sup> Solidarity Center, *About us* at <http://www.solidaritycenter.org/content.asp?contentid=409> as above.

<sup>23</sup> Dutch Lobby Group on Sudan, internal strategy document “Peace First! Stop Oil from fuelling the War in Sudan” February 2001 (document in possession of researcher)

<sup>24</sup> Klein, Maury. “Wall Street Crash: The consequences” *BBC* November 3<sup>rd</sup>, 2004

required to be registered with the Securities and Exchange Commission unless there was an exemption.<sup>25</sup> A seller had to provide adequate disclosure of all material information about both the issuer and the security to potential purchasers. This does not preclude potential purchasers on their own demanding for details, but as a regulatory requirement, it has the effect of a legal precondition that can stop trading. The requirement opened another window of opportunity for the activists. The campaigners sought to and did reach a milestone transition in so far as the definition of what is “material” in the market. Acting chairman Unger’s letter clearly ended the monopoly of financial considerations as what defined “material concerns” and ushered in human rights as relevant concerns. By itself, that was a major shift, one which the free market advocates like Benn Steil vilified as a mega disaster.<sup>26</sup>

Activists turned this tool on PetroChina to enforce full and fair disclosure of financial information.<sup>27</sup> Campaign activists alleged that the disclosure documents filed with the SEC by PetroChina failed to reveal the risks attendant on investing in Sudan because of the human rights abuses there. Part of the argument rested on the logic and experience that where there are human rights violations, there tends to be a potential for political upheaval.<sup>28</sup> Political instability can increase investment risk to a level that a potential investor might not want to undertake. In May 2000, the Commission on International Religious Freedom issued a report calling for greater disclosure by

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<sup>25</sup> Securities Act 1933, as amended, 15 USCS § 77a (2003), and Securities Exchange Act of 1934, as amended, 15 USCS § 78a (2003).

<sup>26</sup> Benn, *supra*

<sup>27</sup> Khademian, Anne M. “The Securities and Exchange Commission: A small regulatory agency with a gargantuan challenge” *Public Administration Review*; Sep/Oct 2002; 62, 5; Research Library Core pg. 515

<sup>28</sup> India Resource Center 2001 *supra*

PetroChina especially as regards the possibility of the proceeds of the IPO being used to pay off the parent company CNPC's debt.<sup>29</sup> It was in response to this pressure that Unger's "bombshell" letter was issued.<sup>30</sup> The letter caused consternation in capital finance circles and the response to it was immediate.<sup>31</sup> Russian oil company Lukoil, abandoned a planned listing on the New York Stock Exchange and Talisman, facing both potential legislation and divestment, decided to abandon its Sudan venture.<sup>32</sup>

### The Legislative Process

The U.S. legislative system provided a major institutional opportunity structure for the campaign and it was around the legislative process that most of the contestation took place. Legislation provided the surest way of guaranteeing that what Laura Unger had stated would become not just practice that could change depending on the inclinations of a current SEC chairman, but law. Several versions of the Sudan Peace Act functioned as the instruments for attempting to formalize sanctions and issuer and investor disclosures. Committee procedures helped highlight the issue.

During the 105<sup>th</sup> congress, hearings were held by the House Committee on International Relations, Subcommittee on Africa on "Sudan and Terrorism" on May 15, 1997 at which testimony was presented by administration officials.<sup>33</sup> Another hearing

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<sup>29</sup> United States Commission on International Religious Freedom report May 1<sup>st</sup>, 2000

<sup>30</sup> Unger, Laura *Letter to Congressman Wolf* May 8<sup>th</sup> 2001

<sup>31</sup> Alden, Edward. "SEC Seeks Closer Watch on Overseas Groups" *The Financial Times*, May 11, 2001

<sup>32</sup> Beard, Alison. "Russia's Lukoil disappoints US investors with London listing" *Financial Times*, July 2, 2001 at 23.

<sup>33</sup> House Committee on International Relations, Subcommittee on Africa available at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105\\_senate\\_hearings&docid=f:40875.wais](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105_senate_hearings&docid=f:40875.wais) visited May 1<sup>st</sup>, 2007

was held by the same committee on “Religious Persecution in Sudan” on September 25, 1997 at which the witnesses were mainly human rights and faith groups.<sup>34</sup> In the 106<sup>th</sup> Congress, more hearings on Sudan were held. On May 16 and September 7, 2000 the Committee on Foreign Relations held hearings on the “U.S. Commission on International Religious Freedom: findings on Russia, China, and Sudan; and religious persecutions in the world.”<sup>35</sup>

The House Committee on International Relations, Subcommittee on Africa and Subcommittee on International Operations and Human Rights held joint hearings on March 28<sup>th</sup> 2001.<sup>36</sup> Testimony was given by Elliott Abrams, chairman of the U.S. Commission on International Religious Freedom; Eric Reeves, professor at Smith College; J. Stephen Morrison, director of the Africa Program at the Center for Strategic and International Studies; and Roger Winter, executive director of the U.S. Committee for Refugees among others. As Foster said, the hearing was a victory for campaigners who had for two years been trying to get heard by U.S. government officials.<sup>37</sup> The same subcommittee held hearings on “Implementing U.S. Policy in Sudan” on July 11<sup>th</sup> 2002 at which both human rights groups and administration officials gave testimony.<sup>38</sup> All these hearings helped raise the profile of the campaign significantly both for the public as well as for legislators.

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<sup>34</sup> House Committee on International Relations, Subcommittee on Africa available at [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105\\_senate\\_hearings&docid=f:43816.wais](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=105_senate_hearings&docid=f:43816.wais)

<sup>35</sup> [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106\\_senate\\_hearings&docid=f:66867.wais](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_senate_hearings&docid=f:66867.wais)

<sup>36</sup> America's Sudan policy: a new direction?

<sup>37</sup> Foster, Julie. “Committee hearing on Sudan today” *Worldnetdaily* March 28, 2001

<sup>38</sup> [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107\\_senate\\_hearings&docid=f:83166.wais](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_senate_hearings&docid=f:83166.wais)

### Shareholder Power

Divestment or divestiture comes from the nature of the publicly traded company being technically “owned” by shareholders. Divestment is the reduction of assets for either financial or social goals. While the effectiveness of divestiture for social goals has been questioned, it remains a popular tool for social activists and it was used extensively against Talisman and to a more limited degree against PetroChina.<sup>39</sup> Those opposed to divestment argue that it is based on a fundamental misunderstanding of how equity markets work. Silber, former president of Boston University, argued for example that boycotting a company's products worked but not divestment because; "once a stock issue has been issued, the corporation doesn't care whether you sell it, burn it, or anything else, because they've already got all the money they're ever going to get from that stock. So they don't care."<sup>40</sup> Selling means ownership changes hands, but it does not necessarily diminish capital he argued. Proponents of divestment argue however that the effectiveness of divestment lies in that institutional selling of a particular stock lowers its market value especially if it happens on a massive scale.

In the Sudanese case, divestment took place at state levels, at universities and with pension funds. To what extent it was the cause of Talisman's pull out is hard to judge.<sup>41</sup> When he announced the sell of Talisman interests in Sudan, Talisman CEO Buckee implicated the prospect of capital market sanctions, but the effects of divestment cannot be ignored as indicated in the outcomes section. PetroChina also faced divestment

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<sup>39</sup> Manhas 2007 *supra* for the opposition to divestment.

<sup>40</sup> Kindleberger, R.S. “N.E. College Students Join Apartheid Protests” *Boston Globe* Oct 12, 1985

<sup>41</sup> Reeves, Eric. “Commentary on the Divestment Campaign by Far Eastern Economic Review” *Sudanreeves* January 5, 2001

and according to Graham-Felsen it worked.<sup>42</sup> By 2006, the Sudanese government had taken out an estimated \$1 million in ads in the *New York Times* and was issuing press releases decrying divestment. Logic dictates that this kind of spending on advertising would not be incurred if divestment had no effect.

### Alien Tort Claims Act

The Alien Tort Claims Act (ATCA) of 1789 grants jurisdiction to U.S. Federal Courts over "any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." The act has been used to mount suits against mostly individuals after the ground-breaking case of *Filartiga v. Peña-Irala*.<sup>43</sup> According to *Global Policy Forum*, if efforts to sue transnational corporations for violations of international law in countries outside the U.S. were allowed to proceed, "then ATCA could become a powerful tool to increase corporate accountability."<sup>44</sup> The trend had been set; the action in the Talisman case was following the precedent set in *Doe V. Unocal* in which in 1997, a U.S. federal district court in Los Angeles agreed to hear a claim against transnational corporation Unocal.<sup>45</sup> The Court's conclusion that corporations and their executive officers can be held legally responsible under the Alien Tort Claims Act for violations of international human rights norms in foreign countries, and that U.S. courts have the authority to adjudicate such claims opened the door to holding corporations

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<sup>42</sup> Graham-Felsen, Sam. "Divestment and Sudan" *The Nation* May 8<sup>th</sup> 2006

<sup>43</sup> *Filártiga v. Peña-Irala*, 630 F.2d 876 (2d Cir. 1980) U.S. courts ruled in favor of the plaintiffs rewarding them roughly \$10.4 million in damages.

<sup>44</sup> Global Policy Forum. *Alien Tort Claims Act* at <http://www.globalpolicy.org/intljustice/atca/atcaindx.htm> visited May 2nd 2007

<sup>45</sup> *Doe v. Unocal Corp.* (110 F. Supp. 2d 1294 (C.D. Cal. 2000)

responsible for their activities internationally. Unocal decided to settle the claim but Talisman persisted in its defense and as noted in the outcomes section, in 2006 the action was eventually dismissed.

### U.S. Administration

As will be more fully discussed in the geo-political opportunity structure section, the U.S. administration's policy on Sudan was ambivalent. Despite overt antagonism towards the Sudanese regime, Washington was responding to Sudan's signals for rapprochement even before the al Qaeda attack on September 11<sup>th</sup> 2001. September 11<sup>th</sup> ushered in the era of war on terror. When President Bush addressed the joint session of Congress on September 20, 2001 he announced that the war on terrorism would be fought on many fronts: diplomatic, intelligence, covert action, economic sanctions, law enforcement as well as military.<sup>46</sup> On September 23, the President issued an executive order freezing the assets of named terrorists, terrorist groups, and terrorist fundraising organizations in an effort to curtail Al Qaeda's financial lifeline. A Foreign Terrorist Asset Tracking Center was created in the Treasury Department in order to coordinate U.S. agencies' initiatives on the financial front.<sup>47</sup> The administration clearly had no problem with the use of financial penalties to achieve policy goals. Logic would have dictated that the war on terror would aid the capital markets sanctions campaign but that was not to be.

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<sup>46</sup> Bush, George W, President "Address to a Joint Session of Congress and the American People" September 20<sup>th</sup> 2001 available at <http://www.whitehouse.gov/news/releases/2001/09/20010920-8.html> visited May 2nd 2007

<sup>47</sup> *York Times*. September 25, 2001 pg B4; *Washington Post*, 25 September 25<sup>th</sup> 2001 pg. A9.

The campaigners for sanctions included a huge part of President Bush's constituency, but that opportunity structure too did not translate into positive results for campaigners.<sup>48</sup> This was partly due to capital markets sanctions having pitted conservatives against each other; free markets versus the religious right as well as national security considerations dictating alliances that in normal circumstances would have defied logic.<sup>49</sup> One of the ironies of the war on terror was the White House extending a hand of friendship to precisely the countries that the religious freedom movement opposed; like Sudan and Pakistan.

### **Discursive Opportunity Structures**

Several, sometimes competing discourses were taking place simultaneously in the contestation over capital markets sanctions. For activists, the contestation was made even more complex by the seemingly self-contradictory nature of U.S. policy on Sudan.<sup>50</sup> On the surface, there appeared to be very strong U.S. political will to oppose and even overthrow Sudan's Islamic government. In 2000 the U.S. prevented Sudan's election as a temporary member of the United Nations Security Council. On the economic front, the U.S. supported the 1996 UN economic sanctions against Sudan, and imposed its own bilateral economic sanctions in November 1997. In terms of security, in 1993 the U.S. had categorized Sudan as a "rogue state," and even flattened a Sudanese pharmaceutical

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<sup>48</sup> Green, Joshua. "God's Foreign Policy" *Washington Monthly* November 2001

<sup>49</sup> Perl, Raphael. "Terrorism, the Future, and U.S. Foreign Policy" *Congressional Research Services* Code IB95112 April 11, 2003

<sup>50</sup> Dutch Lobby Group 2001 *supra* pg 8



factory suspected of manufacturing chemical weapons for Osama Bin Laden using missiles in 1998.

Meanwhile religious international solidarity was on the rise as was labor international. Human rights language remained the politically correct policy language, and the emotive issues of genocide, slavery and religious freedom became part of the discourse on Sudan. Especially after 9/11 national security assumed a decidedly overwhelming importance to the campaign outcome and so I treat that separately under the third leg of the opportunity structure. Whatever discursive codes the activists called on, in order to succeed, they had to create a resonance with their constituencies and provide bases for the legitimacy of their claims. Some codes were a given; with others the activists crafted the frames for legitimacy.

### Publicity and Resonance

Oil is a commodity so valuable to industrialized countries that they find it literally worth fighting for.<sup>51</sup> Genocide and slavery are equally powerful and evocative discourses.<sup>52</sup> Free markets have their fervent adherents and opponents. In the capital markets sanctions campaign all three were ingredients and that more or less guaranteed publicity and resonance for the campaign.<sup>53</sup>

For the U.S., oil has long been considered a strategic resource justifying the use of force for its assured security. Speaking about securing the flow of oil from the Middle

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<sup>51</sup> Clarke, Kevin. "When oil wells don't end well", *U.S. Catholic*, 00417548, Aug 2003, Vol. 68, Issue 8

<sup>52</sup> Interview with activist May 12<sup>th</sup>, 2006 Baltimore, Maryland

<sup>53</sup> Reeves alone has a long list of articles published on Sudan that he put on his website Darfur; A Genocide We Can Stop; *Publications, testimony, and professional activities relating to Sudan research and advocacy* <http://www.darfurgenocide.org/index.php>

East when it was considered to be under threat from the Soviet Union, President Carter declared that;

Meeting this challenge will take national will, diplomatic and political wisdom, economic sacrifice, and, of course, military capability. We must call on the best that is in us to preserve the security of this crucial region. Let our position be absolutely clear: An attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America, and such an assault will be repelled by any means necessary, including military force.<sup>54</sup>

Securing the supply of oil has thus been and remains very serious national business. It is also a resource that is such an integral part of modernity; as a source of energy, as an ingredient in the pharmaceutical and food industries and many other uses that everyone “can feel it in their pocket.”<sup>55</sup> Oil was a sure fire publicity draw card but it has tended to be enmeshed with violent conflict.<sup>56</sup> To Clarke’s adage that “Divine wisdom has placed vast reserves of oil in some of the world’s most impoverished places” must be added the truism that it also placed the oil in some of the most volatile areas of the globe.<sup>57</sup> When faced with criticism over their involvement in these conflicts, oil companies have traditionally insisted that they have to deal with whatever devils happen to occupy the sites of oil resources as they have no say in the locations.<sup>58</sup> On Sudan, it was not so much that the U.S. wanted Sudan’s oil; U.S. companies were already out of Sudan. The issue was that China was using U.S. money to meet its oil needs and that was galling. Worse,

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<sup>54</sup> President Jimmy Carter, State of the Union Address 23 January 1980  
<http://www.thisnation.com/library/sotu/1980jc.html> (visited October 9th, 2006)

<sup>55</sup> Dutch Lobby Group on Sudan 2001 *supra*

<sup>56</sup> Klare, Michael. “The New Geography of Conflict” *Foreign Affairs*, June 2001

<sup>57</sup> Clarke 2003 *supra*

<sup>58</sup> Le Billon, Philippe. “The political ecology of war: natural resources and armed conflicts,” *Political Geography* 20, 2001 p561-584

China was getting the oil that was also financing the Khartoum government's genocidal military campaign against Christians.

Genocide and slavery, also components of the Sudan issue, make for very powerful human drama. When the Holocaust museum issued a genocide watch and set up the Sudan exhibit, it generated very emotional reactions.<sup>59</sup> In the words of one of the activists the outcome was that, "You had a dream constituency. You got everybody on board, everybody and that meant this isn't a Christian issue, its not an African issue, not a humanitarian issue, this is genocide; the single gravest crime against humanity that we have a word for."<sup>60</sup> The language of genocide very quickly entered congressional discussion and legislation.

And similarly with slavery. When the anti-slavery campaign mobilized schoolchildren to line up and donate their lunch money to free slaves in Sudan, more than a few eyes shed tears.<sup>61</sup> In politics, one ignores school children at his/her peril. On Sudan, elementary schoolchildren from across the country wrote thousands of letters to policymakers and celebrities, collected allowance money, gave up lunches and organized lemonade-stand sales to raise funds to redeem slaves.<sup>62</sup> They even appeared on Capitol Hill to lobby congressmen and senators. Part of the redemption campaign turned out to be a scam on both continents but no matter its merits or de-merits, it was a powerful

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<sup>59</sup> Interview with activist May 12<sup>th</sup>, 2006 Baltimore, Maryland

<sup>60</sup> Interview May 12<sup>th</sup>

<sup>61</sup> Gardner, Christine J. "Redeeming Sudan's Slaves" *Christianity Today* August 9, 1999

<sup>62</sup> Eibner, John. "My Career Redeeming Slaves" *Middle East Quarterly* December 1999; *NEA Today* "Today's slave trade hits a STOP" September 1999

publicity peg for the conflict in Sudan and the engagement of many Americans in the lobbying efforts.<sup>63</sup>

The attempt to intrude into capital markets was of itself an attention getter. Attention became even more acute when the two commissions on U.S. national security raised the specter of U.S. capital market penetration by nations and entities hostile to the U.S.<sup>64</sup> Even those opposed to capital market sanctions as a policy instrument acknowledged that capital market sanctions were not going to go away, even as they poured scorn on it. As they said, “Unfortunately, it seems that capital markets sanctions are an idea whose time has come, and will most likely keep on coming, despite their having earned pride of place in the pantheon of diplomatic dopiness.”<sup>65</sup> Except for the dopiness, activists agreed and for them capital markets sanctions were the next step after trade embargoes in their struggle to bring ethics into the market place.<sup>66</sup>

### Framing the Legitimacy

To succeed, activists needed to overcome the dominant paradigm of freedom of the market as critically essential to the competitiveness and vitality of America’s economy. Campaigners appealed to a combination of fundamental American values, national security interests and the protection of American investors.

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<sup>63</sup> Vick, Karl. “Ripping Off Slave 'Redeemers' Rebels Exploit Westerners' Efforts to Buy Emancipation for Sudanese” *Washington Post* February 26, 2002

<sup>64</sup> Cox and Deutch commissions *supra*

<sup>65</sup> Steil 2005 *supra*

<sup>66</sup> Interview with activist June 1<sup>st</sup> 2006 Washington D.C.

### *Religious Freedom and Slavery*

Religion virtually topped the list among the cultural codes campaigners appealed to locally in the sanctions and Sudan debate. Religion is a fundamental code of value in the U.S. and a major part of the country's history. A Pew Global Attitudes Project survey conducted during the currency of the campaign in 2002 indicated the U.S. as the only developed nation in the survey where a majority of citizens reported that religion plays a "very important" role in their lives.<sup>67</sup> Mead argues that religion has always been a major force in U.S. politics, but it was the surge in the power and the involvement of evangelicals that had a significant impact on the country's foreign policy especially due to the evangelicals' passionate devotion to justice and human rights.<sup>68</sup>

Campaigners were also standing on solid ground in terms of religion based legitimacy given that the First Amendment to the United States Constitution that is a part of the United States Bill of Rights specifically protects freedom of religion.<sup>69</sup> In religious freedom, campaigners had a cultural code that not only resonated locally in the U.S., but one that had international validity. Religious freedom is one of the rights embodied in the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). It was this connection that was such a puzzle for Nina Shea

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<sup>67</sup> Pew Global Attitudes Project. *U.S. Stands Alone in its Embrace of Religion*. Available at [http://www.queensu.ca/cora/polls/2002/September19-Religious\\_Belief\\_across\\_Countries.pdf](http://www.queensu.ca/cora/polls/2002/September19-Religious_Belief_across_Countries.pdf) visited January 13<sup>th</sup> 2007 was a 44 nation survey

<sup>68</sup> Mead, Walter Russell. "God's Country?" *Foreign Affairs*, September/October 2006

<sup>69</sup> Constitution for the United States of America, Bill of Rights; Article the third [Amendment I] "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

and other religious campaigners when mainstream human rights groups would not take up the religious freedom issue in Sudan.<sup>70</sup>

U.S. religious discourse on Sudan had the aura of official government backing at least from 1999 when the Secretary of State designated Sudan “a country of particular concern under the *International Religious Freedom Act* for particularly severe violations of religious freedom.”<sup>71</sup> The *International Religious Freedom Act* was enacted in 1998 and it empowered the government to name countries of concern and offered the U.S. government options ranging from condemnation to sanctions as means for expressing its opprobrium. The act was intended to promote religious freedom as a component of U.S. foreign policy and so valued was religion that the original bill made sanctions mandatory. However, an amendment made sanctions discretionary depending on U.S. interests and national security. In addition to the office on International Religious Freedom in the Department of State, a nine-member bipartisan Commission on International Religious Freedom was created to monitor the status of freedom of thought, conscience, and religion or belief abroad, as defined in the Universal Declaration of Human Rights and related international instruments. One of the first actions of the commission was the formation of a task force to examine the possibility of imposing capital-market sanctions against companies “investing or doing business in countries that severely violate religious freedom.”<sup>72</sup> In the first of its legislatively mandated annual reports, the commission

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<sup>70</sup> Shea *supra*

<sup>71</sup> U.S. Department of State. *Sudan International Religious Freedom Report 2003* Released by the Bureau of Democracy, Human Rights and Labor

<sup>72</sup> United States Commission on International Religious Freedom, Press Release “Commission to Examine Capital-Market Sanctions” Dec. 20, 1999

strongly recommended capital markets sanctions on Sudan.<sup>73</sup> As noted by Human Rights Watch, President Bush despite his huge Christian constituency was however totally opposed to using these powers, thus depriving the campaigners of one of their most significant political leverages.<sup>74</sup>

Freedom of religion conflated with slavery; a part of the U.S. legal institution until 1865 but a legacy that remains troublesome to the present. Slavery played a key role in instigating the American civil war. The war marked a transition to public attitudes that slavery was a social evil. It was easier therefore for a resonance to create with the issue of slavery in Sudan. Seen as equally evil is the practice of genocide, and the framing of the capital markets sanctions campaign on a combination of all three codes made for a very powerful message.

