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**Transnational Corporations and Conflict Prevention:
The Impact of Norms on Private Actors**

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Abstract

Increasingly, scholarly attention has been devoted to economic dimensions of civil wars and especially the involvement of corporate actors in regions of conflict and their role in conflict prevention. When looking at the behavior of TNCs in the extractive industry in different zones of conflict, very different reactions can be recognized: Some leave, others stay, and some TNCs become actively engaged in conflict prevention. This paper argues that in some cases TNCs engage in conflict prevention because they have adopted a corporate social responsibility norm over time. TNCs go through different phases within a norm socialization process: First being guided by a logic of consequences, then becoming “self- entrapped” in justifying their (non-)role in a conflict, and, in a later phase, gradually accepting some responsibility in a conflict zone. This phase eventually leads to initiatives and measures contributing to conflict prevention.

This increase in conflict prevention measures undertaken by TNCs is influenced by three factors: Activist pressure, reputational concern and the legitimacy of a corporate social responsibility norm. These arguments are applied to one of the most prominent cases of TNC involvement in a conflict zone: Shell in Nigeria. It is demonstrated how Shell changed its policy over time by improving on building human capital (e.g. by supporting community development projects) and by improving on their human rights record (e.g. by minimizing human rights violations around their drilling holes and pipelines).

The paper provides not only insights into the complementary nature of the logic of consequences and logic of appropriateness, but also by looking at TNCs’ actions within and between the different phases, it specifies the process of norm socialization of TNCs.

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1. Introduction¹

The business community, including transnational corporations (TNCs)², contractors and suppliers, have realised that conflict and gross human rights violations in conflict zones³, failed states and states governed by repressive regimes can have significant negative impacts on their own business activities. From a "conventional point of view" it is expected, that a responsible chief executive officer of a TNC applying a cost-benefit analysis would emphasize the risk of losing all investments and therefore recommend to end engagement and consequently exit a conflict zone. However, the reaction of TNCs in conflict zones does not follow this uniform pattern. Instead very dissimilar outcomes can be observed. Taking the extractive industry as an example, the various behavioral options of TNCs can be illustrated with the following examples.

The Canadian oil TNC Talisman Energy was heavily criticised because of its complicity in human rights abuses in Sudan. Despite the confirmation of its complicity by a Canadian Government Report, Talisman insisted that its investments do contribute to economic growth and development in Sudan. Nevertheless, after sustained pressure by different civil society actors and some efforts of self-regulation the company finally decided to withdraw from Sudan in 2002 and sold all assets to an Indian oil company (Gagnon, Macklin, Simons 2003; Harker 2000).

TNCs operating in Burma have been the target of a large divestment campaign mainly coordinated by American universities since the beginning of the reign of the military regime in the early 1990s. Many TNCs, among others Levi Strauss, Macy's and the oil TNCs Texaco and Amoco, have withdrawn from Burma since the start of the campaign. Yet, the American oil TNC Unocal as one of the largest American investors in Burma is suspected to put up with violations of human rights, such as human displacement, forced labor and the indiscriminate use of force by security forces against the civilian population. Despite this heavy criticism by NGOs and pending trials in the US, Unocal

¹ We would like to thank Virginia Hafler, Carmen Huckel, Volker Rittberger, Thomas Risse and Matthias Staisch for their detailed and insightful comments on previous drafts. Earlier versions of this paper were presented in a seminar at the Centre for International Relations of the University of Tuebingen (16 January 2004), at the 6th Junior Conference of the German Political Science Association (DPVW) in Buchenbach, Germany (1 February 2004) and at the 45th Annual Meeting of the International Studies Association, Montreal, Canada (17 March 2004).

In addition, the final version was discussed with Shell International Petroleum Company Limited in London, United Kingdom with detailed written comments provided on 29th May.

² According to the consensus definition agreed upon by the Commission on Human Rights/ Sub-Commission on the Promotion and Protection of Human Rights, the term "transnational corporation" refers to an "economic entity operating in more than one country or a cluster of economic entities operating in two or more countries – whatever their legal form, whether in their home country or country of activity, and whether taken individually or collectively" (United Nations 2002).

³ The term "conflict zone" is frequently found in discussions on business and conflict. However, there is no consensus definition available. In this paper the term conflict zone is used to refer not only to situations of armed conflict, but includes situations of political conflict below the threshold of violence that are on the verge of becoming violent.

continues to operate in Burma (Spar 1998; Spar, La Mure 2003).

Another example is the British oil TNC British Petroleum (BP). Notwithstanding problems and charges of its involvement in human rights violations, BP remains invested in Casanare, Colombia and tries to engage in conflict prevention. It conducts workshops and public meetings with local communities and works in a tri-sector partnership with the World Bank's Partners for Development to stabilize the local social and financial environment (Gerson, Colletta 2002: 20).

As a final example, following a similar pattern of events, two other major corporations of the extractive sector, Exxon-Mobil and Chevron-Texaco, who have also faced a number of allegations for exacerbating conflict and human rights, co-operate with the World Bank by financing the Chad/Cameroon Oil Pipeline Project (Polity IV Project 2002).

A preliminary result which can be deduced from these examples is that TNCs demonstrate very different patterns of behavior in conflict zones. Some TNCs focus only on direct business interests and leave when the overall conditions deteriorate, others move beyond isolated core business activities and engage, in one way or another, in conflict prevention.