### *Human Rights*

Religion and human rights were not necessarily dichotomous in this debate. The NGO Christian Solidarity International's primary objective for example is "worldwide respect for the God-given right of every human being to choose his or her faith and to practise it, as stipulated in Art. 18 of the Universal Declaration of Human Rights."<sup>75</sup> Numerous of the Christian denominations engaged in the campaign embraced human rights as essentially founded upon religious principle. The Social Principles of the United Methodist Church specifically endorsed human rights as one of the values at stake in

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<sup>73</sup> United States Commission on International Religious Freedom  
<http://www.uscifr.gov/countries/publications/currentreport/index.html> visited January 16th, 2007

<sup>74</sup> Human Rights Watch *Overview: Religious Freedom in Peril* available at  
<http://hrw.org/religion/overview.html> visited May 6th, 2007

<sup>75</sup> Christian Solidarity International web page at [http://www.csi-int.org/about\\_csi.php](http://www.csi-int.org/about_csi.php) visited May 2nd 2007

Sudan.<sup>76</sup> Some of the activists I interviewed saw in human rights a religious creation and argued that; “if you look at the whole question of human rights, its hard to separate human rights from religious. If you look at the history of human rights, in the development of the declaration of human rights, it has a lot of roots within the faith community. Obviously it was done through a UN process.”<sup>77</sup> There is now even an Evangelicals for Human Rights (EHR) group which “seeks to reaffirm the centrality of human rights as an unshakable biblical obligation fundamental to an evangelical Christian social and moral vision.”<sup>78</sup> In their interpretation, human rights are God-given and thus not necessarily secular. The United States Commission on International Religious Freedom in its yearly reports as well as its testimony before congress spoke in terms of human rights violations in Sudan.<sup>79</sup>

Islam was not visible in the campaign, but the few Muslims who spoke distanced Islam from the human rights abuses by Khartoum and denied that these practices had any foundation in Islam.<sup>80</sup> Needless to say, human rights mainstream organizations such as Human Rights Watch used rights language as their mantra for condemning what was happening in Sudan and their opposition to corporate investment.<sup>81</sup>

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<sup>76</sup> Social Principles of the United Methodist Church 2005-2008 at page 14

<sup>77</sup> Interview with activist June 29<sup>th</sup> 2006 New York, New York

<sup>78</sup> Evangelicals for Human Rights,

[http://www.evangelicalsforhumanrights.org/pb/wp\\_cd64b518/wp\\_cd64b518.html?0.7609606067255892](http://www.evangelicalsforhumanrights.org/pb/wp_cd64b518/wp_cd64b518.html?0.7609606067255892)  
visited April 22<sup>nd</sup> 2007

<sup>79</sup> Numerous reports as well as press releases on Sudan, human rights and religious freedom are on the United States Commission on International Religious Freedom website at <http://www.uscifr.gov/countries/region/africa/sudan/sudan.html> visited April 22<sup>nd</sup>, 2007 and an example of a report with the hybrid human rights/religious freedom language is the April 2002 *Report on Sudan* available at <http://www.uscifr.gov/countries/region/africa/sudan/Sudan.pdf>

<sup>80</sup> Baker, True Amenselah. “Sudan's Unseen War” *Eat the State*, Volume 7, December 4, 2002

<http://eatthestate.org/07-07/SudansUnseenWar.htm> visited April 15th, 2007

<sup>81</sup> Human Rights Watch, *Sudan, Oil and Human Rights*, September 2003



### *National security*

Two strands of U.S. security discourse were running parallel over the Sudan related issues; a) the China-US relationship and b) terrorism. Campaigners sought to base some of their arguments on these security considerations. I only discuss here very briefly their part in the attempt to legitimize the campaign. The impacts are part of the geo-political opportunity structure discussion below. Security think tanks and congressional committees raised the level and seriousness of capital markets discussions primarily in terms of U.S. financial facilitation of entities that could be deemed hostile. The report of the China Review Commission in 2002 for example had as a key finding that;

The U.S. Government lacks adequate institutional mechanisms to monitor national security concerns raised by Chinese and other foreign entities seeking to raise capital or otherwise trade their securities in the U.S. debt and equity markets. Moreover, Securities and Exchange Commission (SEC) reporting requirements for foreign registrants provide insufficient disclosure to the investing public of the national security risks related to certain foreign entities' global business activities, including the material risks associated with entities that do business in terrorist-sponsoring states.<sup>82</sup>

Thus the China-U.S. relationship and terrorism became a significant part of the sanctions discourse.

The case to found capital markets sanctions on the basis of U.S. national security was championed by the Casey Institute of the Center for Security Policy whose mission is exploration of “the nexus between international financial, energy, trade and technology

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<sup>82</sup> China Security Review Commission. *The national security implications of the economic relationship between the United States and China July 2002 - report to congress of the U.S.* - Chapter 6 - China's Presence in U.S. Capital Markets; Key Findings

flows and traditional U.S. national security policy concerns.”<sup>83</sup> Its argument for sanctions and disclosure was simple; Americans should not fund their enemies. Following the findings of the Cox and Deutch commissions, the institute took up the fight against capital market penetration by “bad actors” arguing that lack of information for American investors meant that;

a sizeable number of American citizens are undoubtedly --and unwittingly -- now engaged in helping finance Chinese military development and illicit technology acquisition efforts, possibly including the improved accuracy, range and lethality of ICBM's targeted against our cities.<sup>84</sup>

The institute's constituencies were the security-minded in the public policy community, but in making the link between the ordinary American investor and their own security, the appeal was being broadened. The institute was not slow to couple its security imperative with the religious freedom and human rights issues in Sudan as capital markets sanctions and investor disclosure provisions provided an opportunity to advance all these agendas even more effectively in combination.<sup>85</sup> The Cox and Deutch commission findings definitely buttressed the campaigners' case, but congressional ire proved to not necessarily be congruent with the realities of the foreign policy goals of the administration or the economic objectives of the business sector.

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<sup>83</sup> William J. Casey Institute of the Center for Security Policy, Home page at <http://www.centerforsecuritypolicy.org/home.aspx?sid=56&subcategoryId=112> visited last on May 2<sup>nd</sup>, 2007

<sup>84</sup> Publications of the Casey Institute of the Center for Security Policy No. 99-C 86 PERSPECTIVE “Key Commission Reports, Rep. Bachus Call For Security-Minded Surveillance of U.S. Capital Markets: Possible Next Steps” 30 July 1999

<sup>85</sup> Robinson Jr, Roger and C. Richard D’Amato. “Security Minded Corporate Governance; What are the Stakes?” Policy Paper No. 4, *International Conference “Business and Security: Who Will Pay the Price?”* Prague, October 10-12, 2005; Gaffney, Jr Frank. “Sudan envoy an exercise in futility?” *Jewish World Review* September. 11, 2001

In addition to strategic relations, there were also the trade and economic relations between China and the U.S. Those according to Peng “maintained a steady and good momentum.”<sup>86</sup> That put the security and religious constituencies at odds with the business sector and apparently the administration. To circumvent this dilemma and avoid alienating the business community and the general American majority who believe in free markets, the Casey Institute argued for exception and appealed to patriotism explaining that;

the William J. Casey Institute of the Center for Security Policy regards the free flow of capital into and out of the United States as a central pillar of our free market system and global leadership. It has no interest in remedies which smack of broad capital controls or that would otherwise prove unduly disruptive to our markets. Having said that, inaction in the face of the yawning and ominous problem of penetration of the U.S. capital markets by "bad actors" is simply not an option. In the final analysis, American investors do not wish to be put in the position of unwittingly helping to fund activities harmful to their country's vital security interests

The administration and the business community were not convinced and as discussed below, the new logic of the war on terror changed perceptions of security priorities. That left human rights, slavery and religious freedom on their own as the basis for legitimacy in trying to change policy on capital markets.

#### Discourse Counter-narrative

As much as the campaigners made their case that market freedom needed to be tempered when both fundamental values and national security were at issue, there was a strong counter narrative from Wall Street and the business sector and they had the

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<sup>86</sup> Peng supra pg 5

administration in their corner. Unlike in the conflict diamonds saga, the parties stayed on opposite sides of the divide to the very end.

Federal Reserve chairman Greenspan took the lead in opposition warning that;

The effect of that (capital markets sanctions), I think, would be essentially to move a considerable amount of financing out of the United States to London, Frankfurt, Tokyo, and since such a crucial part of the effectiveness of the American economy is a very sophisticated capital market and its financial infrastructure, I am most concerned that if we move in directions which undermine our financial capacity, we are undermining potential long-term growth of the American economy.<sup>87</sup>

It is notable that Greenspan did not speak in terms of the well being of global capitalism, but very candidly in the interests of the national economy. In testimony before the Senate Banking Committee shortly after Unger's letter of May 8<sup>th</sup> 2001, Greenspan stated further that;

[I]t's the openness and the lack of political pressures within the [American financial] system which has made it such an effective component of our economy and indeed has drawn foreigners generally to the American markets for financing, as being the most efficient place where they can in many cases raise funds....[T]o the extent that we block foreigners from investing or raising funds in the United States, we probably undercut the viability of our own system....<sup>88</sup>

Opposition to sanctions came from other government offices as well. The Office of Management and Budget joined in as did the State Department. As State Department spokesman Richard Boucher said

We believe that prohibiting access to capital markets in the United States would run counter to global support for open markets, would undermine our financial

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<sup>87</sup> July 24, 2001 Federal Reserve Chairman Alan Greenspan in Q&A regarding Capital Market Sanctions concerns about the capital market sanctions in the Sudan Peace Act before the Senate Banking Committee <http://www.ofii.org/issues/GreenspanComments.pdf> (visited October 29th 2006)

<sup>88</sup> Hearing on the Federal Reserve's Report on Monetary Policy Before the Senate Banking, Housing and Urban Affairs Committee, July 20, 2000 (Statement of Federal Reserve Chairman Alan Greenspan)

market competitiveness and could end up impeding the free flow of capital worldwide.<sup>89</sup>

The position of the administration was to remain unchanged. For its part, Wall Street was upset by any further movement in the direction of intrusion and warned that sanctions "would create a slippery slope" and that if sanctions succeeded, "any business out of political favor could be a target of capital market sanctions."<sup>90</sup>

The realist camp on the other hand opposed capital markets sanctions based on power realities. The Center for Strategic and International Studies urged the U.S. to concentrate on ending the war in Sudan by engaging the government of Sudan in dialogue rather than going the sanctions route.<sup>91</sup> The Center's point was that power dynamics favored the Khartoum government given its considerable resources in prosecuting the war as it had control of the oil finances. In their view, being realistic meant engaging constructively with the existing power in Sudan and that was the NIF government.

Other opposing arguments were a little more subtle. Some of the foreign companies with small operations in Sudan were overall really huge global corporations based e.g. in Europe like Lundin Oil. As one activist put it "Capital markets sanctions would deny the US market access to the business of foreign companies some of who are

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<sup>89</sup> Office of Management and Budget, White House Website, *H.R. 2052 - Sudan Peace Act (Tancredo (R) CO and 26 cosponsors)* <http://www.whitehouse.gov/omb/legislative/sap/107-1/HR2052-h.html> (visited October 20th, 2006)

<sup>90</sup> Jacobs, Charles and Carey D'Avino. "Should Wall Street Be Open to Slavers?" *Boston Globe*, September 8, 2001

<sup>91</sup> Center for Strategic and International Studies. *U.S. Policy to End Sudan's War*. Report of the CSIS Task Force on U.S.-Sudan Policy, Feb. 2001.

huge, all because of our desire to punish Sudan and that was not worth it.”<sup>92</sup> At stake was not just freedom of the market *per se*; there was the geo-political reality that if the U.S. blocked foreign companies from trading on U.S. capital markets, U.S. corporations would face the same action from Europeans. Punishing Sudan was not viewed as worth the possibility of this reverse punishment.<sup>93</sup>

Companies foreign to the U.S. who were the most directly targeted by the sanctions also actively engaged in the U.S. public debate. The Organization for International Investment, an association representing foreign company subsidiaries in the U.S. wrote and met with Securities Exchange Commission personnel in an effort to counter Rep. Wolf’s advocacy for disclosure provisions.<sup>94</sup> USA Engage, a corporate sponsored association formed following the success of the economic sanctions against South Africa, was also an active opponent of not only the capital markets sanctions initiative but even the Alien Tort Claims lawsuit against Talisman.<sup>95</sup> USA Engage holds the view that sanctions do not ever achieve desired policy objectives.<sup>96</sup> Its economically based counter-discourse was that Talisman, PetroChina and others if denied access to US markets would just go to other markets and the U.S. would be the only loser.

Some in the counter discourse took the line that freedom of the market promotes democracy. A pro-free market interviewee put it thus;

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<sup>92</sup> Interview with activist and with a policy analyst May 30th, 2006 & June 6<sup>th</sup> 2006 Washington DC

<sup>93</sup> Interview with congressional policy analyst May 30<sup>th</sup>, 2006

<sup>94</sup> Todd M. Malan, Executive Director, Organization for International Investment letter to Laura Unger, Acting Chairman, Securities & Exchange Commission May 22, 2001  
[http://www.ofii.org/issues/Unger\\_Letter.pdf](http://www.ofii.org/issues/Unger_Letter.pdf) (visited October 29th 2006)

<sup>95</sup> USA Engage website tracks all sanctions legislation and calls for elimination of sanctions as a policy tool generally. <http://www.usaengage.org/MBR0088-USAEngage/default.asp?id=111>

<sup>96</sup> USA Engage above; See also Dale 167

There is a good point there for the free market types that are in power, the Republican party, that if markets are free and open it creates .... Think about it free markets and open markets encourage freedom. And so the market itself can be a catalyst for positive change around the world. The editors of the Economist this is what they believe. If you open up the markets then everything will fall into place around the world. So I think Greenspan certainly falls into that sort of more along those markets, so does Bush.<sup>97</sup>

The counter narrative did not emanate only from corporations and the administration. Within the social justice community also exists a line of thinking that engagement with corporations is more effective than confrontation. The Interfaith Center on Corporate Responsibility (ICCR) for example argues for corporate social responsibility through engagement.<sup>98</sup> Interestingly, some of ICCR's 275 faith-based investors were also engaged in the confrontational capital markets sanctions.<sup>99</sup> Obvious examples were the Catholic Church and Jewish Faith organizations. ICCR prefers to work through sponsorship of shareholder resolutions on major social and environmental issues rather than divestment or sanctions.<sup>100</sup>

An activist with a think tank on policy in Washington explained U.S. government policy as double track; rhetorical public condemnation and engagement as the actual practiced policy.<sup>101</sup> The rhetoric on Sudan was very strong and included bringing genocide language and human rights into the discourse and even suggesting use of force against Sudan. "So with this type of rhetoric, you would think that imposing capital

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<sup>97</sup> Interview with activist/analyst June 1<sup>st</sup> 2006, Washington D.C.

<sup>98</sup> Interview with social justice activist, June 29<sup>th</sup>, 2006 New York

<sup>99</sup> Interview with social justice activist June 29<sup>th</sup> 2006 New York, New York.

<sup>100</sup> Interview with activist May 29<sup>th</sup> 2006, Washington DC

<sup>101</sup> Interview with activist June 1<sup>st</sup> 2006 Washington DC. This activist worked in the U.S. State Department at the time of the Southern Sudan conflict.

markets sanctions on Sudan would be a no brainier.”<sup>102</sup> However, the activist argued, the reality of U.S. policy was determined by considerations of U.S. geo-political interests exercised through constructive engagement.<sup>103</sup> So it is to geo-politics that I now turn.

### **Geo-Political Opportunity Structure**

#### **Sudan and the U.S.**

On all counts, Sudan was the perfect target for a sanctions campaign. U.S. – Sudanese relations. According to Dagne of the Congressional Research Services;

for most of the 1990s were dominated by concerns about Sudan’s radical Islamic agenda, the civil war, human rights, and the NIF’s support for international terrorists and terrorist organizations, including Osama bin Laden who lived in Sudan from 1991-1996.<sup>104</sup>

If ever there was an issue that showed promise for support from a conservative administration, action against Sudan was one. Activists were therefore stunned by the U.S. government’s embrace of Sudan following September 11<sup>th</sup> and the implications of this for human rights. It was not just that Sudan absolved itself in Washington’s perception by being among the first and the most enthusiastic of countries to enlist in the war against terror.<sup>105</sup> A combination of primarily geo-political considerations economic and security together authored a Sudan policy that would be incomprehensible viewed from a fundamental moral principle perspective.

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<sup>102</sup> Interview June 1<sup>st</sup> supra and also congressional research expert interview May 30<sup>th</sup>, 2006 Washington DC

<sup>103</sup> Interview June 1<sup>st</sup> supra.

<sup>104</sup> Dagne, Ted. “The Sudan Peace Process” *Congressional Research Service ~ The Library of Congress* Report for Congress June 4, 2003 Order Code RL31947

<sup>105</sup> Lobe, Jim. “U.S.-Sudan Terrorism Ties Spell Disaster for Anti-Khartoum Activists” *Foreign Policy in Focus* September 25<sup>th</sup>, 2001 <http://www.fpif.org/selfdetermination/news/0109sudan.html> visited April 18th, 2007



U.S. geo-political interests *vis a vis* Sudan and their impact on the outcome of the capital markets sanctions initiative can best be understood in light of the political developments inside Sudan and their implications for U.S. security. The post September 11<sup>th</sup> condemnation of terrorism by Sudan was not a Damaskan road conversion. Analysis by Congressional Research Services personnel indicates that; “Beginning mid-1999, the government of Sudan sought to soften its image and called for improved relations with the United States.”<sup>106</sup> The U.S. for its part dearly wanted security intelligence from Sudan. The background to that need arose from Sudan’s past association with terror groups.

Today’s political Islam as it manifested itself in Sudan emanated from the Muslim Brotherhood, an organization dedicated to the restoration of the Caliphate and opposed to western influences, as the precursor to the National Islamic Front (NIF) of the 1960s.<sup>107</sup> Under the leadership of Hassan al-Turabi, the NIF transformed itself from a fringe group to a mainstream political party by aligning with then-President Nimeiri in a power-sharing agreement in 1977.<sup>108</sup> Nimeiri’s successor Sadiq al-Mahdi however expelled the NIF from government, but in 1989, the NIF led by General Umar al-Bashir staged a coup and proceeded to establish Khartoum as a base for Islamic internationalism and radical Islamist movements including those deeply hostile to the U.S.<sup>109</sup> When Iraq invaded Kuwait in the first Gulf war of 1990, Sudan supported Iraq. That resulted in Sudan’s

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<sup>106</sup> Dagne 2003 *supra* pg 7

<sup>107</sup> See summary in the Columbia Encyclopedia, Sixth Edition.

<sup>108</sup> International Crisis Group. *God, Oil and Country; Changing the Logic of War in Sudan* ICG Africa Report N° 39 pg 71

<sup>109</sup> *Africa Confidential*, 28 September 2001.

international isolation even by Arab countries.<sup>110</sup> Saudi Arabia, Kuwait and the United Arab Emirates suspended assistance to Khartoum, and Egypt and the United States put Sudan under their terrorist watch.<sup>111</sup> That forced Sudan to seek revenue for the support of its army from private Islamic businesses and organizations. One of these financiers was Osama bin Laden, leader of Al Qaeda.<sup>112</sup> Bin Laden was wealthy, opposed to the Saudi rulers and held extremist Islamic views, all of which were in line with the Khartoum government's positions. Bin Laden brought Khartoum finances and in turn gained access to governmental facilities like visas for travel.<sup>113</sup> As is now common cause, bin Laden and al Qaeda moved to Sudan in 1991. As the International Crisis Group puts it,

“Sudanese intelligence immediately played an active role in supporting the terrorist organization's mission. For example, according to al-Fadl's testimony, Sudanese intelligence assisted al-Qaeda to transport people and weapons, including Stinger anti-aircraft weapons, in and out of Sudan. In addition, the government of Sudan allowed al-Qaeda to rent a Sudan Airlines cargo plane to export sugar to Afghanistan in exchange for weapons and missiles.”<sup>114</sup>

Bin Laden invested significantly in Sudanese infrastructure projects that included airports and roads and Sudan in turn provided the spaces for training al Qaeda operatives.<sup>115</sup> Bin Laden increasingly became intensely hostile to the U.S. and in 1993; he issued a fatwa against the U.S. presence in Somalia fearing that Sudan might be the next U.S. target in the region. When CNN interviewed bin Laden in 1997 he claimed credit for the training

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<sup>110</sup> U.S. Department of State, *Background Note; Sudan* available at <http://www.state.gov/r/pa/ei/bgn/5424.htm> visited April, 15th 2007

<sup>111</sup> U.S. Department of State *supra*

<sup>112</sup> *Jane's Terrorism and Security Monitor* "Bin Laden's Activities Exposed in New York Trial", 14 March 2001; Randolph Martin, "Sudan's Perfect War" *Foreign Affairs*, March/April 2002.

<sup>113</sup> CIA Terrorism and Usama bin Ladin; Document 1 "Usama bin Ladin: Islamic Extremist Financier," 1996. available in the *National Security Archive* at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB55/index1.html> visited May 2nd, 2007

<sup>114</sup> International Crisis Group *supra* pg 101

<sup>115</sup> Associated Press, "Top bin Laden aide was in U.S. twice during 1990s, court records show", 12 October 2001.

of the Somalis who killed eighteen U.S. rangers that were in Somalia on a humanitarian relief mission.<sup>116</sup> The same year bin Laden was accused of complicity in the first bombing of the World Trade Center in New York.<sup>117</sup>

Sudan was also implicated in the attempted assassination of Egyptian President Mubarak in Ethiopia in June 1995. According to the UN, an Ethiopian investigation found that the perpetrators of the attempt were Al-Gama'a al-Islamiyya members and that the assassination was plotted in Khartoum.<sup>118</sup> By 1996, Sudan was fairly isolated internationally. Universal isolation soon became costly for the NIF government and it started making signals to the U.S. that it wanted to cooperate and even offered to apprehend bin Laden (who was wanted by the U.S.) and hand him over to the Saudis.<sup>119</sup> The Saudi government however was not prepared to deal with the probable backlash from its Islamist opponents and declined. In view of the turn around by the Sudanese, bin Laden left for Afghanistan in May 1996.<sup>120</sup> Sudan started to look for alternative outside investment especially in its oil exploration which held the greatest promise for financial independence.

U.S. suspicions did not dissipate with the departure of bin Laden and in 1997 economic sanctions were imposed by President Clinton. In 1998, the U.S. embassies in

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<sup>116</sup> CNN "Bin Laden, Millionaire with a Dangerous Grudge", 27 September 2001.

<sup>117</sup> Associated Press "Osama bin Laden: from U.S. friend to foe", 13 September 2001.

<sup>118</sup> UN Security Council resolution 1054 (1996) imposed sanctions against Sudan in connection with non-compliance with the Security Council resolution 1044 (1996) demanding extradition to Ethiopia of the 3 suspects wanted in connection with assassination attempt on President Mubarak of Egypt, U.N. Doc. S/RES/1054 (1996). Also Reeves, Eric, "Khartoum's central role in the assassination attempt on Egyptian President Hosni Mubarak, October 3, 2001" SudanReeves web page October 3, 2001

<sup>119</sup> *Washington Post*. "Sudan's Offer to Arrest Militant Fell Through After Saudis Said No", 3 October 2001.

<sup>120</sup> Reeves, Eric. "Canadian Security Intelligence Service finds deep connections between Khartoum and al-Qaeda" September 28, 2001 <http://www.sudanreeves.org/Sections-req-viewarticle-artid-384-allpages-1-theme-Printer.html> visited April 18th 2007

Kenya and Tanzania were bombed and in retaliation, the U.S. fired the cruise missiles that destroyed the al-Shifa pharmaceutical plant in Khartoum on the basis that it was a biological weapons plant.<sup>121</sup> Khartoum claimed the plant was purely for medical purposes. When the U.S. would not divulge its evidence, the Arab world, including Egypt and Saudi Arabia rallied to Sudan's side ending the isolation that had maintained since the first gulf war. Some European countries were also not supportive of the U.S. action and became more sympathetic to the Sudanese government.<sup>122</sup>

It was at this time that a consortium of oil companies started working on the 1600 kilometer Sudanese oil pipeline. Oil represented an alternative source of financing for Khartoum, but oil investment and extreme Islamic fundamentalism linked to terrorism were not conducive to oil joint ventures with international corporations. Financing the exploitation required massive capital and some of the oil companies that had come to Sudan, including the Chinese, wanted to raise the capital they needed on U.S. capital markets. This required a significant shift in policy by the Sudanese government if the venture was going to be feasible. As a signal of this new dispensation, the leading political Islamist, Turabi was dismissed from his position as speaker of the National Assembly in December 1999 and was in jail by February 2001.

As in China, the need for capital led Sudan into international markets and by the same token, it availed activists of potentially their most effective leverage over Sudan's conduct. The capital markets sanctions campaign was the outcome, but by then Sudan had already set out to rejoin the international community. Responding to Sudan's

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<sup>121</sup> CNN "U.S. missiles pound targets in Afghanistan, Sudan" August 20, 1998

<sup>122</sup> Martin 2002 *supra*

cooperation signals, by mid-2000 Washington had appointed Harry Johnston as special envoy to Sudan and a dialogue with Sudan on terrorism was underway. A State Department report on terrorism deemed the talks constructive and reported that there were positive outcomes.<sup>123</sup> By the end of 2000 Sudan had signed all the international treaties against terrorism. It closed the Popular Arab and Islamic Conference that was considered as the forum for terrorists.<sup>124</sup> Together with the ouster of Turabi, strong signals were being sent that Sudan was willing to cooperate with Washington. However as the State Department noted, members of the Al-Gama'a al-Islamiyya, Egyptian Islamic Jihad, Lebanon's Hezbollah, and the Palestinian Islamic Resistance Movement (or Hamas), were still operative in Sudan.<sup>125</sup> Sudan's argument though, was that Hezbollah and Hamas were engaged in legitimate resistance to the Israeli occupation of Palestine.

Sudan's pro-offered cooperation promised a major advancement of the counter terrorism agenda and Washington preferred to pursue the information carrot rather than punish Sudan for human rights transgressions or even its past terrorist sponsorship.<sup>126</sup> Security concerns far from aiding activists in their quest for capital markets sanctions, or any other punitive measures against Sudan, were at that point dictating the opposite and may well have doomed the activists' objectives from the beginning. Persuading the U.S. administration to support sanctions against the very factor, oil, that was motivating the NIF government to abandon its international terrorist agenda was an uphill and in the end impossible battle. It was not the only geo-political huddle for campaigners.

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<sup>123</sup> International Crisis Group *God, Oil and Country supra*

<sup>124</sup> Department of State, Office of the Coordinator for Counterterrorism "Overview of State-Sponsored Terrorism; Patterns of Global Terrorism - 2000" April 30, 2001

<sup>125</sup> State Department *supra*

<sup>126</sup> Interview with former State Department policy analyst, June 1<sup>st</sup> 2006, Washington D.C.

When 9/11 happened, the Sudanese government immediately condemned the attacks. It offered its condolences and promised full cooperation with the U.S. and the international community in bringing the perpetrators to justice and to fight all forms of terrorism. Apparently,

“Secretary of State Colin Powell called Sudanese Foreign Minister Mustapha Ismail several days after the terrorist attacks, the first high-level contact between U.S. and Sudanese officials. Secretary Powell stated that Sudanese officials offered to cooperate with the United States and appear eager to join the coalition. According to press reports, U.S. officials confirmed that the NIF government has given U.S. officials unrestricted access to files of suspected terrorists and suggested that they might be willing to hand over some of these individuals to U.S. authorities.”<sup>127</sup>

That engagement yielded results on the counter terrorism front and simultaneously diminished any inclination on the part of the U.S. administration for financial sanctions. The U.S. was pleased with Sudan.<sup>128</sup> The National Islamic Front had come a long way from the extremist Islamic fundamentalism of the first Gulf War era. Sudan even offered its military bases for possible anti-terrorist strikes and arrested some 30 individuals purportedly connected to bin Laden.<sup>129</sup> Sudan offered the United States substantial intelligence on the terrorist organizations that had been operating from Sudan. At meetings with U.S. Assistant Secretary of State for Africa, Walter Kansteiner in London in late September, Sudan provided further information. These developments led US officials to declare that;

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<sup>127</sup> Dagne, Ted. “Sudan: Humanitarian Crisis, Peace Talks, Terrorism, and U.S. Policy” *Congressional Research Services Issue Brief for Congress* January 29, 2002 pg 5

<sup>128</sup> U.S. Department of State, Office of the Coordinator for Counterterrorism “Patterns of Global Terrorism 2002” pg 81

<sup>129</sup> U.S. Department of State. “Country Reports on Terrorism” Released by the Office of the Coordinator for Counterterrorism April 30, 2007 Chapter 3; Goldenberg, Suzanne. “Sudan becomes US ally in 'war on terror'” *The Guardian* April 30, 2005

"Sudan is now effectively eliminated as one of the biggest bases of operation for bin Laden. Bin Laden and his allies now have one less place to hide, one less place to operate, one less place to have friends . That's a very important development.....(and also) that Sudan responded more aggressively than almost any other nation to the U.S. call for help in a global fight against terrorism "<sup>130</sup>

The Bush Administration although maintaining the rhetorical condemnation of Sudan and its human rights abuses, in reality adopted a policy of engagement with Sudan. According to the State Department the policy to engage had started earlier than September 11<sup>th</sup> viz;

**March 2001:** President Bush directs a review of U.S.-Sudan policy. The review results in three policy objectives: counterterrorism cooperation, an end to regional destabilization, and the achievement of a just peace.

**May 2001:** Secretary Powell directs Assistant Secretary Walter Kansteiner to quietly approach the Sudanese to discuss all three policy objectives...<sup>131</sup>

One result of Sudan's efforts was that on September 19<sup>th</sup> 2001 the US Congress postponed action on the Sudan Peace Act which had the capital market sanctions provision. Indeed on Sept. 19, 2001 "Rep. Tom Tancredo (R-C.O.) was on the floor of the House about to call for a conference committee on the Sudan Peace Act, when he was intercepted by administration officials...(and).. State Department Policy Planning Director Richard Haass has privately told colleagues that at this point the administration has no interest in human rights considerations."<sup>132</sup> The U.S. policy as stated by the State Department was now to try and get Sudan out of the terrorism business through

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<sup>130</sup> Wright, Robin and James Gerstenzang. "Sudan, a Bin Laden Haven, Cracks Down on Extremists", *Los Angeles Times*, 27 September 2001.

<sup>131</sup> U.S. Department of State. *Chronology of U.S. Engagement in the Sudan Peace Process* Fact Sheet Office of the Spokesman, Nairobi, Kenya, January 8, 2005  
<http://www.state.gov/r/pa/prs/ps/2005/40459.htm> visited October 20th 2006

<sup>132</sup> Green, Joshua. "God's Foreign Policy; Why the biggest threat to Bush's war strategy is not coming from Muslims but from Christians." *Washington Monthly*, November 2001

engagement.<sup>133</sup> Ten days later, the US did not oppose the UN Security Council lifting of sanctions against Sudan for its part in the attempted assassination of Mubarak. The U.S. maintained its unilateral sanctions against Sudan and the President appointed Danforth as special envoy for peace in Sudan, but the sanctions route was at an end.<sup>134</sup>

### China and the US

The China-US relationship is one of the most complicated and important bilateral ties in the international world and there are substantial and ongoing analyses of this relationship. I limit my discussion very narrowly to just that part that had implications for the capital markets sanctions campaign. The approach of the U.S. administration towards China was not static, and simple assumptions of antagonism between the two countries would be misplaced. While it is true that President Bush started out less friendly towards China than President Clinton judged by his designation of China as a “strategic competitor,” it is also true that in the immediate aftermath of September 11<sup>th</sup>, President Bush was meeting with Chinese President Jiang Zemin.<sup>135</sup> Competitor was replaced by “a candid, constructive and cooperative relationship” in official diplomatic references.<sup>136</sup> National security concerns groups’ suspicions and antagonism towards China also turned out to be out of step with the administration’s approach.

The China strategic dynamic was tempered by economic considerations. As Peng indicates, in the wake of 9/11 “giant U.S. companies like Microsoft, Applied Materials,

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<sup>133</sup> Department of State, Office of the Coordinator for Counterterrorism. “Overview of State-Sponsored Terrorism; Patterns of Global Terrorism - 2000” April 30, 2001

<sup>134</sup> The White House. *President Appoints Danforth as Special Envoy to the Sudan* September 2001

<sup>135</sup> *Washington File*, October 22, 2001.

<sup>136</sup> “President Bush, JIANG Zemin Meet in Shanghai”, *Washington File*, October 22, 2001.



Hewlett-Packard and General Motors all announced greater investments to China.”<sup>137</sup> Motorola declared another \$6.6 billion investment in China in the next five years.<sup>138</sup> The assumption which appears to have been made by campaigners that limiting Chinese economic expansion would find resonance with the U.S. administration and public turned out to be plain wrong.

Washington’s positions have to be seen in light of its geo-political considerations. Geo-political structures also have to be understood in more nuanced terms than through any dichotomy between U.S. and international. The U.S. often seeks the collective power of the world to advance essentially U.S. interests.<sup>139</sup> Human rights, religious freedom, anti-slavery all took second place to strategic considerations when put together with the interests of the business sector. Even though China is a strategic challenge for the U.S. and its human rights record is the subject of loud rhetoric, there is a counter to these aspects in the economic sphere. Indeed, some of the activists were skeptical of the China human rights factors as causes for U.S. action as one activist said;

There are a lot of groups that call for tough action on China over Tibet and Falun Gong and things; its not really ever happened. It does not seem like that is in the cards. The US needs China too much economically as a market of 1.2 billion people. Its (the U.S.) not going to do too much to piss them off.”<sup>140</sup>

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<sup>137</sup> Peng, Yuan. “September 11 Event ” vs. Sino-US Relations” *Xiandai Guoji Guanxi* (journal of the China Institute of Contemporary International Relations.) November 2001 made available by the U.S.-China Economic and Security Review Commission, Research Paper Archive pg 4

<sup>138</sup> *International Herald Tribune* “Focus on China: Motorola Aims to Double Investment and Production ” ,November 8,2d001.

<sup>139</sup> Peng supra pg5

<sup>140</sup> Interview with activist June 1<sup>st</sup> 2006

## Campaign Outcomes

The Financial Times called the Unger letter a bombshell for the global capital markets.<sup>141</sup> It certainly caused concern and panic in the capital markets.<sup>142</sup> However Unger's successor was not as enthusiastic on disclosure and with the failure of the legislation, there was no indication that Unger's policy would survive her departure. The sanctions provision failure left corporations like Lundin Oil of Sweden that dealt in Sudanese oil, registered on U.S. capital markets. PetroChina and Malaysian Petronas continue to have lobbyists (Goldman-Sachs) in Washington D.C. to take care of their interests and they have friends in the pro-free market lobby.<sup>143</sup> They continue to operate in Sudan and utilize U.S. capital. To date, CNPC continues to extract oil from Sudan and it does not look like it will withdraw anytime soon. Sudanese oil now constitutes one tenth of China's supplies. According to the *Washington Post*, Zhu Weilie, director of Middle East and North African Studies at Shanghai International Studies University, and who has links with the Foreign Affairs Ministry, stated that "Oil from Sudan makes up one-tenth of all of China's imported oil. If we lose this source, how can we find another market to replace it? China has to balance its interests."<sup>144</sup> Thus despite the egregious practices of the Sudan government, China for one is not about to leave because of its thirst for oil. In May 2003 Petronas, Malaysia's oil company raised \$1 billion on

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<sup>141</sup> Alden, Edward. "SEC Chief Inherits Disclosure Bombshell" *Financial Times* May 11<sup>th</sup> 2001, 1

<sup>142</sup> Beard, Alison. "Russia's Lukoil Disappoints US Investors with London Listing" *Financial Times* July 2<sup>nd</sup> 2001, 23

<sup>143</sup> Interview with activist June 1<sup>st</sup>, 2006

<sup>144</sup> Goodman, Peter S. "China Invests Heavily In Sudan's Oil Industry; Beijing Supplies Arms Used on Villagers" *Washington Post Foreign Service* Thursday, December 23, 2004; Page A01  
<http://www.washingtonpost.com/wp-dyn/articles/A21143-2004Dec22.html> (visited October 21st, 2006)  
See also the Telegraph, David Blair. "Oil-hungry China takes Sudan under its wing" 23/04/2005  
<http://www.telegraph.co.uk/news/main.jhtml?xml=/news/2005/04/23/wsud23.xml> (visited October 21st, 2006)

American markets in a finance deal organized by Morgan Stanley and Salomon Smith Barney in the U.S.<sup>145</sup> To that extent therefore, the capital markets sanctions campaign failed.

However even though the sanctions and disclosure provisions did not make it into law, the efforts of the campaigners were not a complete failure. The level of trade on PetroChina fell far below expected. In fact, it was so bad, the underwriter, Goldman Sachs had to intervene according to a report in the Wall Street Journal.<sup>146</sup> After SEC chairperson Unger issued her letter and the House passed its bill with the sanctions provision, Talisman Energy Inc. CEO, James Buckee, stated to the Toronto Globe and Mail on June 18, 2001, "I don't think anybody could afford not to have access to the U.S. capital markets. No asset is worth that."<sup>147</sup> In October 2002 Talisman eventually agreed to sell its 25% stake in the Greater Nile Oil production and pipeline project.<sup>148</sup> In March 2003 the sale to Indian company ONGC Videsh was confirmed.<sup>149</sup>

The divestment campaign had added to the pressures and according to campaigners; it was partly due to the activism that the Sudanese government agreed to

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<sup>145</sup> Lake, Eli J. "Slow on Sudan: A bill stalls; has AIPAC reneged? - American Israel Public Affairs Committee fails to support Sudan Peace Act" *National Review*, July 29, 2002

<sup>146</sup> Wong, Kenneth. "Initial PetroChina Trading Sputters; Goldman Sachs Bolsters Prospects," *Wall Street Journal Interactive Edition*, April 10, 2000. Also Swee Lin, Ho. "Investors Lukewarm on PetroChina," *Financial Times*, March 31, 2000:

<sup>147</sup> Stevenson, James. "Talisman says Sudan oil holdings not worth being banned in the U.S.," *Canadian Press*, Calgary, June 18, 2001; Survivor's Rights International. "Genocide vs. Investment Firm's Profits; Capital Markets Sanctions Remain Key to Cessation of Atrocities and Peace in Good Faith by Khartoum" September. 7, 2001

<sup>148</sup> Talisman press release. "Talisman to Sell Sudan Assets For C1.2 billion," Calgary, October 30, 2002, <http://micro.newswire.ca/releases/October2002/30/c6739.htm> visited October 10th, 2006

<sup>149</sup> BBC. Talisman pulls out of Sudan, March 10<sup>th</sup> 2003

the peace negotiations with the SPLM.<sup>150</sup> The bottom line was money and when companies started pulling out of Sudan, despite the government's lack of regard for human rights, the pocket book made them respond. While Malaysian and Indian companies moved in where Talisman moved out, many other companies seeing what happened to Talisman decided to leave. According to the Sudan Divestment Taskforce,

The Swiss power giant ABB decided to halt its non-humanitarian business activities in Sudan. ABB cited economic, legislative, and political factors, including divestment, in its decision. Siemens, a German electronics and electrical engineering company, also recently decided to halt all operations in the country, naming the reputational cost created by the divestment movement as a factor. Total, a large French oil company that owns (but does not currently drill on) oil blocks in Sudan has responded to shareholder pressure and the specter of divestment by hiring a non-profit to evaluate their business activities in Sudan. Some American firms exempted from US sanctions, including Xerox and 3M, have decided to curtail all non-humanitarian operations in the country. Companies have also begun to go so far as to list the divestment movement as a potential concern on SEC filings.<sup>151</sup>

That was quite an impact. What this says is that we should not designate failure based simply on the outcome of the specific achievable goals set by the campaigners. Even though legislation failed, companies were impacted. Further, in the contestation over ethics in the marketplace, the word "sanctions" is no longer a stranger in the financial markets and as conceded by even the sanctions detractors and what has happened in the war on terror, financial sanctions are here to stay. Some of the credit for this goes to the capital markets sanctions campaigners.

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<sup>150</sup> Sudan Divestment Task Force. "Efficacy of targeted divestment: at a glance." At webpage [http://www.sudandivestment.org/docs/efficacy\\_glance.pdf](http://www.sudandivestment.org/docs/efficacy_glance.pdf) visited January 17th, 2007

<sup>151</sup> Sudan Task Force *supra*

## Chapter 8

### CROSS CASE ANALYSIS

#### Introduction

This research was a study and a comparison of two socially constructed norm claiming groups; how they functioned and some of what might explain the outcomes of their actions. As Meyer and Minkoff point out, factors relevant to social protest vary across issues and constituencies leading to variances dependent on the questions asked.”<sup>1</sup> The two cases varied in some respects but they exhibited enough similarity to be meaningfully comparable to each other.<sup>2</sup> I compared aspects of both mobilization and outcome. Meyer emphasizes that to make research clearer, a distinction needs to be drawn between the two so I have kept the conceptual distinctions clear although there is always ongoing overlap in reality.<sup>3</sup>

On mobilization I explored the two coalitions’ ability to function despite difference among actors. I took formation of the coalition groups as a given as the focus was not on how they formed so much as on how they functioned even though they were comprised of actors with disparate ideological leanings. Generally, to achieve goals campaigners organize themselves to maximize the mobilization of others. In the instant

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<sup>1</sup> Meyer, Davis S. and Debra C. Minkoff. “Conceptualizing Political Opportunity” *Social Forces* June 2004, 82 (4) 1457 at 1461

<sup>2</sup> Mahoney, James and Dietrich Rueschemeyer. *Comparative Historical Analysis in the Social Sciences* Cambridge University Press, New York 2003 at page 8

<sup>3</sup> Meyer, Davis S. “Protest and Political Opportunities” *Annual Review of Sociology* 2004: 30:136

cases, the third parties activists sought to enlist included state actors, public institutions and members of the public in their various capacities as political constituents, as power holding consumers and as investors. The process involved activists in framing messages that called on authoritative codes upon which moral responsibility and the undertaking of action on conflict diamonds and capital market sanctions could rest. There was significant commonality in the cultural codes used in both campaigns. The third parties were asked to among other things withdraw investments, engage in selective purchasing, lobby their legislators and administration officials or even just express opprobrium on the practices of international profit actors, but most of all, it was an effort to regulate the markets in an effort to bring some ethical considerations for those affected by market operations. Those most adversely impacted by the market practices were in both cases too far removed from the centers of power to act effectively for their own well being.