The impression arises that corporations show a tendency to tackle the issue on a case-by-case basis, depending on the different problems at hand (Wenger, Möckli 2003: 163). This is due to the very complex and intricate situation found in conflict zones in general, where it is very difficult for TNCs to successfully manage the different dilemmas they face.

It is notable that in a few cases TNCs have co-operated with other corporations or other actors that are involved in the conflict. So far, these instances have not been well-documented. Neither practitioners nor academics have analyzed these examples in such way, so that TNCs and stakeholders in other situations can benefit from it.⁴ Civil society organisations often refer to the wrongdoings of TNCs, in particular in the extractive industry, without offering concrete solutions. Academics as well have so far largely ignored the public role of private actors, especially the involvement of TNCs in conflict zones. Only recently some studies have analyzed the positive role(s) corporations could and do take on in conflicts (Gerson, Colletta 2002; Haufler 2001a; Wenger, Möckli 2003), whereas there is still a lack of systematic empirical research in political science and adjacent disciplines.

This article sheds some light on the question of why TNCs behave so differently: Some leave, others stay, but remain passive, and a third group becomes actively engaged in conflict prevention. For the purpose of this paper the option of leaving a conflict zone is largely neglected. The focus will be on a continuum of engagement ranging from no

⁴ First steps have been made to draw up best practice and business cases within the Global Compact Policy Dialogue on the role of the private sector in zones of conflict (Bennett 2002; Haufler 2002). The civil society organization International Alert has prepared some reports and put together lessons learnt in recently published reports, including also their involvement in a partnership with the oil industry in Azerbaijan (Champain 2002; Frankental, House 2000; Nelson 2000).

engagement to extensive forms of corporate conflict prevention.⁵

In order to explain this puzzle this paper shows why corporations are relevant actors in conflict prevention and in fact can play an active role. By drawing upon a single case-study, it is demonstrated what sort of contributions TNCs can make in the area of conflict prevention (description), and it is explored why some corporations do contribute to conflict prevention while others do not (explanation). The focus of this paper is, in particular, on the impact of norms on TNCs' behavior. It is shown that the reaction of a TNC to a conflict depends on the degree to which a TNC has adopted a norm of "corporate social responsibility". This has led a growing number of TNCs to reflect on their impact of their presence in a conflict zone. By including social and ecological aspects and thereby applying the model of a "triple bottom line" to their business activities, they have significantly changed their behavior in conflict zones in terms of active conflict preventive behavior.

In the following section the concept of conflict prevention is introduced. It is set out what conflict prevention constitutes for TNCs in empirical and analytical terms. Based on these considerations, an empirically informed concept of "corporate conflict prevention" is presented.

In the third section of the paper a theoretical explanation of TNCs' behavior in conflict zones is introduced and a number of variables found in the literature are discussed. This paper focuses on the influence of norms as an independent variable with the corporate social responsibility norm chosen as the most relevant one. To analyze the influence of norms the research on the socialization of states is taken up by applying aspects of the so-called "spiral model" to TNCs.

Following this line of research, different phases of the norm socialization process of TNCs are illustrated. The main focus is on the process of norm internalization, through which TNCs gradually adopt the corporate social responsibility norm and consequently change their behavior and practice active forms of conflict prevention.

As one of the five big oil giants, the Royal Dutch/ Shell Group, in particular its involvement in Nigeria, has been chosen to demonstrate how TNCs behave in zones of conflict and to evaluate our theoretical argument. In the concluding section the final results are presented.

2. Transnational Corporations and Conflict Prevention

⁵ In fact, there are negative and positive linkages between business and conflict. Corporations are accused of exacerbating, causing and prolonging conflict, i.e. identified as part of the problem in regions of conflict rather than as an actor that might contribute to positive change (Wenger, Möckli 2003: 5). Being well aware of these negative linkages this paper focuses instead on positive linkages.

The debate on the concept of conflict prevention gained renewed attention in the 1990s. Having the same problems that every new concept faces, the term “conflict prevention” has been used in a number of ways, however, it is still far from clear what key components belong to the concept. In the following section, the authors’ understanding of the concept, namely any means to avoid tensions and disputes from escalating into significant violence, will be introduced. Reasons are then given for the relevance of TNCs to conflict prevention and various areas of corporate conflict prevention are then presented.

2.1. What is Conflict Prevention?

The nature of conflict has dramatically changed since the end of the Cold War. Looking at the landscape of conflict it can be inferred that most violent conflicts today are internal and have different causes and characteristics than international conflicts during the Cold War period.⁶

On an international level conflict prevention has gained support after the humanitarian emergencies in the 1990s, for example in Somalia, Ruanda and Sierra Leone (Gardner 2002; Matthies 2000). Since then, conflict prevention has gradually become an internationally accepted principle (Boutros-Ghali 1992; Gardner 2002: 160-162; United Nations 2000). At least two sets of arguments are introduced in favor of conflict prevention. First, a moral/ethical argument states that conflict prevention is humane because it can prevent unnecessary human suffering and death. Second, an economic-related argument relates to the fact, that prevention is less costly than crisis management, which requires enormous resources for military interventions, humanitarian aid and reconstruction efforts.