The ability of activists to persuade others and mount actions was a combined factor of the organizing and as well the opportunities that availed the activists in the public sphere. As has been said so often; we make history, but we do so in circumstances not entirely of our own choosing; thus the importance of analysis of the availability of external enabling opportunities as well as the debilitating factors.<sup>4</sup> The political opportunity structure framework was expanded. I borrowed from Adamson her suggestion for specifying institutional and geo-political opportunities.<sup>5</sup> I also borrowed from Koopmans and Olzak the idea of discursive opportunity structure to bridge the

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<sup>4</sup> Meyer, Davis S. "Protest and Political Opportunities" *Annual Review of Sociology* 2004: 30:125

<sup>5</sup> Adamson 2005 *supra*

framing and structure divide.<sup>6</sup> Marrying these concepts allowed for a detailed analysis of the factors that were relevant to these campaigns.

While interviewing a target actor, I came to realize that the campaign story does not end with activists and opportunity structures. The targets of the campaigns proved to be not simply objects of the campaigning, but were rather active subjects that made their own assessments and strategized for counter action. They too and their actions needed to be understood just as much as the activists. Moreover, target responses impacted the conduct of the social justice actors and what emerged were highly discursive and contested engagements. The campaigns were therefore deeply interactive and thus the addition of target responses to the narrative and analysis of both within-case and cross-case presentations.

My overall approach was to seek to understand each case in its own right and then compare them, rather than focusing on specific variables and using the cases for generalization. This as Miles and Huberman argue, has the advantage of providing concrete understandings of historically grounded patterns while preserving narrative sequence.<sup>7</sup> Within case analyses for each campaign were provided in Chapters 5 and 7. This cross-case analysis affords the facility of comparing difference as well as exploring the lessons that can be drawn from the case commonalities and asking whether the commonalities support my three arguments as laid out in Chapter 1. Discrete case identification is dropped for more conceptual extrapolations.<sup>8</sup> No two real world cases

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<sup>6</sup> Koopmans and Olzak 2004 *supra*

<sup>7</sup> Miles, M.B. and A.M. Huberman *Qualitative Data Analysis*. CA: Sage 1994, 176

<sup>8</sup> Miles and Huberman *supra* 183

can ever be exactly the same and the experiences of the two campaigns revealed both similarities and differences. There are therefore two components to the analysis; a) analysis of similarities and differences between the cases and b) the analytical relationships of and between variables.

Although this reporting has specified sections that provide narrative and analysis as separate segments, in reality the data collection and analysis were not temporally discrete stages. I found that as I started to collect the data, read the media reports, interview the activists and targets and peruse congressional committee hearings, I also started the process of information analysis through matching aspects of cases to each other, relating them to the questions I outlined in Chapter 3 and coding them in terms of the theoretical framework I proposed in Chapter 1. Thus although this Chapter appears at the end, it was not sequentially segregated from the rest of the research project.

The categories of comparison are mostly based on the arguments made, but there are significant aspects that are inductive - having emerged from the data. The categories include;

- a. Campaign focus issues
- b. Historical context
- c. Mobilization; The participants and their strategies
- d. The Campaign Tools; persuasion, regulation and economic coercion.
- e. The opportunity structures;
  - I. The institutional structures
  - II. The discourse why Americans should care
  - III. The power of self interest – strategic and economic geo-politics
- f. Counter-narratives; The Campaign targets and their responses



Within each category I used the following guiding questions;

- What patterns and common themes emerge in dealing with specific processes or issues?
- Are there deviations from these patterns? If so, what factors might explain the differences?
- Do the patterns that emerge back up my arguments? If not, what might explain the discrepancies?
- What interesting stories emerge from the actions and responses?
- Do any of these patterns or findings suggest that additional research may be needed?

### **Campaign Focus Issues**

A particular logic that enabled distanced and otherwise powerless social actors to intervene in serious conflicts informed both campaigns. Activist concern was with violence in the spaces of resource extraction and these concerns coincided with scholarly focus on the phenomenon of resource driven wars.<sup>9</sup> Extractive industries and violence have become a major area of academic study but most of the scholarship is devoted to explanations of the causal links between resources and violence as pointed out in Chapter 2.<sup>10</sup> A major component of the resource extraction violence phenomenon is the instrumentalization of war for economic gain rather than for correction of grievance. Clearly, in Sierra Leone and to a large degree in Angola, disorder became a means for

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<sup>9</sup> See Chapter 2 section on resource violence. Examples include Paul Collier and Anke Hoeffler. *Greed and Grievance in Civil War* Policy Research Working Paper no. 2355, Washington, DC: The World Bank, 2001; Mats Berdal and David M. Malone, eds. *Greed and Grievance: Economic Agendas in Civil Wars* Boulder, Lynne Rienner Publishers, 2000; Karen Ballentine and Jake Sherman, eds. *The Political Economy of Armed Conflict: Beyond Greed and Grievance* Boulder, Lynne Rienner Publishers: 2003.

<sup>10</sup> See for example Michael Klare, *Resource Wars: The New Landscape of Global Conflict* Henry Holt and Company, New York 2001

gaining access to and controlling resources while in Sudan the oil resource was in demand for both prosecuting the war as well as attaining state financial independence. In both cases, it was the increasing access to global trade in natural resources that freed warring parties from the need for local support and afforded them the weapons for fighting.<sup>11</sup> Consequently in such conflicts, interventions based on grievance settlement and political participatory arrangements do not hold much promise for resolution. The innovativeness of the social justice campaigners in both campaigns lay in conceptualizing of alternative means for intervention based on the operations of the market itself.

Free market global trade facilitates virtually unlimited economic participation by actors of every color and creed, good and bad. None of the activists argued that the resources started the wars or that there was anything inherently evil about oil or diamonds. Neither campaign was aimed at the resource itself unlike for example the fur trade campaign where the very product was condemned as harmful. As one activist put it; “diamonds played a critical role in the conflict, but diamonds in my view were not the cause of the conflict. In other words, they were the fuel; they merely fueled the conflict as opposed to creating it.”<sup>12</sup> Equally, war had raged for decades in Sudan before oil was ever discovered, but oil came to be both cause and effect.<sup>13</sup> The dilemma when the

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<sup>11</sup> Collier, Paul “Doing Well out of War: An Economic Perspective” in M. Berdal & D.M. Malone, eds., *Greed and Grievance, Economic Agendas in Civil Wars*, Lynne Rienner, Boulder, 2000.

<sup>12</sup> Interview with activist Washington DC, June 15<sup>th</sup> 2006

<sup>13</sup> Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Sudan’s numerous reports are available on the UN High Commissioner for Human Rights website; <http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/Sudan%20En?OpenDocument&Start=1&Count=15&Expand=2> (visited October 21<sup>st</sup>, 2006) The John Harker report, *Human Security in Sudan: The Report of a Canadian Assessment Mission* Prepared for the Minister of Foreign Affairs Ottawa, January 2000 available at <http://www.reliefweb.int/library/documents/cansudan2.pdf> Report of the International Eminent Persons Group *Slavery, Abduction and Forced Servitude in Sudan* released by the Bureau of African Affairs, U.S Department of State May 22, 2002

resources themselves are beneficial for humanity in general is that outright boycotts do not work because someone will be benefiting and not willing to forgo that benefit. So activists looked to the finances made available by the operation of global markets and the ability of governments and rebels alike to trade products tainted in blood for their intervention.<sup>14</sup>

Paradoxically therefore, it was the very ability to freely trade and raise finances that provided both groups of activists with the opportunity for intervention. As they said “Cutting off the diamond trade is intended only to remove financial resources to perpetuate the conflict.”<sup>15</sup> And similarly in Sudan where oil was making it possible for the Sudanese government to prosecute its war on the South; “the opportunity to cut off that source of funding had a really compelling logic. And so here are these visions of justice and peace for the resolution of this conflict and here is one piece that might have a significant influence if the source of funds could be removed.”<sup>16</sup>

That logic inevitably meant that the world at large was not only complicit in the human rights abuses as consumers of the products and investors in the market agents engaged in the trade; it extended the range of responsibility and brought into question how the world treats vulnerable populations. The campaign actions shaped how various stakeholders perceived the issue. It inevitably led to a contestation with the dominant

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<sup>14</sup> Much scholarship exists on the dynamics of war economies and how they operate. An example is a study on Angola edited by Jakkie Cilliers and Christian Dietrich (eds). *Angola's War Economy; The Role of Oil and Diamonds* Institute for Security Studies, Pretoria, South Africa, November 2000

<sup>15</sup> Gilgen, Elisa. “The Case of Conflict Diamonds; An Analysis of Regime Theories and Regime Interaction” *NCCR Trade Working Paper*, Working Paper No 2007/01 January, pg 35; Interview with activist July 25<sup>th</sup>, 2006 Washington DC

<sup>16</sup> Interview with activist Greensborough, North Carolina May 15<sup>th</sup>, 2006; Interview with activist May 12<sup>th</sup>, 2006 Baltimore, Maryland

free trade paradigm of our time. Each of the case narratives in Chapters 4 and 6 revealed that in neither case were the economic actors persuaded by moral arguments based on even well documented human rights violations. The initial reaction of the diamond industry was dismissive of the NGO reports and even after the diamond industry made a turn around, it was clear to the industry itself that not all within the industry would willingly and voluntarily disengage from the illicit trade in conflict diamonds.<sup>17</sup> The resistance and opposition were more direct and more entrenched in the capital markets sanctions campaign. Resistance led to the necessity for legislative regulation if ethics were to have a place at all in the global trade in extracted resources. To free market adherents, this represented a full frontal attack on free market capitalism as explicated by Steil that;

Supporters of capital markets sanctions see them as much more than a tactic in a battle to achieve certain foreign policy ends. Whether on the right or the left, they tend to see capital market institutions such as the New York Stock Exchange as the centerpiece of an amoral, international “neo-liberal regime” which undermines national interests and “traditional” social orders. They mirror the right and left wings of the anti-globalization movement, which accord almost mythic political powers to the three Bretton Woods institutions – the IMF, the World Bank, and the WTO.<sup>18</sup>

Thus was raised the question explored by Diamond; whether there is in formation a new class struggle in which a broad array of social justice actors including labor has now joined forces in a new class struggle.<sup>19</sup> As already argued in Chapters 1 and 6 on the capital markets sanctions, an analysis of the actors (the religious and security groups for

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<sup>17</sup> Interview with diamond industry representative, New York, June 20th, 2006

<sup>18</sup> Steil, Benn. “The Capital Market Sanctions Folly” *Council on Foreign Relations*, Winter 2005; also Hufbauer, Gary Clyde and Barbara Oegg. “Capital-Market Access: New Frontier in the Sanctions Debate” *Institute for International Economics*; May 2002

<sup>19</sup> Diamond, Stephen F. “The PetroChina Syndrome: Regulating Capital Markets in the Anti-Globalization Era” *Journal of Corporation Law*, Fall, 2003

example) and their motivations casts doubt on this as an intentional class project. In my research no evidence emerged of any philosophical analysis by any of the campaigners on the implications of the sanctions measure or the regulation in trade of conflict diamonds on neo-liberalism. One activist confirmed that in fact the “larger issue of the reality of exploitation as embedded in the capitalist economy was never discussed in campaign meetings.”<sup>20</sup> Interviewees’ assessment was of the campaigners as short-term laser-focused on Sudan as a bad and gruesome government that needed to be stopped and on the violence in Angola and Sierra Leone as so egregious as to offend every human norm, but with no intentional ambitions of taking on the fundamental ethical implications of global economy issues. Some like the Casey Institute categorically denied abandonment of the neo-liberal free market vision.<sup>21</sup> Legislators similarly adopted a tactic of affirm and protest. As Congressman Bachus put it “I am a free market guy, but the capital markets do not have to be morally bankrupt.”<sup>22</sup>

In the diamonds campaign, the activists and their legislator champions eschewed any suggestion of being anti-free trade and avoided any talk of economic boycott. Rep Wolf asserted for example that;

.....too often the argument of free trade and globalization is framed too simplistically—you are either for or you are against. Rather, I believe that

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<sup>20</sup> Interview with activist June 17<sup>th</sup>, 2006 Washington DC

<sup>21</sup> See for example the testimony of Roger Robinson, chairman of the Casey Institute before the Senate Banking, Housing and Urban Affairs Committee Subcommittee on Financial Institutions and Regulatory Relief Hearing on S.1315 - "The U.S. Markets Security Act of 1997." Wednesday, November 5, 1997; and Casey Institute. “Casey Symposium Affirms Emerging Importance of Capital Markets Transparency, Leverage on Global 'Bad Actors'” available at <http://www.centerforsecuritypolicy.org/home.aspx?sid=56&categoryid=56&subcategoryid=112&newsid=11607> last visited May 22<sup>nd</sup>, 2007

<sup>22</sup> Spencer Bachus, (Rep, Alabama) *Institutional Investor*, November 2001

cleaning up the diamond trade offers unique opportunity to address the issue in more realistic terms—international commerce with accountability.”<sup>23</sup>

Conflict between free trade and the diamond trade restrictions that the campaign represented drew in the World Trade Organization (WTO.) The WTO is responsible for the reduction of existing barriers to trade while the Kimberley Process and the supporting national campaign initiatives sought to restrict the trade of diamonds originating from conflict zones. The initiative to ban conflict diamonds would therefore offend one of the WTO’s basic principles.<sup>24</sup> These were fundamentally opposed missions and the U.S. government made clear that it would not go against the free trade regime and held up free trade as one of the most plausible bases for opposing the Kimberly process. According to Josipovic;

The countries opposed to stricter monitoring justify their position by citing costs, national sovereignty, and potential problems for free trade. The argument for free trade was the most plausible, since imposing strict monitoring on each country could be criticized by the World Trade Organization (WTO) and might even be in violation of its free trade rules.<sup>25</sup>

Free trade was an issue in congress as well. In the Committee on Ways and Means hearing on October 10, 2001 for example, the WTO compliance was specified as the first area of concern and it occupied a substantial portion of the question and answer session of the hearing.<sup>26</sup>

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<sup>23</sup> Statement before the Subcommittee on Trade October 10<sup>th</sup>, 2001 pg 22

<sup>24</sup> Professional Jeweller Magazine “WTO Makes Exception for Kimberley Rules” March 4, 2003

<sup>25</sup> Josipovic, Ivona. “Conflict Diamonds; Not So Clear-Cut” *Harvard International Review* Vol. 25 (2) - Summer 2003

<sup>26</sup> Subcommittee on Trade of the Committee on Ways and Means “Conflict Diamonds” !0 October, 2001 [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107\\_house\\_hearings&docid=f:76201.wais](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_house_hearings&docid=f:76201.wais)

Yet despite the denial and the avoidance of direct challenge, each campaign's primary aim was trade regulation. The responses of the targets and the U.S. government confirmed as much. As discussed in the target response sections in the narratives, the sanctions campaign triggered a dedicated and charged defense from Wall Street and Washington. The diamonds campaign ran up against a U.S. administration that strenuously opposed legislative measures it saw as counter free trade. Thus both campaigns ran up against the established and dominant ethos of free markets.

The activists' approach, affirming allegiance to free trade and pleading exception due to the egregious nature of the violations, showed their need to tread a fine line.<sup>27</sup> Those arguments had success in the conflict diamonds campaign, but failed to persuade the free capital markets constituency in the sanctions contestation. This reveals that while there is unease and even opposition to some of the deleterious effects of free market capitalism, the campaigners cannot be categorized as revolutionaries seeking to jettison the dominant neo-liberal system. In both cases, the change sought was change from within the system.

In terms of the nature of the resources as an issue determinative of the outcomes, there was a bit of a surprise. Needless to say, oil is a necessity and a strategic resource while diamonds are a luxury. I had expected this to be a critical difference between the

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<sup>27</sup> See for example the US Commission on Religious Freedom report (part of testimony) pg 81 and Eric Reeves' statement that "Even as I note the potency of American capital market sanctions, I must make clear that I believe they should be deployed only in the most exceptional of circumstances. American capital markets are one of our greatest strengths in the world economy. Their size, stability, and transparency are quite simply singular and their integrity is a matter of great importance. Capital market sanctions are a regime of last resort. But if there is a compelling case for their deployment, Sudan clearly presents it." Pg 102 of the March 2001 Congressional hearing "America's Sudan Policy: a new direction?" Joint hearing before the Subcommittee on Africa and Subcommittee on International Operations and Human Rights of the Committee on International Relations, House of Representatives, 107<sup>th</sup> Congress

cases. There was a temptation to assume that this was a major reason for success in the diamonds legislative initiative *vis a vis* failure in the oil initiative. Although the vulnerability of diamonds was instrumental in changing the stance of the industry, it turned out that it was not the strategic role of oil that determined the legislative outcome. The reason is quite simply that the issue focus was not the oil or diamonds themselves but rather the financing that they provided. The threat of a boycott of Sudanese oil did not even arise because Sudanese oil had already been excluded from U.S. markets by executive order barring U.S. companies from doing business in Sudan.<sup>28</sup> The exclusion of product that activists wanted in the diamonds saga, had already been implemented on the oil issue, albeit for reasons different than some of the activists were arguing. In a very real sense, the capital markets sanctions campaign was a step beyond product exclusion and a more advanced form of claim enforcement that went to the very heart of the capitalist system, the money markets. For Wall Street and the administration, that was just going too far however noble the normative claims behind the campaign. That rather than any U.S. desire for oil was the critical issue. Thus depending on the nature of the remedy sought by campaigners, the nature of the resource itself may not be the most critical determinant of campaign outcomes.

## **History**

The two campaigns coincided in historical timeline and as Tilly asserts, history is no small matter. His argument is that historicization means installing time and space as

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<sup>28</sup> Executive Order 13067, November 3, 1997, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d))



“major determinants of contention’s character rather than as proxies for other more elusive variables such as modernization or level of grievance.”<sup>29</sup> This accords with the critical theory approach that historical specificity is critical to understanding phenomena. The major significance of historical coincidence is commonality or difference of contextual factors. As Meyer points out when cases occurring in disparate historical times are analyzed, context is taken as a constant, which is artificial, or else context is factored out.<sup>30</sup> These cases offered a comparison where institutional, geo-political and discursive contexts were similar. Both campaigns were impacted by the same historical events, the most notable of which were the September 11<sup>th</sup> Al Qaeda attacks on the U.S. This afforded me the unique opportunity to study and compare the effects of significant events on both campaigns without having to artificially factor out such contingencies. There was therefore no need and no effort in the comparison to explain historical difference or factor in history as a possible explanation for difference in either the process or the outcome differences between cases.

### **Mobilizing Agents and Strategies**

In attempting to confront and subject economic practice to ethical and moral standards, the campaigns appealed to both the power of the state and the power of civil society. When the form of organizing is a coalition of diverse actors, the activists are faced with the challenges of fostering collaborative action and the danger of multiple messages going out. There are potentially what Croteau and Hicks have called frame

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<sup>29</sup> Tilly, Charles. “Method in the Madness of History” *Center for Studies of Social Change*, Working Paper No. 226, December 1995

<sup>30</sup> Meyer 2004 *supra* at 127

disputes which form the biggest challenge for coalition work.<sup>31</sup> How did these groups overcome frame challenges and was there similarity in tactics across the cases?

Some scholars have conceptualized of social movements as coalitions of organizations and individuals cooperating on matters of mutual concern triggered by state policy.<sup>32</sup> Meyer saw the production of grievance that leads to the formation of identities and circumscribes the boundaries of the coalitions as a factor of state policy.<sup>33</sup> This has some resonance with the present cases but there were significant divergences. The state centric nature of Meyer and others' focus and analysis led to the theorizing of movement participation and function as significantly determined by the repressiveness or otherwise of the state and the space allowed in a particular state for social protest.<sup>34</sup> Explanations premised on this "state action-movement formation synergistic spiral" point to activist cohesion and cooperation as increasing or decreasing based on the openness of the political system or the authorities' hindrance or suppression of protest. Keck and Sikkink utilized the same logic in their boomerang effect thesis on social protest.<sup>35</sup> However in the two campaigns under study, that model does not fit.

As discussed above under issues, the grievances being protested by the conflict diamonds and the capital markets sanctions campaigns were not engendered by the state within which protest was taking place. Even though the U.S. administration did champion

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<sup>31</sup> Croteau, David and Lyndsi Hicks "Coalition Framing and the Challenge of a Consonant Frame Pyramid: The Case of a Collaborative Response to Homelessness" *Social Problems* May 2003; 50, 2, pg 251

<sup>32</sup> Van Dyke, N 2003. "Crossing movement boundaries: factors that facilitate coalition protest by American college students, 1930-1990" *Social Problems* 50:226-520

<sup>33</sup> Meyer, D.S. "Opportunities and Identities: bridge-building in the study of social movements" in D.S. Meyer, N. Whittier and B. Roberts (eds.) *Social Movements: Identity, Culture and the State* Oxford University Press, New York 2002

<sup>34</sup> Meyer 2004 supra at 140

<sup>35</sup> Keck, Margaret and Kathryn Sikkink. *Activists beyond Borders: Advocacy Networks in International Politics* Cornell University Press, Ithaca, NY 1998

the cause of the free market, the authors of the human rights grievances in extractive industries were rebels, governments in areas of extraction and corporations, and the enablement was through the global market. The openness or repressiveness of the U.S. polity offers therefore, no explanation for the cooperation or cohesiveness of either of these coalitions. Neither does that of the government of Sudan even, although that government's actions were the cause of grievance simply because the protests were not in Sudan.

The U.S. coalitions were ad hoc, issue by issue co-operations rather than concerted principle driven movements. Analysis of the actors in Chapters 4 and 6 indicated that they had varying motivations for their involvement. As the participants themselves indicated, they worked on the basis of strategizing to achieve specific outcomes that furthered their disparate agendas. The solution of identifying concrete action around which to coalesce so that each group then remained free to appeal to its constituency in its own principle's terms was adopted in both cases.

The disparateness of involved actors was a factor of distanced grievance in both cases. When human rights are violated on a scale and in as egregious a nature as was happening in Sudan, Angola and Sierra Leone, it triggers multiple issues and attracts therefore the attention of several groups. As Pener says, "In Sudan, ... these significant revenue flows (from oil) raised new concerns for the international human rights, religious freedom and national security communities."<sup>36</sup> The diversity widened the avenues for increasing awareness about the issue and the campaigns remained loose enough to

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<sup>36</sup> Pener *supra* 38

accommodate and create a space for activists and organizations espousing diametrically divergent ideological views. As one interviewee put it, “we were in coalition with folks we would never consider talking to otherwise and with who we had nothing in common outside of the issue.”<sup>37</sup> Indeed as Madeline Albright said, “Within the American political spectrum, the religious right and the internationalist left stand at opposite poles...”<sup>38</sup> Yet they functioned together in these campaigns and did so successfully.

The campaigners were well aware of the functionality of the coalition process. As one of them indicated;

I think the people who are in the campaigns can be very principled people and who are faced with the realities of the legislative process. I think whenever you have a campaign you are going to have a number of individuals with a multitude of perspectives, and you have people who represent organizations who have their own yearly campaign goals or their 5 year strategic plans for the organizations and in some way you have to get a multiplicity of factors to align in order to get the campaign to work.<sup>39</sup>

Common to both campaigns, working collaboratively had several compelling advantages besides necessity. The broadness made them an elusive target for ideological counter attack e.g. evangelical churches, labor and social change organizations in the same fight. As one of them said; “You need to show them that you are not five liberal lefties living in Massachusetts” applied in both cases.<sup>40</sup> In both campaigns participants were agreed that collaboration helped avoid duplication, enabled sharing of information and resources, focused concerted pressure on key agreed demands and ensured fairly consistent messages to go out. Coalition building broadened the base of support and the political

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<sup>37</sup> Interview with activist Washington DC, May 31<sup>st</sup> 2006

<sup>38</sup> Albright, Madeline in a speech given at Georgetown University in March, 2005, quoted by Susan Page, “Christian right's alliances bend political spectrum” *USA Today*, June 14<sup>th</sup> 2005

<sup>39</sup> June 17<sup>th</sup> interview with activist, Washington DC

<sup>40</sup> Interview with activist July 25<sup>th</sup> 2006

clout particularly in lobbying. As Page says “Actually, the fact that the partnerships are surprising — who knew that fundamentalists and feminists agreed on anything? — increases their clout.”<sup>41</sup>

Strategic operation did not offer a complete solution to divergence issues however. An interviewee explained principle and strategy thus;

So I think the principles represented around any particular campaign table are going to be diverse and ultimately they are going to be subsumed by the strategic plans of the organizations that individuals represent. Its more a matter of to what extent are the strategic plans of each representative organization infused with the principle of looking at human rights or the exploits of capitalism. Its really about how far can each organization goes because at the time of the campaigns, we all had our individual business cards from our individual NGOs and represented certain perspectives and I think our organizations expect us to represent that perspective.”<sup>42</sup>

Strategy also had limits in terms of what could be achieved. As one of the activists said; “...each of our organizations come with their understanding of what is possible , what needs to happen, what has integrity for them, what is acceptable to them...”<sup>43</sup> The achievements then tended to be the lowest common denominator acceptable to the participating organizations and individuals. That is an almost built in mechanism for elimination of extremist action by the campaigners and the exclusion of outliers.

The unease of associating with others of differing ideologies also remained a worry even while the advantages of collaboration were acknowledged. Rabbi David Saperstein, a lobbyist with Reform Judaism for example worried about “the danger of legitimizing leaders, viewpoints and organizations who are deeply problematic to you in

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<sup>41</sup> Page supra June 14<sup>th</sup> 2005

<sup>42</sup> Interview with activist June 17<sup>th</sup> Washington DC

<sup>43</sup> Interview May 15<sup>th</sup>, 2006 Greensborough, North Carolina

other contexts."<sup>44</sup> Although the internationalist left activists explained low levels of engagement on capital market sanctions on the basis that they did not give it a chance in succeeding, there was also an undercurrent of suspicion and a reluctance to be seen in the company of the religious right.<sup>45</sup> This may well explain why the capital markets sanctions having been initiated by the Christian right and the national security conservatives, did not attract as wide a spectrum of the mainstream human rights community.

Equally demonstrated in both campaigns were drawbacks to coalition operation in terms of the transient lifespan of the initiatives. All the activists I interviewed emphasized that much remained to be done on each of the issues, but save for only two organizations that indicated a commitment to monitoring the implementation of the Kimberley Process, they all confirmed that they had moved on to other issues. It was clear that there was not that same identification with the issue or even with each other as one would find in a principle based social movement such as for example right to life or free choice. To quote a Sierra Leonean activist;

But of course I know that's problematic precisely because there are diverse interests and mandates. Organizations have limited mandates and resources for the specific objectives. And to the extent that those interests can be found in a coalition, they will join. Once that battle has been worn, then they move on."<sup>46</sup>

Strategic functioning allows for diverse actors to collaborate, but in these cases it proved unsustainable compared to traditional movement action.

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<sup>44</sup> Quoted by Susan Page. "Christian right's alliances bend political spectrum" *USA Today* June 14<sup>th</sup> 2005

<sup>45</sup> Interview with activist June 17<sup>th</sup>, 2006 Washington DC

<sup>46</sup> Interview with African activist June 15<sup>th</sup>, 2006 Washington DC

## The Conservative Contradiction

Huntington has argued that;

Conservatism is rooted in religion; liberalism is not.....(and) In contemporary America, religious commitment and conservatism march arm in arm in battle against secularism, relativism and liberalism. In conservatism, man is not the measure of all things....(and) Religion is the source of conservative concepts of human nature and human relations.”<sup>47</sup>

There is apparently no love lost between some conservative evangelical segments and liberals and in the immediate wake of the September 11<sup>th</sup> attacks, some of the leading evangelicals roundly condemned liberals and secularists as responsible for the attacks.<sup>48</sup> Reverends Falwell and Robertson’s vitriolic accusations were belied though by the collaborations exhibited in the campaign coalitions studied here and especially in the capital markets sanctions campaign. As Green argues, evangelical energies have of late been directed toward an ecumenical vision of Christianity as a universal community.<sup>49</sup> On Sudan, conservative evangelical Christians took the lead together with similarly conservative security groups, in particular the Casey Institute. That they were in league with labor, the Congressional Black Caucus and other left leaning groups was remarkable enough, but more remarkable is that the issue focus was regulation of the free market. While the ideological confrontation over neo-liberalism was neutralized in the diamonds campaign due to the turnaround in the diamond industry’s stance, in the capital markets sanctions campaign it became the key point of contention.

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<sup>47</sup> Huntington, Samuel. “Robust Nationalism” *The National Interest* January 20th 1999

<sup>48</sup> Green, Joshua. “God’s Foreign Policy; Why the biggest threat to Bush’s war strategy is not coming from Muslims but from Christians” *Washington Monthly* November 2001

<sup>49</sup> Green supra 2001

Clearly, political and social justice alignments are more complex than the Huntington marches in battle between clearly drawn lines of conservative and liberal. The conservative Christian entry into human rights has seen them forge coalitions across ideological lines and the campaigns were not an isolated phenomenon. The legislative champions for both the conflict diamonds campaign and the capital markets sanctions campaign turned out to be political conservatives like Congressman Frank Wolf and Senator Brownback. Conservatives joined with feminists to oppose the sexual trafficking of women and children and they prodded the White House to launch a \$15-billion global AIDS Initiative.<sup>50</sup> In just a few years, conservative Christian churches and organizations have broadened their political activism from a near-exclusive domestic focus to an emphasis on foreign issues. Some note that in fact because the evangelicals' foreign-policy interests are motivated by religious convictions and not a temporary cause, the human rights movement may develop deeper roots as "These people (evangelicals) are not flavor-of-the-month types."<sup>51</sup> Interesting questions arise as to whether they are helping to reconfigure the U.S.'s struggling human-rights movement by giving it a broader and more committed constituency through the harnessing of evangelical energies toward a universalistic morality. That would make for interesting further research because among other things "Unlike human rights groups on the left, which don't have a broad popular base, Christian solidarity can draw on an army of foot soldiers from places

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<sup>50</sup> Green *supra* 2001

<sup>51</sup> Mark Palmer, vice chairman of Freedom House in Washington as quoted by Howard LaFranchi. "Evangelized foreign policy?" *The Christian Science Monitor* March 02, 2006



like Grace Bible Church.”<sup>52</sup> That could significantly change the face of the human rights project.

The most intriguing point from the research however was the contestation between conservatives over market operations. The contemporary dominant force in American foreign policy and global economics has undoubtedly been the neo-liberal, free market ideology whose major advocates and beneficiaries have been business as well as the state. U.S. business has for its part been traditionally aligned with the conservative establishment. The capital markets sanctions campaign brought into conflict these two traditional allies. It would be too much of a stretch to see the phenomenon as evidence of a split in ranks. A left leaning activist may have put her finger on it when she suspected that conservative Christians and security groups probably never thought through the implications of their campaigns on the larger market and capitalist basis of the economy and the inherent harm it visits on the poor.<sup>53</sup> Certainly it points to the complexity of aligning larger ideological agendas as actors pursue specific short-term objectives.<sup>54</sup> This is an area that will make for fascinating further research.

### **The Campaign Tools**

There was considerable similarity in both campaigns’ use of the legislative process as the major tool for achieving their goals. There was difference in that in the capital markets sanctions campaign, additional tools were deployed in the form of divestment and litigation as well as the effort to utilize the Securities and Exchange

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<sup>52</sup> Green 2001 *supra*

<sup>53</sup> Interview with activist, Washington DC June 17<sup>th</sup>, 2006

<sup>54</sup> Meyer *supra* 2004 At 139

Commission to secure the disclosure requirement. For the disclosure provision however, legislative fiat remained the ideal guarantee and thus inclusion of disclosure in the draft Sudan Peace Acts. In the conflict diamonds campaign, the threat of possible consumer selective purchasing or even an outright consumer boycott dangled as the leverage that persuaded the industry to cooperate. The Kimberly Process was initiated because of the vulnerability of both the industry and diamond exporting countries.<sup>55</sup> Economic cost rather than just persuasion was utilized in both cases. The threats in the diamond campaign remained threats and they were not implemented whereas divestment and disclosure were actualized in the capital markets sanctions campaign. Interestingly a diamonds boycott besides being opposed and tactically inadvisable considering the free market argument in the diamonds campaign, does not appear to ever have been a really serious consideration on the part of the activists.<sup>56</sup> Even though legislative provision failed in the capital markets sanctions campaign, disclosure was partly successful as measured by the market reaction to the Unger letter.<sup>57</sup> Thus the campaign tool of choice for both remained legislation which therefore forms the main institutional opportunity structure as discussed below.

### **Opportunity Structures**

Social protest coalitions interact with their context and their ability to advance their claims is significantly context dependent. This is not to minimize activist agency,

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<sup>55</sup> Durham, Dick. "De Beers sees threat of blood diamonds" *CNN* January 18, 2001

<sup>56</sup> Interview with activist, July 25<sup>th</sup> 2006 Washington DC

<sup>57</sup> Alden, Edward. "Capital markets watchdog's expanded role may cause sea change in the way foreign companies list in US" *Financial Times* London, May 11, 2001, USA Edition pg 1

which was clearly the driving force for action in the campaigns, but it is to recognize that activists do not choose goals or adopt strategies in a vacuum.<sup>58</sup> Meyer points to the mutual influence of context and strategy when social protests take place and this was evident in both of the campaigns.<sup>59</sup> The opportunity structure framework was utilized not so much to try and explain the rise and operational aspects of protest, but rather the policy reform or the factors that helped determine the outcomes. Outcomes can be specified in different ways; resource allocations, institutional set up, corporate disinvestment etc. McAdam's advice that researchers be specific as to the dependent variable to be explained is well taken.<sup>60</sup> The main policy outcome for explanation in these campaigns was legislative enactment regulating market operations so they would be responsive to ethical considerations. Meyer has also argued for recognition of movements as coalitions and that doing so allows for different visions of political opportunities.<sup>61</sup> I have followed that line of thinking and specified particular categories of opportunity structure, the tripartite framework as laid out in Chapter 1 as key in understanding the processes and outcomes of the campaigns. The framework itself has been amply presented in Chapters 1 and 2 and what I intend here is to explore how much congruence there was between the cases in fitting analysis within that framework.

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<sup>58</sup> Tilly, Charles. *From Mobilization to Revolution* Addison-Wesley, Reading MA 1978; Sidney Tarrow *Power in Movement* Cambridge University Press (2<sup>nd</sup> Ed) New York 1998

<sup>59</sup> Meyer supra 2004 at 125

<sup>60</sup> McAdam, D. "Political opportunities: conceptual origins, current problems, future directions" in D. McAdam, J.D. McCarthy and M.N. Zald (eds). *Comparative Perspectives on Social Movements* Cambridge University Press, Cambridge UK 1996

<sup>61</sup> Meyer supra 2004, 126

### Institutional Opportunity Structures

Just as much as the market provided access for the government of Sudan to trade in oil and the RUF rebels and UNITA to sell diamonds, it was also through the market that activists were able to intervene in both cases. Curtailment of funding was sought through interdiction of trade whether in goods or in capital finance. Thus in both cases the facility for interdiction was legislation by the state as the institution holding the power of market regulation.<sup>62</sup>

The market of course does not make itself nor is it static in nature. In the case of capital markets the opportunities were expanded due to evolution of the market. Although legislation was pursued as the ideal outcome, new sources of money in capital markets gave labor substantial power. Pension and mutual funds provided campaigners with an additional opportunity for intervention directly against an economic actor. Campaigners were able to substantially reduce PetroChina's IPO yield by utilizing their power over pension and mutual funds. Talisman was also targeted through divestment by its U.S. investors. The market itself remained unmoved as was the US government. On the other hand, the market as an opportunity for action worked so effectively in the conflict diamonds campaign that there was no need for actual direct action. As the diamond industry and diamond exporting countries acknowledged, a consumer boycott or even a tarnished product image would have been devastating. Thus the industry capitulated and cooperated. The institutional opportunity structure, although it was the market in both

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<sup>62</sup> Russell 1999 *supra*

cases, did not respond in similar manner. There was resistance to direct institutional changes as compared with specific product regulation.

The opportunity structures for domestic actors to mobilize supporters, confront their opponents and subject economic practices to ethical values remained domestic, even though the practices they wanted to change operated supra-nationally. As Mann argued “National social movements cannot easily escape from the structure of political opportunities and constraints of their respective nation-states.”<sup>63</sup> Whether through direct action, non-subscription to the PetroChina IPO, divesting from Talisman or demanding conflict free diamonds and pressuring congressmen to enact legislation, activists firmly asserted the U.S. and its citizens as the enforcers of corporate moral practices. This was not new and followed in the footsteps of other initiatives such as the Free Burma campaign.<sup>64</sup> In both cases, the primary institutional opportunity structures were national even though in the diamonds campaign, there were also significant international institutional structures such as the Kimberley Process and the United Nations.

As an institutional opportunity structure, the role of the U.S. government was equally ambivalent. To understand the U.S. government’s response, its role as other than a neutral agency has to be understood. The U.S. government champions the global free market system and sees the U.S. as a major beneficiary of it. Thus free market intrusion was viewed by U.S. officials as well as by many legislators as detrimental to U.S.

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<sup>63</sup> Mann, Michael. “Nation-States in Europe and Other Continent's: Diversifying, Developing, Not Dying”, *Daedalus* 122 (Summer 1993), p.117

<sup>64</sup> Dale supra 2003 pg 232

economic well being.<sup>65</sup> Is that an indicator of the advancement of the role of the state as a tool of corporate driven and dominated economics?<sup>66</sup> That is yet another interesting issue for further research. In the diamonds case, only when the administration was assured of a WTO waiver, did it give its assent to the Clean Diamonds Act even though the diamond industry was lobbying for regulation.<sup>67</sup> A potential WTO case could have undermined the legitimacy of the current international economic system, which is dominated by the US.

Free trade championing was not the only role the state played. Strategic protection of the state was another priority. The price of intelligence from Sudan and the reduction in Sudanese terrorist engagement outweighed the making of a statement on human rights, religious freedom etc. Diamond based financing by al Qaeda on the other hand raised attention levels. Yet the U.S. also firmly asserts the salience of human rights and has tied conditionality of much foreign aid substantially on countries' respect for human rights. So for both campaigns, the administration proved a major and slippery challenge in the struggle for enactment of legislation.

### Discursive Opportunity Structures

The coalitions, like any other protest movements, had to content with framing issues within existing and accepted cultural frames in the U.S. of the time. In any society, the accepted norms shape the dominant political and economic structures which in turn foster particular understandings of a polity's economic, political and cultural institutions.

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<sup>65</sup> This factor was emphasized in all the congressional hearings on both issues as discussed in Chapters 5 and 7.

<sup>66</sup> Dale 2003 supra 246

<sup>67</sup> Gilgen at [http://www.nccr-trade.org/images/stories/publications/IP1/NCCR%20paper\\_Kimberley%20Process.pdf](http://www.nccr-trade.org/images/stories/publications/IP1/NCCR%20paper_Kimberley%20Process.pdf) pg 39 to 40

In the U.S., the existing frames included narratives that worked to naturalize the dominant neo-liberal project as the accepted norm.<sup>68</sup> As McIntyre observes,

....the emergence of neo-liberal thought—first in economics in the 1970s but reaching imperialistically to the other disciplines—opposes anything that interferes with the “free” choices of individuals or the activities of the market, especially when this interference is sure to involve some kind of government regulation.<sup>69</sup>

Predominant institutions were premised on and supported a neo-liberal worldview; in particular the belief that political life should and could be subordinated to the economic logic of free markets.<sup>70</sup> In making claims for ethics in the market place, the activists were arguing a counter narrative. There was therefore going on, a discursive struggle over the activists’ attempts to redefine economic and social practice as well as the very constitutive nature of the global market structure within which considerable power was being exercised. A number of trends and themes were discernible in that struggle.

By urging state and civil society responsibility for the regulation of non-state actors operating in extraterritorial zones, activists were raising the problem of actualizing expanded and universalizing ethics and ideas about human rights in the context of an increasing interdependence of spatially disparate but interconnected activities. In actions reminiscent of social action against oil corporations in Burma, the immediate targets of action were non-state actors i.e. the diamond industry, PetroChina, Talisman and the

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<sup>68</sup> Atul Bharadwaj. “Understanding the Globalisation Mind Game” *Strategic Analysis: A Monthly Journal of the IDSA* July-September 2003 (Vol. XXVII No. 3)

<sup>69</sup> McIntyre, Richard. “Globalism, Human Rights and the Problem of Individualism” *Human Rights and Human Welfare* Volume 3:1, August, 2003

<sup>70</sup> Purdy, Jedediah. “A World of Passions: How to Think About Globalization Now” *Indiana Journal of Global Legal Studies* - Volume 11, Issue 2, Summer 2004 4

financial markets.<sup>71</sup> This was stretching the idea of human rights beyond the state-centric purview to visit responsibility on corporations, rebels and the market. The responsibility of corporate actors ran parallel with the articulation of an alternative discourse and worldview about corporate activities and citizen responsibilities in what corporations closely linked with us do in far away places.<sup>72</sup> In the Unocal Charter Revocation Campaign, one of the organizers Ronnie Dugger asserted such responsibility very clearly when he said that;

We are saying that we, the people of the United States, acting in our several states, chartered the several US based transnational corporations that now range across the world.... and we assert our moral responsibility for, and therefore our democratic control over, offences against people that which our corporations commit or in which they become complicit anywhere and everywhere in the world.<sup>73</sup>

Similarly, the campaigners in the conflict diamonds and the capital market sanctions campaign sought to persuade U.S. citizens to take responsibility for rights violations in Angola, Sierra Leone and Sudan. That this discourse had deeper implications than just boycotts and sanctions was well articulated by Hufbauer and Oegg who argued that the immediate Sudan issue was not the main issue but rather global capitalism and its impacts.<sup>74</sup> Being juxtaposed therefore were the competing visions of a human rights ethic owned by U.S. citizens and applicable to U.S. non state profit actors *vis a vis* an unencumbered neo-liberalist free market economy global system.

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<sup>71</sup> See for example the Burma example in John Gilbert Dale. *Transnational Legal Space; Corporations, States and the Free Burma Movement* PhD Dissertation 2003 at page 3 and 5.