Although the term conflict prevention has, in recent years, circulated broadly in policy and academia alike, there is still a plethora of definitions available, and no consensus definition of the term as of yet. In this paper a broad definition is used according to the path-breaking report of the Carnegie Commission on Preventing Deadly Conflict. Thus, conflict prevention is possible at any stage of the conflict cycle: It can either prevent the outbreak, or the spread or recurrence of conflict (Carnegie Commission on Preventing Deadly Conflict 1997: xviii; Wenger, Möckli 2003: 33). Conflict prevention can be distinguished in structural and operational prevention. Operational (light or direct) prevention refers to measures applied in an immediate crisis in order to avoid imminent violence, these might include political, economic and military measures (Carnegie Commission 1997: 39). Structural (deep) prevention or peace building addresses the root causes of a conflict and aims at ensuring three interdependent conditions: security,

⁶ For an overview see Gardner (2002).

well-being, and justice for all (Carnegie Commission 1997: 69; Hamburg, Holl 1999: 367, 371). Peace building includes such diverse strategies as establishing dispute resolution mechanisms and cooperative arrangements as well as meeting people's basic economic, social and cultural, and humanitarian needs. Moreover, conflict prevention can take place on different levels including the local, national, regional, and global level. To prevent the use of conflict prevention as a catch-all phrase for all kinds of activities the use is limited to situations where there is a risk of violent expression of conflict.

In addition, conflict prevention can be considered a global public good, meaning that more than one group of countries benefits from it and that it does not discriminate against any population groups or generations. A global public good can be provided by diverse actors (Kaul, Mendoza 2003: 95). Furthermore, it is possible to differentiate between intermediate and final global public goods. Final global public goods are outcomes rather than 'goods' in the standard sense. They may be tangible (such as the environment, or the common heritage of mankind) or intangible (such as peace or financial stability). Intermediate global public goods "... contribute to the provision of final global public goods" (Kaul, Grunberg, Stern 1999: 13). Conflict prevention can be thought of as an intermediate public good that contributes to the provision of the final global public good: peace.⁷

Traditionally the state is entrusted with public authority and with the provision of public goods. Peace and security are two of the most fundamental ones:

"...security policy is traditionally considered to be the exclusive domain of national governments and too important to the immediate survival of the state to open it up to societal influence."

(Rittberger, Schrade, Schwarzer 1999: 120)

Yet in "The Retreat of the State" Susan Strange argues that "ungovernance" might result from the power shift away from the nation state (Strange 1996: 14). State actors may not be able, or willing, to carry out their function (to provide peace and security) properly in so called "zones grises", where:

"Authority is divided between the formal institutions of the state and local potentates, chiefs or gang leaders; between vassal and suzerain, the responsibility for keeping order is as unclear as it was in the middle ages." (Strange 1996: 189)

This holds true not only for the national but also for the international level. The loss of authority on a national level cannot be compensated by international institutions. This is because even the international community of states is not willing (due to the lack of consensus among states and domestic constraints within states) and/or not able (due to lack of capabilities) to intervene in conflict zones.

To close the resulting vacuum, alternative models of providing public goods in conflict

⁷ A more elaborated classification of the production cycle of global public goods has been developed in a UNDP follow-up project (Kaul, Mendoza 2003).

zones might have to include non-state actors as well. While NGOs are now considered to be accepted actors in the issue area of peace and security or more specifically in conflict prevention, private sector actors (TNCs) are usually not considered (Matthies 2000: 77-81; Wenger, Möckli 2003: 4).

Summing up, although states are predominantly discussed as the primary responsible actors for the provision of the global public goods ‘conflict prevention’ and ‘peace and security’, non-state actors have become increasingly important. This does not imply that non-state actors will replace state actors, but that it is worthwhile discussing whether global public goods might increasingly be achieved through a mixture of public and private inputs.

2.2. The Relevance of TNCs in Conflict Prevention

Although the concept “conflict prevention” has gained ground in recent years, the international community is still in search of strategies for its successful implementation. This is due to occurrences of failed prevention and the consequent (re-)escalation of existing conflicts mainly on the African continent (Gardner 2002: 167-168).

Academics and policy makers alike have recognized that state actors (track 1) are important, but not the only, relevant actors in preventing and managing conflicts and have focused more recently on societal actors (track 2) and their contributions. However, the inclusion of societal actors has mainly referred to NGOs, the media, or influential individuals. The potential role of business actors (track 3) is still largely unrecognised (Diamond, McDonald 1996). Still, in his latest report on conflict prevention Kofi Annan, Secretary General of the United Nations, stressed that

”the international private sector can be a powerful player in situations of conflict, the understanding of the precise motivations and interests of the international corporate sector in such situations is still limited.” (United Nations 2003)

Through their increasing foreign investments TNCs are in fact more often than before confronted with situations of internal conflicts. In many instances TNCs are also accused of causing, exacerbating or prolonging conflicts (Litvin 2003a), depending on the location and object of a conflict in relation to a company’s sphere of influence, control and interest. Taking conflicts over resources as an example a TNC dealing with these resources in its operations and making payments to one of the parties to the conflict is directly affected both in terms of its core business interests as well as in terms of its

sphere of influence.⁸

One could make an attempt to specify the status and role of a TNC in a given conflict. This could be done by distinguishing between TNCs which are direct parties in a conflict or just concerned parties. Concerned parties could be differentiated on a continuum ranging from actively influential to marginal/uninvolved parties (Encarnacion, McCartney, Rosas 1990: 44). This would be an useful analytical exercise to learn more about the impact of TNCs on a conflict. Yet, this paper is mainly interested in the behavior of TNCs and the factors explaining a TNC's behavior.⁹

A conflict might not only have negative impacts on a TNC's business activities, but TNCs also face additional dilemmas and demands. They are not only increasingly accused of being complicit in violating human rights, supporting different actors in the conflict, etc.. On the contrary, TNCs are often confronted with demands that they take on the responsibility for the provision of diverse public goods, such as education, health services, basic infrastructure, or even security. This is due to their importance in many states or regions, the large revenues they generate and the material and immaterial resources at their disposal.