<sup>72</sup> Benson, Robert. *Challenging Corporate Rule; A Petition to Revoke Unocal's Charter as a Guide to Citizen Action*, Apex Press, 1999

<sup>73</sup> Dugger in Benson pg VII

<sup>74</sup> Hufbauer, Gary Clyde and Barbara Oegg. "Capital-Market Access: New Frontier in the Sanctions Debate" *Institute for International Economics Policy Brief* 02-6May 2002  
<http://www.iie.com/publications/pb/pb.cfm?ResearchID=57>



Interestingly, neither the corporations being challenged nor the U.S. government that was being pressed to act to control profit actors, challenged this conceptualization of human rights. By in fact proclaiming allegiance to human rights while at the same time defending the neo-liberal free market despite its harmful impact on human rights, the US state placed in ambivalence the human rights discourse. PetroChina chose not to engage in the discourse but Talisman and the diamond industry joined with the U.S. State Department in proclaiming very emphatically that they subscribed to the idea and the practices of human rights, but equally wanted unimpeded access to markets.<sup>75</sup>

There was too in both campaigns a widely held assumption about the subscription of U.S. citizens to the norms activists were arguing for. Repeatedly, the assertion was made that the U.S. investor (in the oil sanctions campaign) and the U.S. consumer (in the diamonds campaign) would act to stop corporate complicity in egregious human rights violations; if only they had knowledge of the practices.<sup>76</sup> Congressman Hall for example consistently warned “If consumers find out about this there will be a boycott.”<sup>77</sup> Similarly in the sanctions campaign several witnesses and congressmen at congressional hearings

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<sup>75</sup> U.S. State Department has as part of its mission the to hold other governments accountable for their human rights obligations under the Universal Declaration. The US declares that “The protection of fundamental human rights was a foundation stone in the establishment of the United States over 200 years ago. Since then, a central goal of U.S. foreign policy has been the promotion of respect for human rights, as embodied in the Universal Declaration of Human Rights.” *Human Rights* at <http://www.state.gov/g/drl/hr/> last visited June 12<sup>th</sup> 2007; Talisman Energy, *Corporate Responsibility Report; Human Rights* “Talisman supports the principles of and promotes respect for the Universal Declaration of Human Rights” at [http://www.talisman-energy.com/cr\\_online/2005/social-human\\_rights.html](http://www.talisman-energy.com/cr_online/2005/social-human_rights.html) visited June 12<sup>th</sup> 2007; The World Diamond council was created in order to respond to human rights concerns [http://www.diamondfacts.org/pdfs/media/press\\_release/WDC\\_5th\\_Annual\\_Meeting\\_FINAL.pdf](http://www.diamondfacts.org/pdfs/media/press_release/WDC_5th_Annual_Meeting_FINAL.pdf) visited June 12<sup>th</sup>, 2007

<sup>76</sup> Braid, Mary And Stephen Castle. “How a Little Band of London Activists Forced the Diamond Trade to Confront the Blood on its Hands” *Independent* (London) July 24, 2000

<sup>77</sup> *CNN*. “Diamond industry reacts to charges that it's letting trade in 'blood diamonds' pay for African wars; Hall speaks at the World Diamond Congress in Antwerp, Belgium” July 17, 2000

testified to this as more or less a given.<sup>78</sup> The United States Commission on International Religious Freedom similarly made such assertions.<sup>79</sup> This reflected a view held by several scholars that;

The transnational human rights advocacy network both reflects a broad, if sometimes amorphous public commitment to human rights and in turn has influenced key portions of democratic publics in many countries to adopt the conception of individual human rights as part of their core beliefs<sup>80</sup>

Knowledge thus came to be by itself, a key tool of a discourse where commitment to the values was broadly assumed. The mission of the activists in both cases was thus not so much to argue the goodness of freedoms and rights as to connect the separated moments of violent production and consumption with the citizen's role through knowledge creation. It enabled the activists to utilize their now most widely acknowledged tool of naming and shaming that is premised on delineated conceptions of good and bad.

While naming and shaming premised on acknowledgement and ownership of the problem was a persuasive exercise (the social process of interaction that involves changing attitudes about cause and effect in the absence of overt coercion), particularly *vis a vis* civil society, economic coercion was always held as a threat, should persuasion fail.<sup>81</sup> As the activists emphasized, moral suasion alone would not work because in the

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<sup>78</sup> Congressional hearing; 2001 "America's Sudan Policy: a new direction?" joint hearing before the Subcommittee on Africa and Subcommittee on International Operations and Human Rights of the Committee on International Relations House of Representatives, M.K Young pg 44, 49, Rep Tancredo pg 44

<sup>79</sup> 2000 US Commission On International Religious Freedom Report, Recommendations 1.8 and 1.9, pg 35–37

<sup>80</sup> Anheier, Helmut, Marlies Glasius, and Mary Kaldor. Eds. *Global Civil Society* 2001. Oxford: Oxford University Press; Oxford 2001: Khagram, Sanjeev, James V. Riker, and Kathryn Sikkink, eds. *Restructuring World Politics: Transnational Social Movements, Networks, and Norms*. Minneapolis: University of Minnesota Press 2002

<sup>81</sup> Checkel, Jeffrey. "It's the Process Stupid! Process Tracing in the Study of European and International Politics" *Center for European Studies*, Working Paper No. 26, October 2005, Pg 8

words of a campaigner “the moral imperative just did not seem to move either the businesses or the congress.”<sup>82</sup> As was clear in the conflict diamonds contestation, the industry and other diamond producing countries were well aware of the significant potential economic costs of boycott or even the tarnishing of the diamond’s image. In the capital markets sanctions contestation, argument and principled debate failed and the economic sanctions in the form of divestment and the withholding of capital investment in the PetroChina IPO, had to be and were actualized.

If discourse alone was not effective, what other factors accounted for the outcomes? The answer has to be nuanced. Congress and especially the House, was persuaded. The diamond industry came round but resistance from the administration maintained. Administration rhetoric was very human rights affirmative, but strategic considerations and the defence of free markets appeared more real.<sup>83</sup> There was on the part of the administration as Morrison put it, “Hubris, posturing and rhetorical excess, unbacked by sufficient political will...”<sup>84</sup> The administration preferred engagement with the Sudan government in order to gain security intelligence and cooperation. In the diamonds issue the administration remained resistant to any intrusion into the market even when business and human rights activists were on the same side.<sup>85</sup> Examination of the data reveals a concern with economic and strategic considerations as lying at the core

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<sup>82</sup> Interview with activist May 24<sup>th</sup>, 2006 Washington DC

<sup>83</sup> Interview with former State Department policy analyst, June 1st, 2006. Washington DC

<sup>84</sup> Morrison, J. Stephen testimony before Congressional hearing; 2001 “America's Sudan Policy: a new direction?” joint hearing before the Subcommittee on Africa and Subcommittee on International Operations and Human Rights of the Committee on International Relations House of Representatives at pg 98

<sup>85</sup> Interviews with activists Washington DC May 23<sup>rd</sup>, 2006

of the resistance and ultimately, given the powerful position of the state, significantly determining the final outcomes.

### Strategic and Economic Geo-politics

Howard-Hassmann has asserted that “Social changes are influenced by international and transnational social movements, which strive to protect and promote human rights at the very time that powerful political and economic forces undermine them.”<sup>86</sup> One of the powerful forces is the unbridled pursuit of profit, unchecked by ethical considerations, the prime objective of the corporate world and one very strongly backed by the U.S. state. Advocates for the elimination of conflict diamonds ran into this phenomenon as illustrated in testimony before congressional committee hearings. Rep. Tony Hall directly addressed the conflicts thus;

I know your focus, Mr. Chairman, is usually on finding ways to lift restrictions on trade. I agree with you sometimes, and with Mr. Rangel and Mr. Levin sometimes. But I share the commitment that you all have to letting trade be the engine of our economy, and of economies around the globe. However, this is not a question of free trade, or fair trade. Conflict diamonds are stolen from companies and countries. They are smuggled to avoid paying taxes that are one of African countries’ key sources of income. And then, most horrifying of all, they are turned into weapons against innocent civilians who might interfere with these thugs’ control of the diamond mines. In Sierra Leone, for example, rebels told many of their victims that they were forcibly amputating their hands as punishment for using them to cast ballots in the nation’s first democratic election. I respect the Subcommittee’s concerns about fulfilling our country’s obligation to the World Trade Organization. I think the Clean Diamonds Trade Act does that in several ways, which are described in material attached to my testimony.<sup>87</sup>

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<sup>86</sup> Howard-Hassmann, Rhoda E. “The Second Great Transformation: Human Rights Leapfrogging in the Era of Globalization” *Human Rights Quarterly* 27 (2005) at pg 12

<sup>87</sup> Tony Hall testimony October 10, 2001 supra

The same conflict was also addressed by Rep. Frank Wolf whose rationale for acting challenged the simplistic “for or against” free trade without taking into consideration responsibility for the deleterious effects the trade might have and that might outweigh the advantages.<sup>88</sup>

Wolf and Hall’s arguments were intriguing. In arguing that illicit trade in diamonds was not benefiting the diamond producing states because the trade was not taxed nor did it go towards national development, they were in fact saying that unrestricted free trade could, and was damaging neo-liberalism. This free trade did by filling the coffers of rebels and warlords who used it to create disorder by inflicting terror and destabilization. Destabilization of course goes against the establishment of the state order that liberalism depends on.<sup>89</sup>

Equally intriguing was the administration’s reluctance to subsume freedom of the market to moral considerations even when industry and social justice activists were in consensus.<sup>90</sup> It is testimony to the prioritization of profit and free trade for the U.S. that despite as Ms. Gardner said,

Members of Congress know that it is very unusual for any industry to request government intervention in its affairs. But conflict diamonds pose a very unusual menace. The industry has gone a long way toward meeting this challenge. Now the government’s assistance is necessary to finish the job

that reluctance persisted.<sup>91</sup> It is not certain if the administration ever got the point activists were making on free trade, but the World Trade Organization obviously did, and

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<sup>88</sup> Rep. Frank Wolf testimony October 10, 2001 *supra*

<sup>89</sup> Question and answer session in the hearing on October 10, 2001 *supra* at page 22ff

<sup>90</sup> Cecilia Gardner, Executive Director, Jeweler’s Vigilance Committee, New York, and General Counsel, World Diamond Council, testimony before the Subcommittee on Trade October 10, 2001 at pg 44

<sup>91</sup> Gardner *supra* pg 45 and Akwei *supra* at pg 56

it granted an exception to its rules as pointed out in Chapters 4 and 5. In the capital markets sanctions campaign, the competition between free trade and human rights was more pronounced and the position of the state in favor of non-interference and prioritization of U.S. economic interests was much clearer. The U.S. government has actively championed U.S. corporate rights to trade everywhere.<sup>92</sup> As has already been amply indicated in Chapters 6 and 7, that position did not change.

Geo-political strategic interests were even more pronounced. The state's interest in the conflict diamonds issue was fairly lukewarm prior to the al Qaeda link between Sierra Leonean diamonds and finance capital.<sup>93</sup> Prior to September 11<sup>th</sup>, Sudan was a designated terror sponsoring state but it did not attract much U.S. policy attention.<sup>94</sup> China's involvement only added to the logic of Sudan being the likely target of swift sanctions by the US. According to the State Department

Sudan, ... continue (d) to be used as a safe haven by members of various groups, including associates of Osama Bin Ladin 's al Qaida organization, Egyptian al-Gama 's al-Islamiyya, Egyptian Islamic Jihad, the Palestine Islamic Jihad and HAMAS.’<sup>95</sup>

Activists could not therefore have anticipated the U.S. embrace of Sudan post September 11<sup>th</sup> 2001.

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<sup>92</sup> A most open campaign role for corporations by the US state is in the pharmaceutical industry. A study by Lall Ramrattan and Michael Szenberg. "Global competition and the United States pharmaceutical industry" *American Economist* Fall 2006. Vol.50, Iss. 2; pg. 65 demonstrates the vigour of that championing.

<sup>93</sup> Farah, Douglas. "Al Qaeda Cash Tied to Diamond Trade" *Washington Post* November 2, 2001; Duke, Lynne. "Blood Diamonds: A River or a Droplet?" *Washington Post* December 27, 2006; Page C01

<sup>94</sup> U.S. Department of State. *Interagency Review of U.S. Civilian Humanitarian and Transition Programs*, Annex 3 (January 2000).

<sup>95</sup> U.S. Department of State, "Patterns of Global Terrorism,2000," April, 2001.

So significant has September 11<sup>th</sup> been that the war on terror is now seen by some scholars as “firmly rooted in geopolitical competition”; al Qaeda versus the U.S.<sup>96</sup> September 11<sup>th</sup> was indeed monumental in its implications. Several trajectories in policy changed; from an until then ascending human rights discourse to counter terrorism, from increasing universalism to unilateralism, from talk of human security to war on terror. The campaigns were caught up in the dynamic. The conflict diamonds campaign was until then struggling to get policy attention and Sudan looked like a no-brainer for sanctions. However, with the war on terror, issues of power were very dramatically returned to the forefront of policymaking with U.S. hegemony very central to the evolvment of global politics. The U.S. thereafter pursued an aggressive unilateralism that threw into doubt the efficacy of norms and ideals like human rights and it privileged geo-strategic considerations. Universalistic and to a considerable extent even domestic civil liberties, were subsumed to the demands of security as the U.S. set out to “to shed constraints imposed by alliances, international law and international regimes.”<sup>97</sup> To an extent even free trade took a hit. That there is no such thing as a free market became patent in the response to 9/11. One of the major tools against terror has been aggressive finance interdiction both on local and international scales. An IMF report indicates that;

....in October 2001, the FATF issued new international standards to combat terrorist financing, which call on all countries to adopt and implement the “Special Eight Recommendations”, denying terrorists and their supporters access to the international financial system (Box 1). 7 Also, in September 2001, the UN Security Council

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<sup>96</sup> Klare, Michael. “The Geopolitics of War” *The Nation* October 18, 2001

<sup>97</sup> Lamy, Steven, Robert English and Steve Smith. “Hegemony and Its Discontents: A Symposium” *International Studies Review* Vol. 7 Issue 4, Dec. 2005 pg 525

adopted Resolution 1373 that called on states, inter alia, to prevent and suppress the financing of terrorist acts, criminalize terrorist financing, and freeze terrorist assets.<sup>98</sup>

Far from protests in defence of free markets as was the case when the imperative was human rights, there was applause for these initiatives.

### **Counterfactuals**

What about the counterfactuals? On conflict diamonds, an industry representative for example argued that U.S. legislation on diamonds moved in 2003 not because of security and economic considerations, but rather because there was need for the international regime (Kimberley Process) to be in place first in order for U.S. legislation to be enacted.<sup>99</sup> If true, this would reduce the explanatory power of factors such as economic costs and strategic considerations and upscale the international negotiations' role as the key to the success of the Clean Diamonds Trade Act. A number of developments and arguments point however to the falsity of this as the major explanation.

First there is the reality that the Kimberley process itself was prompted by fear of economic costs.<sup>100</sup> Further, Rep. Hall, one of the most ardent advocates for clean diamonds in testimony before the Subcommittee on Trade of the Committee on Ways and Means illustrates that the reverse logic to Kimberley as the facilitating factor was at work; As he said;

I think that if we can put legislation on the books, it will help the Kimberley Process. It will move the United Nations' efforts ahead even further. We have lots

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<sup>98</sup> Johnston, R. Barry and Oana M. Nedelescu. "The Impact of Terrorism on Financial Markets" *IMF Working Paper* March 2005 WP/05/60

<sup>99</sup> Interview with Matt Runci, June 20<sup>th</sup> 2006. Interview with activist, Washington DC, May 23<sup>rd</sup>, 2006

<sup>100</sup> Durham, Dick. "De Beers sees threat of blood diamonds" *CNN* January 18, 2001



of allies that want us to pass this legislation.<sup>101</sup>

Rep. Frank Wolf, emphatically made the same point during the same hearings; that U.S. legislation would facilitate the Kimberly process and not the other way around.<sup>102</sup> The U.S. lead negotiator to Kimberley conceded that too under questioning during the same hearings. To quote;

Mr. HERGER. (Committee member) Mr. Eastham, the same question to you. Do you feel the emphasis in the U.S. Congress to move forward with legislation indicating certainly the great importance that the Congress places on it gives emphasis to perhaps move along more rapidly the Kimberley Process?

Mr. EASTHAM. (Special Negotiator for Conflict Diamonds, U.S. Department of State) Yes, sir, I think that emphasis of the Congress and the NGO community but certainly the Congress because the Congress has the power to make laws is a very important element in stimulating action on the part of the Kimberley Process.<sup>103</sup>

Mr Eastham proceeded to give as a concrete example, the sense of urgency given to the Kimberly negotiations by Rep. Hall's CARAT Act of 2000 when it was attached as a rider to the Appropriations bill of 2000.<sup>104</sup> Mr. Runci's testimony also belied his latter argument.<sup>105</sup> Arguing in favour of The Clean Diamonds Trade Act (HR2722) he stated;

the fact is that a catalyst is required to put in place the controls necessary to eliminate conflict diamonds. Because the United States is the largest importer of diamonds, we have the opportunity and the obligation to provide that catalyst.<sup>106</sup>

This puts in serious doubt the logic of Kimberley needing to be the precursor to U.S. legislation or being the explanation for its enactment.

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<sup>101</sup> Rep Tony Hall testimony in the Hearing Before the Subcommittee on Trade of the Committee on Ways and Means, House of Representatives 107<sup>th</sup> Congress, First session October 10, 2001(Serial No. 107-46)

<sup>102</sup> Testimony of Rep. Frank Wolf before the Subcommittee on Trade, October 10, 2001 supra

<sup>103</sup> Subcommittee on Trade, October 10, 2001 supra at page 36

<sup>104</sup> Eastham supra page pg 36

<sup>105</sup> Statement of Matthew Runci, president and chief executive officer, Jewelers of America, inc., New York, NY, and executive director, World Diamond Council, hearing before the Subcommittee on Trade of the Committee on Ways and Means, October 10<sup>th</sup>, 2001 pg 40

<sup>106</sup> Runci supra at 41

Other counterfactuals might be diplomatic as *The New York Times* claimed, that;

The Clinton administration is reluctant to talk publicly about what steps it is considering to curb the diamond trade in order to avoid the perception that a regulatory regime would be imposed on African states by the powerful West, said an administration official who spoke on the condition of anonymity.<sup>107</sup>

However, the Angolan government was more than keen to see UNITA's sources of finance cut off and in fact wanted the regulations. Similarly, the government of Sierra Leone desired regulation of diamonds to stop the RUF insurgency. Reps. Tony Hall and Frank Wolf also raised the U.S. possibly not wanting to offend its friends like Israel, which were implicated in illicit diamond trade.<sup>108</sup> That could have been, but since there was no change in that relationship or the conduct of Israel preceding enactment, it is hard to see how that would be explanatory of the U.S. change in attitude.

In the sanctions campaign, a possible counterfactual might be that Sudan was moving towards a peace agreement with the SPLA and there was therefore no need for sanctions anymore. A peace agreement was indeed entered into eventually, but the peace negotiations for which Senator Danforth can be partially credited, did not begin seriously until after the death of the sanctions provisions in the Sudan Peace Act.<sup>109</sup> During the currency of the campaign, it was clear that the government of Sudan was not interested in

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<sup>107</sup> Bonner, Raymond. "U.S. May Try to Curb Diamond Trade That Fuels African Wars" *New York Times, International Section* August 8, 1999

<sup>108</sup> Refer to Hall and Wolf testimony before the before the Subcommittee on Oversight of Government Management, Restructuring and the D.C. Commission on Governmental Affairs, 107th Congress, 2002 *supra*

<sup>109</sup> The Sudan Comprehensive Peace Agreement, a collection of agreements agreed to on December 31, 2004 was signed on January 9, 2005. The United States Institute of Peace has the collection at [http://www.usip.org/library/pa/sudan/cpa01092005/cpa\\_toc.html](http://www.usip.org/library/pa/sudan/cpa01092005/cpa_toc.html) last visited June 12th 2007

peace negotiations as it was gaining the upper hand on the battlefield.<sup>110</sup> Flash with oil money, the Sudanese government intensified its saber rattling as reported by the Washington Post that,

peace hopes have been buried by the recent completion of an oil pipeline, promising \$200 million a year or more in revenues. Rather than negotiate, the north (Khartoum) declares that it will use its new oil wealth to stock up on military gear and win a victory on the battlefield...Once it has control of these [yet unexploited oilfields], it will purchase yet more tanks and missiles.<sup>111</sup>

It seems doubtful that moves towards peace negotiations would by themselves have made the Sudan government any more responsive than tangible threats of economic loss. The importance of geo-politics and the formidable force that is the combination of business and strategic interests' coinciding appear to yield more substantial explanation for the outcomes.

### **Counter-narratives; Campaign targets and their responses**

Two leading social movement scholars, Tilly and McAdam have argued that power holders respond to movements based on the threats posed by the movements to the power holders' power base.<sup>112</sup> Tilly includes among the salient factors for posing threat movement "worthiness, unity, numbers and commitment."<sup>113</sup> Movement organization is indeed key in trying to understand both movement process and outcome. Context, seen through the lens of opportunity structure added to a deeper understanding by considering

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<sup>110</sup> See Congressional hearing; 2001 "America's Sudan Policy: a new direction?" joint hearing before the Subcommittee on Africa and Subcommittee on International Operations and Human Rights of the Committee on International Relations House of Representatives testimony pg 82 and 146

<sup>111</sup> *The Washington Post*. "Exploiting Sudan's Agony," November 15, 1999 pg 156.

<sup>112</sup> Tilly, Charles. 1999. "From Interactions to Outcomes in Social Movements." Pp. 253–70 in *How Social Movements Matter*, edited by M. Giugni, D. McAdam, and C. Tilly. Minneapolis: University of Minnesota Press, 1999; McAdam, Doug. *Political Process and the Development of Black Insurgency, 1930–1970* Chicago: University of Chicago Press, 1982

<sup>113</sup> Tilly, 1999 pg

the contextual aspects of movement dynamics. Tilly's argument however points to another dimension; that there is a relationship between threat and response. Tilly referenced in particular state actors, but as is clear from the narratives in Chapters 4 and 6, the main targets in the conflict diamonds and the capital markets sanctions campaigns were non-state actors even though the state remained a key player as the repository of regulatory power. The struggle for counter-hegemony such as was the human rights contestation in the campaigns, is an attempt at redefinition of social interaction. Traditionally even in human rights conceptualizations and practice, states have been the main threats to, as well as the duty bearers for human rights. The energies of rights activists are still predominantly channeled into the investigation, exposure and shaming of state violations across the globe. However, globalization has caused a shift in the sites of power, from the state as the dominant site of power to make power more diffuse; participated in by corporations, rebels and even outright criminals. The diamonds and sanctions campaigns were illustrative of this change in both the identity of the perpetrators of violations as well as the shifts in the sites of power.

In interviewing some industry actors in the diamonds campaign, it became clear to me that these targets responded to protest action based on their assessments of the threats activists posed and that those responses had a substantial impact on overall outcomes. Thus profit actor responsive action cannot be viewed in terms of a uni-directional causality; as just the outcome of activist demands and actions. Even when corporate response is no more than a genuflection in the direction of social responsibility that Levitt accuses corporations of, that action is an integral component to the campaign

dynamic.<sup>114</sup> Scholars and actors alike asserted that it's a small number of corporations that acted on the basis purely of human rights.<sup>115</sup> There are therefore two aspects that became additional variables for consideration; a) that the state was not the only important responder and its role was also a factor of other interests such as business and security; and b) targets of campaigns are not passive objects, but engaged actors on their own account whose receptivity to movement demands varied based on their own calculations of costs.<sup>116</sup>

The capital market sanctions approach provoked heated contestation on whether capital markets are an appropriate arena for the attainment of certain political and social goals.<sup>117</sup> The generality of the potential impact of the sanctions widened the spectrum of targets beyond the immediate corporations that were involved in Sudan i.e. Talisman and PetroChina. Indeed, the target became larger than the oil industry *per se* and turned into the whole neo-liberal market project. That was a more formidable target than just a single industry as was the case with the diamonds campaign. Maybe because the imposition of sanctions against conflict diamonds fell within the definition of the traditional trade sanctions, regulation of diamond trade was not seen as threatening to the free market enterprise as the capital finance mechanism. In the capital markets, activists were moving to a different level. So while the clean diamonds campaign also touched on the ethos of

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<sup>114</sup> Levitt, T. "The dangers of social responsibility." *Harvard Business Review* 36:1958, 41–50.

<sup>115</sup> Interview with activist June 29<sup>th</sup> 2006 New York, New York

<sup>116</sup> Giugni, Marco. "How Social Movements Matter: Past Research, Present Problems, Future Developments." Pp. xiii-xxxiii in *How Social Movements Matter*, edited by M. Giugni, D. McAdam, and C. Tilly. Minneapolis: University of Minnesota Press, 1999

<sup>117</sup> Diamond 2003 *supra* p39

the free market, the vulnerability of the industry was such that open confrontation would be very costly for the diamond industry even with the support of the U.S. administration. The diamond industry therefore capitulated. In the sanctions campaign responses were more ambivalent. The market system as a whole resisted the demands of the activists, while one of the initial targets Talisman acceded to the demands. PetroChina did not have an optimal response due to its vulnerabilities and costs in both directions.

What explains the responses of the targets and bystanders to the campaigners' demands in these two initiatives? While activists in the campaigns grounded their claims on moral and security imperatives, the economic targets based their responses on perceptions and calculations of cost.<sup>118</sup> Luders suggests three components to the behavior of economic actors in the face of social activist challenges;

first, economic duress is a major proximate cause behind the decision of targets to make substantial concessions to movement demands; second, the variation in the behavior among these actors is consistent with the predictions based upon their assessment of aggregate disruption and concession costs (their position in the economic opportunity structure); and third, economic actors in certain sectors are consistently more likely to accept, ignore, or resist movement demands.<sup>119</sup>

I found this analytical framework useful in comparing the responses of the targets in the two campaigns. Since my investigation was limited to only two cases, I did not have the broad quantity of data that would illustrate or support the third component of Luders' criteria. To elaborate on the framework for comparison then; compliance costs for the target actors were a factor in whether they acceded to or resisted demands.<sup>120</sup> As

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<sup>118</sup> Joseph Luders. "The Economics of Movement Success: Business Responses to Civil Rights Mobilization" *The American Journal of Sociology* 111.4 Jan 2006 p 963

<sup>119</sup> Luders *supra*

<sup>120</sup> Luders *supra*

Luders says, logically, “vulnerable economic actors will support the smallest compromise necessary to bring about the cessation of protests and a restoration of normal business activity”<sup>121</sup> The targets also make the calculation of ultimate damage. If the cost of social movement success is unbearably high, resistance may become proportionately intense. As even the industry itself conceded, the diamond value was all image and the longer the campaign continued, the greater the damage to that image. The leading diamond marketer, de Beers could not have put it better;

Having spent hundreds of millions of dollars on advertising its product, De Beers is deeply concerned about anything that could damage the image of diamonds as a symbol of love, beauty and purity.<sup>122</sup>

There was thus a relationship between resistance and concession costs and the concession costs in the diamonds campaign were judged to be fairly low. In fact concession had advantages in that it created a more positive image for the industry. On the other hand, concession costs in the sanctions campaign were perceived as significantly high and costs of movement success even higher. Free market defenders were especially wary of the possibility of extension of capital market regulation beyond Sudan. That prompted stiff resistance.

The second component of the analysis is also borne out in the two cases. Vulnerability variation among the targets produced distinctive responses. Talisman as an individual target perceived the cost differently than the financial markets and the wider neo-liberal project. Talisman was more vulnerable than the combined Wall Street financial sector. Judging by its statements, Talisman calculated the costs of compliance as

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<sup>121</sup> Luders *supra*

<sup>122</sup> Durham, Dick. “De Beers sees threat of blood diamonds” *CNN* January 18, 2001

lower than the costs of continued contestation. As Talisman CEO said “Sudan was not worth exclusion from U.S. stock markets.”<sup>123</sup> The financial sector as championed by Greenspan on the other hand saw the costs as unacceptably high.<sup>124</sup> PetroChina fronting the Chinese state similarly found the costs of compliance too high because China’s energy needs which dictated continuing with the Sudan project as well as trying to raise money on the U.S. capital markets, offered little alternative to pressing ahead. PetroChina had no choice but to suffer the serious reduction in its IPO and as reported in Chapter 7, the intervention in the IPO by the underwriter.

Looking at the first component of Luders’ analysis, a small qualification is in order. While economic duress was a major, if not the major factor in target responses in both cases, ethical persuasion cannot be completely discounted. The diamond industry acknowledged the potential costs of selective consumer purchasing or boycott but it also acted on moral suasion, as it put it; “it was the right thing to do.”<sup>125</sup> Talisman even if kicking and screaming, eventually adopted a corporate moral code.

That targets make their own assessments of the costs involved in either acceding or resisting makes for an interactive dynamism in which all three factors; activist organizing, the contextual structures and the response imperatives and actions of the targets have to be taken into consideration. In as much as it emerged in interviewing activists that their desire was to increase and capitalize on the vulnerability of the targets,

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<sup>123</sup> *BBC* “Talisman pulls out of Sudan” 10 March, 2003

<sup>124</sup> Greenspan, Alan testimony Hearing before the Senate Banking, Housing and Urban Affairs Committee, July 24, 2001; *US Engage* “The Dangers of Capital Controls Based on Social Goals” at <http://www.usaengage.org/legislative/2002/sudanpeace/spatalkingpointsfeb1302.html> visited June 12th, 2007

<sup>125</sup> Interview with diamond industry representative New York, June 20th, 2006



the targets for their part actively sought to minimize those risks.<sup>126</sup> Some of the campaigners' own assessment was also that vulnerability was a significant determinant of the outcomes and that it was one of the important lessons learnt from the two campaigns.<sup>127</sup> Strategic factors complicated the interaction to the advantage of the countermovement. This points to the need for more research into the responsive actions of campaign targets. Whether and how successful campaigning depends on the strategic targeting of vulnerable interests and imposition of sufficient economic punitive measures upon them is another fascinating potential area for research.

### **Outcomes**

The outcomes of the two campaigns are not easily classifiable as simply a success or a failure. As pointed out in Chapter 1, legislation was specified as the ideal and concrete outcome in each campaign. Discrete judgments are easiest to make on that; the diamonds campaign was successful while the capital markets sanctions campaign failed on this score. On all other scores, the results were more diffuse.

There was divestment from Talisman even if it is impossible to quantify how much that contributed to Talisman's pull out from Sudan. From the statement by Talisman's CEO, the threat of legislation sanctioning investment in Sudan as well as the potential for disclosure provisions as measured against remaining on the New York Stock Exchange led to the pull out from Sudan.<sup>128</sup> But for activists, the divestment was a

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<sup>126</sup> Interview with activist 23<sup>rd</sup> May 2006 Washington DC

<sup>127</sup> Interview with activist Washington DC, May 23<sup>rd</sup>, 2006

<sup>128</sup> *BBC supra 2003*

victory that helped force Talisman to take action.<sup>129</sup> PetroChina proceeded with its listing, but with disappointing results. That in itself was hailed as a success by activists but denigrated by pro-free market and corporate defenders.<sup>130</sup> The impact went beyond just the two target corporations though, as Lukoil decided to stay away from American capital markets because of fears over disclosure and investment in places with questionable human rights records. There were therefore some short term successes, but the long term impact that legislation would have ensured did not materialize in the capital markets sanctions campaign.

The conflict diamonds campaign also set quite a precedent; the U.S. submitting to and implementing an international trade regulatory regime. The campaign itself was a unique process, not just in bringing together diverse actors, but in forging a collaborative lobbying effort of industry and social justice actors. The shortcomings in the final legislation cast a bit of a pall over the result.<sup>131</sup> The regulation covered only rough diamonds and it had sunset clauses that entailed revisiting the issue ten years down the line. Independent monitoring that the activists also wanted was not achieved.

Cause and effect are of course non-linear and there are almost hardly ever any cases of single causality. The actions of the activists elicited responses and vice versa. In the diamonds campaign, it was due to the NGO activities that the diamond industry and governments initiated the Kimberly Process and for industry joining with activists in

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<sup>129</sup> Young, Michael in testimony before Congressional hearing; 2001 "America's Sudan Policy: a new direction?" joint hearing before the Subcommittee on Africa and Subcommittee on International Operations and Human Rights of the Committee on International Relations House of Representatives pg 39

<sup>130</sup> Reeves, Eric. "Goldman Sachs and the "PetroChina" IPO: Harsh criticism internationally," [sudanreeves.org](http://www.sudanreeves.org/Sections-index-req-viewarticle-artid-78-page-1.html) April 21, 2000 <http://www.sudanreeves.org/Sections-index-req-viewarticle-artid-78-page-1.html> last visited June 12th 2007; Steil 2005 *supra*

<sup>131</sup> *Afrol News*, 12 June 2007 complained that the diamond industry is still not doing enough

lobbying for regulation. In turn, the activists utilized the opportunity availed by the possibilities of the launching of the Kimberly negotiations to advocate for legislation in the U.S. In the sanctions campaign, activists instigated the Unger letter on disclosure and it triggered a reaction from the market and motivated the resisters to work even harder to neutralize its effects. Furay and Salevouris point to the multiplicity of historical causation and offer four areas in which it might be located; a) the ideas, customs and practices of participants, b) the actions of organized groups and individuals, c) existing technological and economic conditions and d) the role played by contingency – the unforeseen and unexpected events that help shape history.<sup>132</sup> The first three are easily assessable, but contingencies present a dilemma. They make prediction difficult, yet they are real and cannot be ignored. 9/11 shaped considerably the discourse and outcome on both campaigns, but it was an unexpected event. A diagrammatic representation of variables and outcomes illustrates the point that outcomes are the result of several interrelated factors.

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<sup>132</sup> Furay, Conal and Michael J. Salevouris, *The Methods and Skills of History*, 2nd edition, Harlan Davidson (2000).

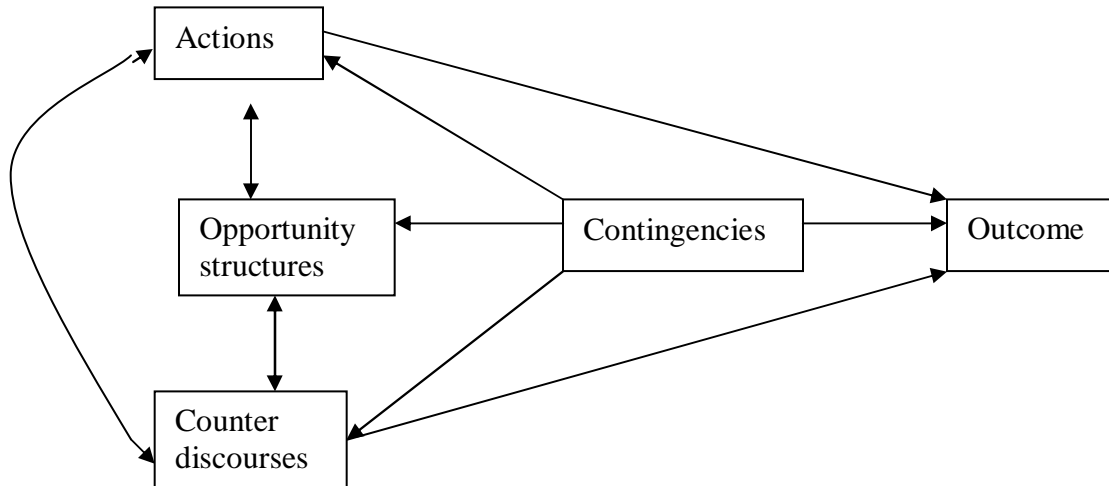


Figure 1. Contextual Factors

### Conclusion

From the analysis a summary of findings points to a number of noteworthy comparative conclusions. Diversity of ideological subscription is no bar to coalition work in campaigns as a strategic basis for operationalization enables collaboration. In terms of methodological advantages, campaigns coincidental in historical location facilitate comparison but by the same token limit the explanatory power that historical difference might otherwise lend. The explanatory power of other independent variables though becomes easier to analyze since history is a constant. It was possible to utilize the same political opportunity structure framework for both campaigns as existing in the same historical context.

Both campaigns operated on the basis of the same logic, suggesting that in profit-oriented natural resource conflicts, profit focused interventions such as in these

campaigns can work effectively. Traditional sanctions, military interventions and diplomatic pressure when rebels and governments perceive the revenue from resources as worth fighting for, are less likely to succeed. As Pegg argued, pressuring private-sector actors to end their complicity in the violent extraction offers the more feasible hope.<sup>133</sup> However, the moral suasion he argues as effective against private actors was proven to be ineffective in the diamonds and capital sanctions campaign. Economic costs and self-interest appear to offer a more assured response from profit actors and government administrators.

Through dialogue with campaign targets and confirmed by documentary sources, it became clear that in addition to activist agency and opportunity structures, target responses have to be factored in for a more complete explanation of the outcomes to emerge. Targets are more than just objects. They are active participants in the public contestations.

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<sup>133</sup> Pegg, Scott. "Globalization and natural-resource conflicts" *Naval War College Review* Autumn 2003. Vol.56, Iss. 4; pg. 82

## **Chapter 9**

### **CONCLUSION**

#### **Caveats**

This being a case study, I did not aspire to select cases that are "representative" of diverse populations and I do not make claims that the findings are applicable to all cases of social justice advocacy or coalition campaign. Historical specificity affords deeper understanding of cases as argued in Chapter 3, but it also limits generalizability as cautioned by Mahoney and Rueschemeyer.<sup>1</sup> Instead, as George and Smoke have said, I seek only contingent generalizations that apply to cases that are similar in their variables to the cases under study.<sup>2</sup> These contingent generalizations may well cumulate into typological theories, but more research is necessary before causal conclusions can safely be drawn. I was after all interested in finding out the conditions under which specified outcomes occur and not the frequency with which those conditions and their outcomes arise.<sup>3</sup>

I do assert with confidence that strategizing enabled advocacy coalitions on distanced human rights issues to function and the factors that shaped the outcomes of

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<sup>1</sup> Mahoney, James and Dietrich Rueschemeyer. *Comparative Historical Analysis in the Social Sciences* Cambridge University Press, New York 2003 pg 8

<sup>2</sup> George, Alexander L., and Richard Smoke. 1989. "Deterrence and Foreign Policy." *World Politics* Vol. 41, no. 2 January 1989 p171

<sup>3</sup> Bennett, Andrew, and A. L. George. "Developing and Using Typological Theories in Case Study Research." Paper presented at the International Studies Association Conference, Toronto, March 1997. p13

those campaigns.<sup>4</sup> These explanations will help with understanding of other cases even though the variable conditions prevailing at the historical points of those other cases have to be taken into account in each case. The report has been richly descriptive of the participants, their actions and the context in which the cases evolved and it also offered analysis of how we can understand the activists' actions in the context of the conditions within which they operated.

Informed by critical theory, I took a questioning approach to the subject and that meant interrogating the acclaimed goodness of the dominant neo-liberal system that is portrayed as taking care of the oppressed and the disadvantaged through upholding universal human rights principles. Missed from those narratives of the dominant paradigm were the detrimental impacts of the system such as the misery caused by unlimited access to free trade that is afforded to corporations and bad actors like rebels and oppressive governments.<sup>5</sup> The dominant paradigm was questioned and the campaign outcomes were not taken at face value as an effort was made to examine the real implications of the achievements. I therefore revisit below a question posed at the end of Chapter 1; whether these advocacy processes succeeded in changing the power dynamics in the global market and are the way to bring the consideration of ethics and human rights into the marketplace. Before assessing effectiveness, it is useful too to look at some lessons learnt from the study of the campaigns.

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<sup>4</sup> Merriam, Sharan B. and Associates. *Qualitative Research and Practice* Jossey-Bass, San Francisco 2002 pg 5

<sup>5</sup> Hettne, Björn and Fredrik Söderbaum. "In Search of New Theories" *Journal of International Relations and Development* Volume 2, No. 4 (December 1999)

## Lessons learnt

### Human Rights

In keeping with previous theoretical analysis, the disconnect between espoused values and the realities of practiced global free trade continued to manifest themselves as a challenge for activists in their attempts to mobilize for action. But it also provided them with the moral justification for their actions and the language of human rights proved useful. Its capability of appropriation by all manner of moral claimants made human rights a versatile advocacy tool as pointed out by Wilson.<sup>6</sup>

The cases also demonstrate that the human rights project is undergoing metamorphosis. Historically, the human rights movement was built to limit state tyranny by defending the civil and political rights of individuals including dissidents within them. However, there has been a significant shift in the locus of power and the ability to hurt, from the state alone to corporations and ironically the very dissenters human rights were constructed to protect. Human rights abuses no longer come only from strong states violating their own people; weak or failed states that are susceptible to rebel challenges have become a major site of rights violations. As the conflict diamonds campaign illustrated, stability may be a pre-requisite for human rights protections and that requires a rethinking of responsible parties and targets. In the cases of Angola and Sierra Leone, the perpetrators of violations were dissenters able to disrupt governance because they could access natural resources and sell them on the free market. Free trade and human rights thus found themselves pitted against each other. Instead of decrying the vagaries of

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<sup>6</sup> Wilson, Richard Ashby 'Afterword to "Anthropology and Human Rights in a New Key": The Social Life of Human Rights' *American Anthropologist*. Mar 2006. Vol.108, Iss. 1; pg. 77



state practice, the human rights project may have to be calling for states strong enough to be functional. That is in addition to the human rights project needing to redefine the rights abusers and responsibility bearers.

Numerous writers have pointed to the ascendancy of human rights as a global norm in the eighties and nineties.<sup>7</sup> The unexpected shifts in the international and national policy scene brought about by the September 11<sup>th</sup> attacks on the U.S. changed the nineties trajectory in human rights. The world's sole superpower experienced terrorism on its turf and adopted a hawkish interventionist foreign policy in response. The interventionism championed by the U.S. seems quite distant from the vision of the world championed by human rights activists. However, the U.S. also continued to deploy the language of human rights while at the same time asserting its own right to ignore human rights norms and international organizations. That has placed U.S. NGO's in the invidious position of trying to promote a universal human rights discourse that is being ignored by the state at home.

### Deployed Discourses

Campaigners pushed for an alternative discourse to the free market paradigm. They sought corporate accountability through the interconnectedness amongst citizen-consumers, the state, corporations and the market; a marrying of the economic and the socio-political spheres. This insistence on the corporation and the market as transgressors and therefore responsibility bearers of common human morals, and the state as a

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<sup>7</sup> see for example Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink. *The Power of Human Rights: International Norms and Domestic Change*. Cambridge University Press, 1999

regulator not only within its own territorial boundaries but also in the distanced spaces in which corporations do business, served to blur the conceptual boundaries between the political, the economic and the normative. That is contrary to the existing dominant neo-liberal free market ethos that insists on separation. The counter narratives to the human rights discourse that may have appeared to be on the wane, have resurged and strengthened in alignment with the strategic interests concerns triggered by 9/11. It made for a significant challenge for activists, but they too proved adept at utilizing the emerging anti-terrorism discourse to advance their cause. They appear to have succeeded in the conflict diamonds case but lost the contest in the capital markets sanctions case.