In referring to conflict prevention as a global public good, Hamburg and Holl argue that it "should be an accepted principle that those with the greatest capacity to act have the greatest responsibility to do so." (1999: 368) In failed states, in conflict zones, or in the absence of a functioning state, private sector actors could become a new focus of attention, because, among other reasons, they have the resources to provide basic public goods and to influence local and governmental decisions in relation to the conflict (which in some instances even lead TNCs to take on a quasi-governmental role).

To sum up, private sector actors, or more specifically TNCs, can be regarded as one potentially powerful actor in a conflict zone. A note of caution might be important in this respect: It should not be expected that the conflict prevention activities of a responsible TNC resolve a conflict or replace the activities of other non-state and state actors, but rather complement the activities of others.

2.3. Defining Corporate Conflict Prevention

It is still ill-defined what exactly constitutes corporate conflict prevention. As a matter of fact, a TNC would usually not label its activities in conflict zones as 'conflict prevention' but rather as corporate social responsibility measures. Nevertheless,

⁸ The sphere of influence of TNCs is still to be clearly defined yet. The authors assume that it goes well beyond the rather core-business related classification by Wenger/ Möckli (2003, Chapter 5). This problem is also tied to the question of TNCs realm of responsibility which is also very much debated (see Nelson 2000: 58; Muchlinski 2003).

⁹ In this respect it is more important to look at factors determining TNCs' behavior rather than what role TNCs play in the conflict itself. For example the geographic impact and the severity of a conflict might be more important in determining TNCs' behavior than their role in a conflict (Berman 2000).

”... conflict prevention cannot be restricted to any particular means of intervention or implementing actor, such as diplomats. In principle, it could involve the methods and means of any governmental or nongovernmental policy sector, whether labelled prevention or not ...” (Lund 2002: 180-181, note 6)

This does not imply that all corporate social responsibility activities of a TNC are ”hidden” conflict prevention measures. First, conflict prevention must be tied to a situation where the violent expression of conflict is likely and second, corporate activities must somehow address this conflict.

Three basic strategies to prevent conflict can be distinguished: First, corporations should comply with national and international regulations, even if host governments are not effectively implementing or monitoring these. Second, business should be aware of their socio-economic, political and environmental impacts on society and their ability to create or exacerbate violent conflict. They should try to minimize their negative impact, which means that conflict prevention measures should relate to the core business activities of the corporation. Finally, business should proactively create positive societal value ”by optimising the external multipliers of their own business operations and engaging in innovative social investment, stakeholder consultation, policy dialogue, advocacy and civic institution building, including collective action with other companies.” (Nelson 2000: 28). These three strategies including compliance, risk minimisation and value creation provide a useful starting point for discussing the role of TNCs in providing the public good conflict prevention by ensuring security, well-being and justice for all (Hamburg, Holl 1999: 371). These three interdependent conditions for building peace are usually endangered in situations of violent conflict. Conflict prevention, then, is not only related to a single policy sector, but rather cuts across different major issue areas.

Therefore, corporate conflict prevention can be defined as all measures and initiatives by a TNC on a local, regional and national level, that aim at avoiding the further escalation of conflict. These measures and initiatives have the goal of strengthening the capabilities of potential parties to violent conflicts in resolving such disputes peacefully and of alleviating the root causes of conflict through ensuring security, well-being and justice for all. At least five areas of action can be identified as relevant for pursuing this goal: Strengthening equitable economies, building human capital, promoting good governance and accountability (corporate and national level), assisting social cohesion and human rights, and environmental protection (Nelson 2000: 70-72).

The strengthening of equitable economies is directly linked to the development of the national economy and the redistribution of benefits within the society. Corporations can both directly and indirectly impact this area of action, for example by paying adequate wages, by encouraging transparency with regard to generated tax revenues and by promoting a fair redistribution and/or compensation for people affected by a TNC’s operation.

Building human capital is a long-term process that focuses on the transfer of skills, knowledge and expertise within a society, thereby empowering people to tap their full potential and resolve conflicts peacefully. Corporations can contribute to this process by adhering to basic labor standards. They can also make social investments by providing material and immaterial resources for education and training as well as health and nutrition programmes in local communities.

Establishing social cohesion and promoting human rights is an essential pillar of any peaceful society. Corporations can set and effectively monitor human rights standards in their own operations, including the use of security forces, and encourage the promotion of human rights within the broader society.

Moreover, corporations can contribute to good governance and accountability on a national level by pressuring governments to follow the rule of law. One of the key governance issues is the matter of corruption and transparency which can be raised in consultations with government officials.

Finally, environmental destruction can be a major source of conflict. The protection of the environment is therefore a crucial area of action through which further escalation of conflict can be avoided. At the very least corporations can apply international environmental standards to their activities and accept complaints related to these issues.

| Areas of Action | Possible Company Indicators |
|------------------------------------|---|
| Strengthening Equitable Economies | Tax Revenue Generated |
| Building Human Capital | Level of Social Investment |
| Social Cohesion and Human Rights | Existence of Human Rights Standards |
| Good Governance and Accountability | Consultation with Government Officials |
| Environmental Protection | Adoption of International Environmental Standards |

Table 1: Performance Indicators for Conflict Prevention Measures (adapted from Nelson 2000: 72)

Summing up, in a situation of conflict different behavioural options of TNCs can be distinguished. Engaging in corporate conflict prevention consists of multiple components. It is not an all-or-nothing issue, but rather a matter of degree. For the purpose of this paper corporate conflict prevention (CCP) will be operationalized and measured in the case study by focusing on two areas, building human capital and the

promotion of human rights.¹⁰

3. Explanation

So far only a limited number of studies have focused on explaining TNCs' behavior in general and very few have looked specifically at their role in conflict zones. This analysis is an attempt to extend the current knowledge by concentrating on the impact of norms on TNCs. It is discussed whether the socialization of TNCs by the CSR norm can help to explain the behavior of TNCs in conflict zones. After delineating the existence and content of a CSR norm, a number of hypotheses are generated on the basis of the spiral model (Risse, Ropp, Sikkink 1999), that describe the norm socialization process of TNCs.

3.1. Mainstream and alternative explanations

Most of the existing literature on private sector actors applies a rationalist framework of action. Although alternative models focusing on constructivist aspects have become more common within the last ten to fifteen years in International Relations (IR) theory, rationalist approaches still tend to dominate the field.¹¹ This argument also applies for the TNC related literature. Recent publications explaining TNCs' behavior have focused on variables, such as political and economic risks (including regulation by state actors, NGO pressure, asset specificity, and competition) and reputation (Haufler 2001b; Spar, La Mure 2003). Although these variables have a prominent standing in the current debate, they still remain ad hoc hypotheses, because their causal status in explaining TNCs' behavior has not been specified in empirical research. In this still evolving research programme other variables, such as learning, leadership and norms, have been mentioned, but not probed in detail so far.¹²

This paper contributes to closing this research gap by integrating rationalist and constructivist approaches. Being aware of the fact that the conventional procedure would be to follow the rationalist path, based on empirical observations this convention has

¹⁰ This limitation is due to economical reasons. Nevertheless, the two areas of action are considered to be the most important. It is common in the study of TNCs to analyze their ecological impact, however it should be noted that TNCs' improvements in ecological behavior may be a necessary but not sufficient condition to improve the situation in a conflict zone significantly (Litvin 2003b). The promotion and guarantee of human rights are considered to be an essential component of any peaceful society. Building human capital is equally important in empowering people and creating a basis for long-term sustainable development.

¹¹ See some of the latest contributions in the field of global political economy (Kahler, Lake 2003; Koremenos, Lipson, Snidal 2001).

¹² One could make an attempt and place all possible variables mentioned so far, in either the rationalist or constructivist camps, but this exercise would not be very fruitful. Even if it seems to be tempting to score debating points in the recent rationalist-constructivist debate, the main focus of IR research should be to understand substantive problems in international politics (Snidal 2002: 80). Possible contributions will be taken up in the conclusion.

been superseded and instead the focus will be on the role of norms. It is argued that norms, through processes of socialization, have a growing influence on private actors.

The impact of norms on TNCs' behaviour has already been put forth into the debate by Virginia Haufler:

"Finally, the larger society itself signals what is acceptable behavior and what is not, and to a certain degree these social norms are absorbed by management (sometimes by force, through the political-regulatory system, but sometimes through socialization)." (1999: 202)¹³

The socialization of states has become a well-established topic in IR theory. Socialization has been defined as a process through which actors¹⁴ should be induced into adopting ground rules of a global society, thereby becoming new members of an existing global society (Risse 2003: 119; Schimmelfennig 2003: 406). Can this knowledge on state socialization processes be transferred to private actors? It is argued that changes in TNCs' behavior can be explained by the impact of global norms, or to be more precise, it will be shown to what degree the power of norms has an impact on the behaviour of TNCs.

Before introducing one of the most sophisticated models of norm socialization by Risse/Ropp/Sikkink (1999), the spiral model, the concept of norms is briefly discussed, and the chosen norm of "corporate social responsibility" is defined and specified.

3.2. The Corporate Social Responsibility Norm

It is assumed, that the increasing provision of the global public good "conflict prevention" and of related intermediate public goods by TNCs, such as human rights, education, health and the promotion of good governance, are the result of the socialization of TNCs, i.e. TNCs having adopted a "corporate social responsibility" (CSR) norm over time.

A norm is commonly defined as a "standard of appropriate behavior for actors with a given identity" (Finnemore, Sikkink 1998: 891) or, as a broad class of prescriptive statements – rules, standards, principles, and so forth – both procedural and substantive that are prescriptions for action in situations of choice, carrying a sense of obligation and a sense that they ought to be followed (Chayes, Chayes 1994: 65). Norms cannot be

¹³ In her recent work however she mainly focused on the two more rationalist variables: risk of regulation and reputation (Haufler 2003).