### Processes

The common vehicle for action in both processes was the advocacy campaign coalition. The versatility and flexibility of the coalition mechanism made it the most viable way for actors to pursue their goals with any hope of success. In a coalition, as participants emphasized over and over again, groups and individuals do not seek to proselyte, or convert other actors, nor do they want to be converted. There is recognition and respect for difference and so the process is one of negotiation rather than subscription to a common principle or long-term agendas. That flexibility enables each group or individual to keep their principles and work with opposites. In the practical world of policy advocacy, it worked. Maybe, a broad umbrella of common good, a focus on specific achievable outcomes and strategic functioning is the most practicable platform for social justice groups to try and attain their goals in public policy. It leaves unresolved

the troubling questions of association with those that hold opposing views on other issues, and it means conceding the 'holier than thou' moral high ground, but specific outcomes appear more attainable in this manner than through the purity of principled go it alone.

The best means for achieving the outcomes desired by activists in the form of regulating market practices remains contentious though. Interdiction initiatives to curtail resource and financial flows to combatants still face several challenges. Voluntary self-regulation is preferred by corporations through adoption of ethical codes of conduct but it is troubling for social justice activists, as the moral imperative does not appear to be a major determinative force for profit actors, rebels and oppressive governments. Mandatory national regulation remains the ultimate desirable; but as Ballantine and Nitzschke argue, it appears most possible when pursued against business actors that are amenable to public pressure.<sup>8</sup> Transnational corporations' home governments, such as the U.S. are under no legal obligation to regulate the human rights practices of corporations, and so human rights activists have to be adept at engaging in discursive legitimacy contestations and at utilizing governmental and legislative procedures in their quest for social change. Coalition advocacy worked as a process in the instant cases, but the substantive means for achieving desired goals remains an open contest.

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<sup>8</sup> Ballentine, Karen, and Heiko Nitzschke. 'Business in Armed Conflict: An Assessment of Issues and Options' *Die Friedens-Warte. Journal of International Peace and Security*, 79 (1-2): 2004, 35-56.

### The Local and the International Dynamics

Tsutsui argues that the growth of the global polity has created an international context in which local actors can draw on global norms to construct common understandings and identities to launch new social movements. “They can also advance existing social movements by taking advantage of global institutions, resources and discourses to promote their causes in the global stage.”<sup>9</sup> No doubt from the experiences of the two campaigns and others, there is a growing international arena that provides activists with increasing opportunities for activism. Non-state actors now even have direct access to the U.N.<sup>10</sup> However, despite the growth of the global polity, the activism and the implementation of international norms still takes place within national contexts. Because of that, national variables and especially geo-political issues still largely determine the success or otherwise of human rights based initiatives. This was amply demonstrated by the instant campaigns. For the way things are done to really change in the market, changes had to be effected locally in the U.S.

### Lessons for the Field

For the activists a lesson from a comparison of the two campaigns is that campaigns differ, but there are lessons we can take from each experience. As a campaigner put it “If we did the same things we did on diamonds, they might not work for oil, but if you took the same kind of steps of analysis; where is the vulnerability? who

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<sup>9</sup> Tsutsui, Kiyoteru “Redressing Past Human Rights Violations: Global Dimensions of Contemporary Social Movements” *Social Forces* Sep 2006. Vol.85, Iss. 1; pg. 331

<sup>10</sup> Paul, James (2004). ‘Working With Nongovernmental Organizations’, in D. M. Malone (ed.), *The UN Security Council: From the Cold War to the 21st Century*. Boulder: Lynne Rienner, 373-87.

are the major players? that's the lesson to learn from the diamonds. You have to identify where the vulnerabilities are, where the alliances are and build a strategy around that."<sup>11</sup>

Another activist argued that the rationale is the same in all cases; what are the political realities, the U.S. interests and in that lies the answer to campaign outcomes.<sup>12</sup> Maybe another lesson is for activists to focus on the political discourse and find ways of hitching their issues onto the prevailing public imperatives. They may have to hold their noses while they do so, but they stand a much better chance of success on the policymaking front that way than to insist on the moral high ground. Both campaigns were testimony to that.

Another lesson stems from the nature of the activism. A campaigner mused "one thing that I think is completely transferable is that the diversity of coalition is very important. I think having had the private sector in and out as an ally, the different organizations as I described earlier for any kind of legislative work in the US it is very important because the more diverse a delegation you can take into a congressional office the better"<sup>13</sup>

### **Do Campaigns Work?**

A huge question that always remains outstanding for evaluation in social change initiatives is whether things have really changed as a result of the activism. Legislation was the tangible outcome that was desired in both campaigns, but legislation can be passed that has more appearance than substance, and much can also change despite the

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<sup>11</sup> Interview with campaigner July 25<sup>th</sup> 2006

<sup>12</sup> Interview with Activist May 12<sup>th</sup> 2006

<sup>13</sup> Interview with activist July 25<sup>th</sup>, 2006

absence of legislative success. Beyond the measurable enactment or otherwise of pieces of legislation, the reality of policies still has to be assessed. The target after all was not government which was in effect a means to getting at market actor and actual perpetrator conduct.

Beyond legislation, the campaigns had mixed results in rousing the moral self within market participants; succeeding somewhat in the conflict diamonds case and failing in the capital markets sanctions case. Punitive economic actions or the threats thereof rather than moral suasion proved more successful as against individual corporations and industries, but appeared to have little effect on the institution of the market itself or its strongest stalwart, the U.S. government. Measuring success in campaign outcomes, I quickly learnt is not an easy matter. Virtually every interviewee on the conflict diamonds campaign, which ostensibly resulted in regulatory legislation put qualifiers on their success.

Campaigners conceded that Northern publics were not entirely won over to be more conscious about extractive industries. Despite two years of intensive campaigning and publicity about the bloodiness of conflict diamonds, as Campbell says, conflict and carnage surrounding acquisition remain a low interest issue for northern consumers.<sup>14</sup>

The diamonds legislation got watered down and activists worry that industry may have neutralized them with their charm offensive. Talking about a successor campaign on gold, activists noted that "Tiffany & Co., Cartier, Helzberg Diamonds, and Harry

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<sup>14</sup> Campbell *supra* 209

Winston have voiced support for the campaign's objectives."<sup>15</sup> Can there be serious campaigns when industry vocally accedes and offers to work with social justice actors? Industry can discursively pre-empt human rights activism and take the wind out of the activists' sails through a charm offensive and embrace of activist agendas. On the other hand, maybe activism has come a long way and social justice issues may have made it into the market as Iritani says "...on balance, activists and their causes appear to be gaining increased traction in business and trade."<sup>16</sup> At the 2005 annual meeting of the World Economic Forum, a club for the rich and powerful and traditionally the scene of violent protests, representatives of about 50 NGOs were inside the conference.<sup>17</sup> The pre-emption can also be diagnosed as success. In March, Tiffany placed an ad in the *Washington Post* criticizing the Bush administration for permitting a copper and silver mining project in Montana that could endanger the environment. As Schuerman says the conflict diamond flare-up taught industry actors how to get out in front of a controversy, by joining rather than confronting activists.<sup>18</sup> Awareness within industry has certainly heightened. In the words of Bone, a De Beers spokesman "One of the things we learned and realized quickly was the need to engage with NGOs instead of walking away and saying, 'It's not our problem.' "<sup>19</sup> Freidman's charge for corporations to focus single-mindedly on profit and leave social issues out of it, appears to have been ditched

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<sup>15</sup> Bates, Rob "DIRTY GOLD: The Next Conflict Diamonds?" *JCK Secaucus*: May 2005. Vol.176, Iss. 5; pg. 108

<sup>16</sup> Iritani, Evelyn "From the Streets to the Inner Sanctum" *Los Angeles Times* February 21, 2005

<sup>17</sup> Iritani *supra*

<sup>18</sup> Schuerman, Matthew "Behind the glitter Tiffany and Co. moves to get African "conflict diamonds" out of its stores" *Stanford Social Innovation Review*, Fall 2004; Interview with diamond industry spokesperson June 21<sup>st</sup>, 2006

<sup>19</sup> Quoted by Evelyn Iritani "From the Streets to the Inner Sanctum" *Los Angeles Times* February 21, 2005

permanently. It remains to be seen whether that translates into better policy or if this simply means industry is more savvy at avoiding loss.

Free markets advocates were skeptical of the achievements of the activists in the capital markets sanctions campaign and pointed to a number of issues that they say illustrate failure. Although the immediate effect of the capital market sanctions campaign, reinforced by the divestment by shareholders resulted in the departure of Talisman from Sudan, opponents of market based social change efforts argued that in the long run, the campaign had a negative impact.<sup>20</sup> Among the arguments for the counter-productivity of activist actions are the following;

- The Indian national oil company that bought the Talisman interests in Sudan operates outside of the media limelight that dogged Talisman. Thus it will be able to operate in Sudan without any international censure.
- The Indian corporation's shares are not traded on a stock exchange and not subject to the rigorous reporting regulations required in North America making it less vulnerable to pressure.
- The Indian corporation may well not feel compelled or inclined to undertake social projects such as improved local water supplies, mobile clinics and agricultural projects such as Talisman was doing.
- Northern based corporations were at least making efforts to come up with ethical codes, something the Indian corporation is not participating in, again making it likely that it will operate without outside scrutiny or pressure.

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<sup>20</sup> Model, Rosanne "Rights activists blew their chances with Talisman" *Montreal Gazette*, November 21, 2002



Model points to examples of alternative approaches that she argues would have worked better and have yielded more meaningful results beyond the empty victory for the human rights campaigners.<sup>21</sup> Engagement with corporations rather than confrontation and withdrawal, she argues works more effectively. Activists meanwhile maintain that they scored a victory and even their opponents conceded that capital markets sanctions as a tool of policy had arrived and would remain henceforth as a factor in U.S. policymaking.

Further activists also shore up that the freedom of the market was never absolute, and the campaigns added to the inroads into that freedom. Even though the capital markets sanctions did not succeed, the idea of using the markets for policy objectives was planted. As Pener put it, “For good or ill, capital markets leverage has likely become a permanent fixture on the foreign policy landscape of this country.”<sup>22</sup> The opponents while regretting it, acknowledged the end of the sacrosanctity of the capital markets.<sup>23</sup> Subsequent policy actions consequent on 9/11 confirmed the use of sanctions in financial markets with the enactment of the Patriot Act.<sup>24</sup> In the conflict diamonds case, legislated regulation of the market, however minimal; still became a part of U.S. practice. The Kimberley Process Certification System which came into effect in January 2003, and was enabled in the US through the Clean Diamonds Trade Act, represents the first

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<sup>21</sup> Doel supra

<sup>22</sup> Pener, Adam M. “Capital Markets Transparency and Security: The Nexus Between U.S.-China Security Relations and America's Capital Markets” Center for Security Policy June 29, pg 73

2001[http://www.uscc.gov/researchpapers/2000\\_2003/reports/cpmklv.htm](http://www.uscc.gov/researchpapers/2000_2003/reports/cpmklv.htm) (visited October 14th, 2006)

<sup>23</sup> Steil, Benn, “The Capital Market Sanctions Folly” *Council on Foreign Relations*, Winter 2005

<sup>24</sup> The *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism* (USA PATRIOT ACT) Act of 2001 HR 3162 among other things increased the authority of the Secretary of the Treasury to regulate the activities of U.S. financial institutions, particularly their relations with foreign individuals and entities and created several new crimes relating to financing terrorism.

international certification system to regulate trade in conflict goods backed by domestic U.S. law.<sup>25</sup>

Power in the market is not one sided. With respect to PetroChina and Talisman, the IPO opposition and divestment campaigns levied against those foreign firms provide empirical evidence that companies may experience a significant financial loss related to activities that have been deemed to contravene U.S. security and human rights interests. It is not difficult to make the case that the 71 percent downsizing of PetroChina's IPO proceeds from an originally-targeted amount of \$10 billion and Talisman's significantly depressed share value are valid indicators that capital markets activism can have a material effect on foreign firms and the foreign governments in whose countries they operate.<sup>26</sup>

The coalitions analyzed in this dissertation challenged the notion of the unregulated market devoid of social or ethical concerns as the harbinger of the good society. Part of the contestation has precisely been over the embeddedness of the economy in the social sphere and in turn the inextricable embeddedness of social norms in economic practices. Coalition activity has been and continues to be one way through which the rules and institutional arrangements for defining what the boundaries are on what is legitimate and what is unacceptable market practice. This attempt meets with stiff resistance from economic actors and the U.S. government, putting the advocates in the tough place of mediating between ethics and interests in distanced places. Whatever the

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<sup>25</sup> Grant, J. Andrew, and Ian Taylor. "Global Governance and Conflict Diamonds: The Kimberley Process and the Quest for Clean Gems" *The Round Table*, 2004, 93 (375): 385

<sup>26</sup> U.S.-China Economic and Security Review Commission *Capital Markets Transparency and Security: The Nexus Between U.S.-China Security Relations and America's Capital Markets*, *Capital Markets Leverage* 2005 Annual Report

outcome, activists have emphatically challenged the argument of the market as a neutral and passive intermediary for economic activity.

Whether the campaigns represented or achieved real shifts in power is debatable. As numerous scholars have pointed out, whether and how private sector activities in zones of conflict can and should be regulated is a controversial issue raising numerous contentious questions both of substance and process.<sup>27</sup> There is a line of thinking that argues that state intervention in response to challenges that are less than revolution amounts to management of social order so as to protect and legitimize power inequities.<sup>28</sup> Part of the debate is over the substantive ‘voluntary versus mandatory’ dichotomy, parallel with the engagement versus confrontation process. Most activists argue that leaving the protection of the human rights of the most vulnerable people to the ability of diverse organizations and individuals to take on the might of the global market and transnational corporations is seriously flawed given how necessarily constrained campaign coalitions and even sustained movements and their members are by resources, time, personnel and clout or authority.

Success, as in the diamonds case also poses its own dilemmas for activists as it raises the question whether coalitions in their quest reconfigure existing hierarchies of power and empower the less powerful at all or whether they become themselves part of the maintenance of hegemonic status quo. Protest from within means simultaneously

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<sup>27</sup> Lilly, Damian, and Philippe Le Billon (2002). *Regulating Business in Conflict Zones: A Synthesis of Strategies*. Overseas Development Institute, London; Banfield, Jessica, Virginia Haufler, and Damian Lilly (2003). *Transnational Corporations in Conflict Prone Zones: Public Policy Responses and a Framework for Action*. International Alert, London.

<sup>28</sup> Stammers *supra* 503

challenging and contributing to hegemonic processes.<sup>29</sup> The targets of campaigns are not benign objects. Corporations and industry respond to challenges by system preservation; taking action that avoids prolonged confrontation or accusations that hurt their profit goals. When they corporate with activists, activists are placed in the dilemma of whether to welcome the response as genuine system change. If they do, then they risk becoming complicit in system maintenance. If they reject pro-offered overtures such as the diamond industry's turn around, they run the risk of consumer and citizen alienation as rigid, dogmatic and unconstructive critics. From the interviews, the successful conflict diamonds campaigners swallowed hard the partial attainment of their goals and save for only one or two organizations, they moved on.

Matters get significantly more complex when, as demonstrated in the case of these two campaigns, nation states that espouse human rights and democracy discourses such as the U.S. have to respond to the demands by NGOs that human rights be respected, not on their home turf but in places where corporations territorially grounded in their spheres and from whose activities they benefit operate. They cannot very well ignore the calls as the principles evoked by activists are their very own. Ignoring them makes them look hypocritical, but they also have the difficulty of going against their corporations' interests or the free market paradigm they have also championed. When pariah governments align themselves with the dominant states' strategic interests as happened with Sudan and the U.S. in the war against terror, the powerful governments find themselves in a quandary as to how to respond. One result is what an interviewee

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<sup>29</sup> Mahler, 1998 pg 72

stated as the “two track policy” of rhetoric and reality.<sup>30</sup> For other analysts, the answer still lies in what McCartney asserts is the American perspective, that “change in the world is first and foremost aimed to suit American interests by making it more consistent with American values.”<sup>31</sup>

The more fundamental question “do campaigns actually achieve change and succeed in challenging corporate power, or by their operating within the boundaries of existing structures do they simply help institutionalize protest and thus contribute to order, which in turn helps entrench the status quo?” remains and may take a while and lots more research to answer.

### **Further research**

I looked at two cases and was able to go into considerable depth on each. But the small number of cases meant limited breath. That is a perennial dilemma but there is a case to be made for a more comprehensive understanding of advocacy initiatives on extractive industries through a comparative analytical model that encompasses fewer cases and more detail first so we know what we are comparing when we do big numbers. The intentional selection of the two cases rather than a random selection of social justice advocacy cases seriously limits the types of inferences that can be drawn. This is therefore both a limitation and a strength and indeed some scholars have critiqued the

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<sup>30</sup> Interview with former State Department policy analyst, Washington DC June 1<sup>st</sup> 2006

<sup>31</sup> McCartney, Paul T “American Nationalism and U.S. Foreign Policy from September 11 to the Iraq War” *Political Science Quarterly* Volume 119 Number 3 2004 at 400

criticism itself.<sup>32</sup> The ultimate purpose of the inquiry is to enhance understanding of the social change processes and the critical considerations from which understanding more effective strategies for change can be formulated.

A shortcoming in the research was the time lapse between the events being studied and the time of research which raised the danger of data deterioration, distortion and post-event rationalization. The danger was mitigated I think by the use of documents dated from when the events were unfolding and therefore my extensive use of reports from congressional hearings and published reports.

From an empirical stance, studying the growing complexity and volume of interactions among non-state actors themselves and amongst non-state actors, states and citizens contributes to a better understanding of one of the major challenges of our time, globalization. There is no supposition of a grand theory. The problems of globalization are complex and the target is no more fixed and unmoving than the society which it affects and of which it is a part. The assumption is that there is constant change, necessitating evolvement of methods for dealing with the problems. Many interesting and vexing questions remain open for investigation, such as the shape and form of the evolving global market and the dynamics of power therein, the direction of U.S. labor and the possibilities for a new class struggle etc. Social movements, campaign coalitions and other social justice actors have no doubt expanded the social spaces for democratic

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<sup>32</sup>Collier, David and James Mahoney "Insights and Pitfalls: Selection Bias in Qualitative Research" *World Politics* 49.1 (1996) 56-91

"Review Symposium--The Qualitative-Quantitative Disputation: Gary King, Robert O. Keohane, and Sidney Verba's *Designing Social Inquiry: Scientific Inference in Qualitative Research*," *American Political Science Review* 89 (June 1995). And David Collier, "Translating Quantitative Methods for Qualitative Researchers: The Case of Selection Bias," *American Political Science Review* 89 (June 1995).

engagement. However the nature of that engagement is still evolving both in challenge to and as part of the globalization process.

## Appendix

### Research Summary

Actualizing Human Rights Norms in Distanced Spaces; An analysis of The Clean Diamonds and the Capital Market Sanctions (Sudan) Campaigns in the United States

ISMAEL MUVINGI; RESEARCH SUMMARY

#### **The Problem**

In the late 1990's through the early 2000's, social justice activists in the U.S. initiated two campaigns aimed at abating human rights abuses linked to resource extraction industries; a) The Campaign to Eliminate Conflict Diamonds and b) the Capital Market Sanctions (Sudan) Campaign. In places like Angola, Sudan and Sierra Leone the immediate physical survival of people was being threatened or violated through arbitrary killings, amputations, forced displacement, deliberate starvation and forced labor. The diamonds found their way onto global markets through an intricate web that implicated rebels, warlords, generals and international corporations and traders while oil extraction in Sudan was secured through a government-corporate partnership that showed no hesitation in "clearing" villagers from resource areas. Human rights issues were thus no longer confined to protection of the individual from state practices; the enabling effects of the global market and evolving international political, economic and power configurations pitted individuals and societies against a multiplicity of actors that transcended geographical boundaries. Spatial distance and globalized commodity chains intervened to complicate and extend the nature and range of involved parties, moral duties and political action, problematizing the ethics and politics of responsibility.



Paradoxically governments of developed countries that champion human rights discourses were not at the forefront of efforts to curb such violence. It was social justice activists that raised the moral imperative and mobilized for the undertaking of responsive action. One question is how the different actors were able to forge coalitions and work successfully in collaboration? The activists faced a formidable challenge in making the connection between distanced violence and moral and political responsibility. There was legislative victory in the clean diamonds campaign while efforts to include capital market sanctions provisions in the Sudan Peace Act failed. The real impacts were however more complicated than that. In the short term, one of the corporations seeking enlistment on the U.S. capital markets, Talisman Energy Inc. sold its interests in Sudan and the other, Petro China had disappointing results in the capital raised. On the other hand although legislated, the efficacy of the diamonds certification process has remained dogged by questions relating to implementation and effectiveness. Why were there these different campaign outcomes especially in the legislative efforts? Beyond the objectively assessable legislative instruments, what were the broader objectives of the campaigns and what progress was made on those if any? These are intriguing questions that this research seeks to pursue through a comparative study of the two campaigns in order to gain a deeper understanding of the issues, the change processes and their outcomes.

### **Data sought**

From those who participated in the campaigns, I hope to learn a number of things;

- a) why they got involved in issues so distanced from the immediacy of US life
- b) what the campaigners' objectives were and how these were agreed on
- c) How it is they were able to work together despite ideological differences

- d) what they see as the main factors for the success of the clean diamonds legislation
- d) why the legislative capital market sanctions provision failed; as well as the significance of the Securities & Exchange Commission's actions
- e) the significance if any of factors like strategic and economic US considerations and the September 11<sup>th</sup> attacks.

## **Significance**

Social movements have an important role to play in the transformation of global processes and the amelioration of human misery. From an empirical stance, studying the growing complexity of interactions among non-state actors (NGOs and corporations,) states and citizens contributes to a better understanding of the dynamics of globalization. It may also point to what is most effective in the ultimate objective of enhancing human security.

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## CURRICULUM VITAE

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