¹⁴ Commonly, the socialization literature in international relations mainly refers to states (Schimmelfennig 2003). And in cases where the concept is extended to include private actors the research community falls short of theoretical and empirical research (Haufler 1999; Risse 2003).

observed directly, rather, one can only have indirect evidence of norms.¹⁵ Is it, considering these provisions, reasonable to speak of a corporate social responsibility norm?

The term corporate social responsibility was first mentioned in the 1930s, in conjunction with the idea that corporate managers might consider interests other than those of their shareholders. This idea gained momentum as corporations expanded in terms of size and global market reach (Whitehouse 2003: 86). In the following decades this understanding led to the phenomenon of corporate giving, better known under the term philanthropy.

Although the majority of corporate leaders saw corporate social responsibility as a duty, they primarily followed a limited reasoning so compellingly summarized by Milton Friedman "that there is only one responsibility of business, namely to use its resources and engage in activities designed to increase its profits" (1970: 42). As a compromise a number of companies in North America and Europe concerned about their business environment decided to make philanthropic donations. These donations were based either on a business and a marketing strategy, or on the personal convictions of CEOs, which were formed through personal experiences, history and culture.

With the emergence of the "green movement" in Europe as well as the occurrence of a number of environmental disasters, such as the chemical disaster in 1984 in Bhopal or oilspills caused by oil tankers, such as Exxon Valdez that struck a reef before the coast of Alaska in 1989, the societal impact of TNCs' activities emerged as an item on the political agenda. With the prominence of civil society organisations, such as Greenpeace, on the rise and putting pressure on TNCs to behave more responsibly, TNCs increasingly felt obliged to articulate their stance on issues of corporate responsibility.¹⁶

Approaching CSR from these many different angles, a broad continuum of definitions is available: A minimalist conception regards corporate social responsibility as the duty of a corporation to create wealth by using means that avoid harm and protect, or enhance societal assets. This includes following multiple bodies of law and the duty to adverse social impacts, which basically means that they should try to internalize external costs (Steiner, Steiner 2003: 126, 148). A maximalist definition, mostly put forward and supported by NGOs, focuses on the proactive and deliberate behavior of TNCs. Alyson

¹⁵ There are several methods to establish an evidential base for determining the existence of a norm. Following a legalistic approach one looks for evidence of codified laws, such as international treaties, legal acts of interational organizations and final acts of international conferences (see Boekle, Rittberger, Wagner 2001). Moreover, norms can be traced in patterns of communication by relevant actors in a given community, by some form of content analysis, discourse analysis, survey, or in-depth interviews. A final strategy is to examine patterns in behavior and to argue these patterns reveal certain norms (see Herrmann 2002: 129). The last one is the most contested approach, therefore a combination of the first two strategies has been used for this analysis.

¹⁶ There is even a debate about differences between the concept of corporate social responsibility (CSR) and corporate citizenship (CC), whereby CSR much rather focuses on problem-based value management and CC is geared more towards rights and duties of a company as a citizen, not in a strictly legal sense, but much rather as a concept of citizenship-as-a-desireable-activity. It is even contended that CC has its origin in the anglosaxon world and CSR has its roots in Europe. Others do regard CC as part of CSR and vice versa. (Behrent, Wieland 2003; Habisch 2003; Zadek 2001). To avoid any unnecessary confusion only the term CSR is used in this article.

Warhurst has put forward a definition along these lines, pointing to the internalization by the company of the social and environmental effects of its operations through proactive pollution prevention and social impact assessment so that harm is anticipated and avoided and benefits are optimized (Warhurst 2001: 61).

The European Commission has also launched a debate on the concept of corporate social responsibility in 2001 and has chosen a middle course by defining corporate social responsibility as:

”A concept whereby companies integrate social and environmental concerns in their business operations and in their interaction with their stakeholders on a voluntary basis.” (European Commission 2001: 6)

In a follow-up process different stakeholders have, (at times antagonistically), voiced their main concerns. Yet, a large consensus was established about the main features that CSR should include: First, CSR constitutes behavior over and above legal requirements, which is voluntarily adopted by businesses. Second, it is intrinsically linked to the concept of sustainable development and focuses on ”the triple bottom line”, which means that economic, social and environmental impacts are integrated. Third, last but not least CSR is not an optional ”add-on” to business activities, it has to be applied to core business activities (European Commission 2002; 2001).

Owing to the fact that the debate on CSR is still developing, the consensus definition of the European Commission is being used for the purpose of this analysis. Considering the definitional problem stated in the beginning of this section, the question remains open whether one can speak of a ”corporate social responsibility norm”.

The concept of CSR incorporate the idea that TNCs follow a certain standard of appropriate behavior or prescriptive statements, that carry a sense of obligation to engage in ethical practices. Going beyond a loose definition of CSR that simply encourages corporations to abide by existing legal obligations, social mores and voluntary schemes, more substantive aims of CSR focus on two interrelated goals. First, corporations should redistribute losses and pay or compensate for the damage they cause (distributive), and, second, following the ”do no harm”-approach, corporations should deter such losses from being occasioned in the first place (reductive) (Whitehouse 2003: 95).

As Haufler has shown, many attempts have been made in the past decade to devise CSR instruments governing the behavior of TNCs (Haufler 2003: 235 ff.). The existence of more than 200 current CSR initiatives and countless partnership projects are reliable indicators that the CSR norm is gaining momentum (Gordon 2001). A number of business associations, such as the Business for Social Responsibility (BSR) or the World Business Council for Sustainable Development (WBCSD), as well as national and international governmental initiatives, such as in the case of the United Nations Global Compact, signal support for an emerging CSR norm. Moreover, in a recent survey an increasing number of TNCs have reported that CSR is a significant factor in determining where, and with whom, they do business (Berman, Webb 2003: 2-3). In addition, a

majority of companies reported that, in new venture assessments, CSR issues are at least as influential as traditional considerations, such as cost, quality and delivery. For these reasons CSR can be considered a norm.

The CSR norm consists of a combination of well-known principles in the areas of human rights, labor and environment, which each for themselves enjoys a wide acceptance in the international community of states today. The CSR norm builds on these widely accepted principles, which can also be found in international legal documents, such as the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work and the Rio Declaration of Environment and Development. The CSR norm transfers some of these responsibilities to TNCs, though the content of the norm is in the process of being defined, i.e. the CSR norm is underspecified (Legro 1997: 34).

To explain the growing importance of single norms Finnemore and Sikkink have introduced the concept of a norm life cycle consisting of three phases: norm emergence, norm cascade and norm internalization (Finnemore, Sikkink 1998: 895). This model looks at the development of a norm within a community of states. This concept can be intuitively applied to human rights norms, labor norms and norms concerning ecological standards. Referring to these norms, it can be reasonably argued that, for states, the stage of norm cascade has been reached.

Transferring the argument of a norm life cycle to TNCs, it appears that the CSR norm is still in the first stage "norm emergence".¹⁷ Based on the information screened, the CSR norm has not yet reached the stage of a norm cascade.¹⁸

Before presenting the spiral model as a starting point to analyze whether the CSR norm has an impact on TNCs' behavior in conflict zones, the potential limits of the CSR norm in conflict zones are briefly discussed. It should be alluded to, that some guiding principles of the CSR norm as well as their corresponding measures are covered by national and international regulations. This holds true for human rights and labor standards. However, most governments in developing countries do not implement ratified human rights and labor treaties.¹⁹ In most of the developing world CSR activities in the field of environmental protection are characterized by their voluntary nature and

¹⁷ But this is hard to verify. Looking at empirical evidence and taking membership in CSR initiatives and the publication of sustainability reports as preliminary indicators only a small number of TNCs react to the CSR norm (of 60.000 TNCs world wide only about 1000 participate in the Global Compact and only 170 take part in the World Business Council for Sustainable Development). Applying the criteria of Finnemore/Sikkink to TNCs, one-third of the total population in the system have to adopt a norm before the stage of a norm cascade is reached (Finnemore, Sikkink 1998: 901). Following this argument it is rather obvious that the CSR norm is still emerging.

¹⁸ However, this paper does not focus on the development of a norm within a "community of TNCs", but is rather limited to the norm socialization process of a single TNC. In order to avoid confusion it is important to note that this paper focuses on TNCs as norm addressees and not as norm entrepreneurs. It is assumed that TNCs in the phase of norm emergence rather react to than actively promote the CSR norm, this would rather be expected in the phase of a norm cascade.

¹⁹ See comparison of ratification of treaties and information on human rights abuses in Global Civil Society Yearbook (2002: 286-295).

are therefore essentially beyond legal compliance. The "triple bottom line" of the CSR norm includes that economic, social and environmental impacts have to be integrated into business activities, but, businesses are not responsible for solving all social problems. They are responsible for solving problems they have caused, and they are responsible for helping to solve problems and social issues related to their business operations and interests (Wood, Logsdon 2001: 697).

3.3. Insights from the Spiral Model

The spiral model was developed in order to explain why, how and under which conditions international human rights norms are internalized by states and individuals (Risse, Sikink 1999: 1). By introducing a five-phase dynamic model of human rights change consisting of several boomerang throws, Risse et al. specify mechanisms and conditions under which states move through the different phases and finally internalize human rights norms (Keck, Sikink 1998; Risse 2002: 267). In this model the process of norm internalization encompasses three different types of socialization processes (Idealtypen), which correspond to different logics of action. It can be distinguished between the logic of consequentialism and the logic of appropriateness (March, Olsen 1998). In addition, a lengthy debate within the German IR community led to the identification of a third logic of action: the logic of arguing (argumentative rationality) (Risse 2000).

Risse et al. assign different logics of action to different phases of the socialization process within the spiral model. The logic of consequentialism dominates in the earlier phases of the socialization process. It is defined by processes of adaptation and strategic bargaining. The logic of arguing can be identified in the onward process and is characterized by communication, argumentation and persuasion. The logic of appropriateness, which is characterized by processes of internalization and habitualization, can be found in the final stages of the norm socialization process (Risse, Sikink 1999: 11). Although, as Risse concluded, the spiral model has been applied successfully to the human rights area, there has been, as of yet, no systematic research for other issue areas in international politics (Risse 2002: 267). In addition, states have been the focus of attention.

In this paper the spiral model is used as a heuristic device for analyzing the process of adoption of the CSR norm by TNCs and the resulting behavioural consequences in conflict zones.²⁰ Furthermore, it is analyzed whether private actor's norm socialization process is characterized by the same logic of action.

²⁰ We do not claim to reproduce the full complexity of the spiral model, we simply make use of the basic ideas for developing new hypotheses on the behavior of TNCs. We allude to the fact that we focus only on some aspects of the model while neglecting others.

3.4. Norm Socialization of TNCs in Conflict Zones

In the following section, three hypotheses on the socialization process of TNCs will be introduced. The analysis is limited to four phases²¹: denial, tactical concessions, norm acceptance and internalization. Moreover, the interaction between TNCs and transnational advocacy networks (TANs)²² are emphasized, whereby TANs are considered to be norm entrepreneurs. The role of state actors of TNCs in the norm socialization process of TNCs is largely neglected, because neither home nor host states usually exercise their power to regulate TNCs' behavior.

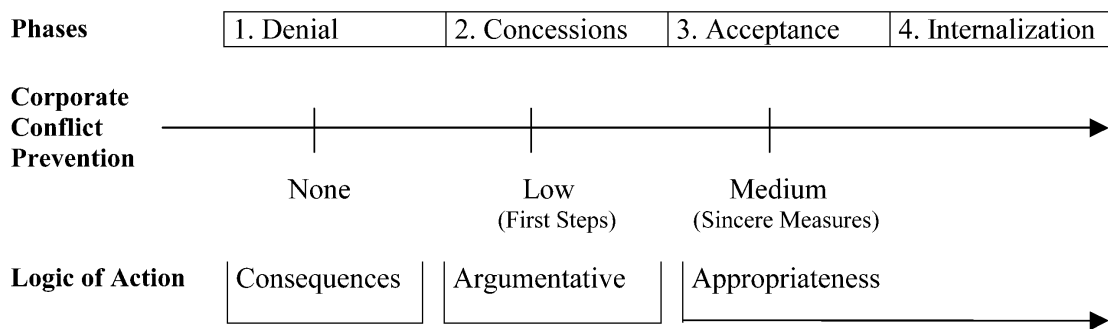


Figure 1: The Spiral Model and Corporate Conflict Prevention

In the phase of denial a TNC is confronted by a TAN. TNCs are accused of actively contributing and even causing conflict and the TAN demands from the TNC that it behaves socially responsible. The accusations can take a number of forms, such as TNCs' complicity by financing and supporting a repressive regime, directly or indirectly contributing to human rights violations, breeding corruption and supporting the indiscriminate use of force by public and private security forces against the civil population. Yet, TNCs neither consider themselves as an addressee of the norm nor do they regard the norm to be applicable in these instances. This means that they deny any responsibility. In this phase a TNC negates or does not comment on the pressure exerted by a TAN. TNCs might also deny their responsibility by referring to the division between the public and the private sphere, which they consider to be a superior norm. They remain relatively passive, conduct business as usual and do not contribute to conflict

²¹ The original spiral model includes five phases, but in the understanding of the authors the first phase "repression" is not considered part of the actual socialization process.

We are deeply grateful to Miriam Schröder for this and other suggestions regarding the spiral model put forth in her Master Thesis (Schröder 2003).

²² Transnational advocacy networks include those relevant actors working internationally on an issue, who are bound together by shared values, a common discourse, and dense exchanges of information and services (Keck, Sikkink 1998).

prevention. It is assumed, that in this phase TNCs' behavior is solely based on the logic of consequentialism and follows a narrow cost-benefit way of thinking.

The transition to phase two of the norm socialization process is characterized by increasing pressure of the TAN for example by starting to use "naming and shaming" techniques. TAN impact depends on the vulnerability of their targets (Risse 2002: 268). The vulnerability of a TNC consists of material (direct) and reputational (indirect) costs. In the beginning TNCs start fearing consumer boycotts and negative market signals such as falling stock prices, which eventually might turn into material losses. In the mid to long term the reputation of a TNC might suffer. Owing to the fact that reputation is a relational concept, TNCs have a strong interest in keeping good relations with their stakeholders, such as employees, potential business partners, market-rating organizations, governments, local communities and NGOs (Haufler 2001b: 26-27; Keohane, Nye 2003: 390; Mercer 1996: 27). By applying a cost benefit analysis TNCs start reflecting on their corporate strategy.

The second phase tactical concessions starts with TNCs justifying their behavior for instrumental reasons. They engage in public dialogue with their critics trying to take the wind out of their sails. TNCs begin to talk more carefully about the problems raised by the TAN and for the first time justify their position and behavior. Yet, they do not accept any responsibility for these problems. TNCs' rhetorical justifications allow the TAN to react and a dialogue between the two actors evolves. A TNC finds itself in a process of self-entrapment, which might eventually pass over into argumentative behavior oriented toward reaching a common understanding ("verständigungsorientiertes Handeln", Risse 2000: 9). A TNC no longer denies the validity of the norm, instead, it gradually intensifies the discussion on the role it plays and what norm-consistent behavior may look like. For these reasons rhetorical concessions are likely to lead to first concrete measures with regard to their role in a conflict (Talk is not cheap!). A TNC might increase corporate giving, design stakeholder dialogues, initiate community development and install measures to fight corruption or undertake any other measures that contribute to the provision of security, well-being and justice. The dominant logic of action can be expected to change from a purely rationalist logic of consequentialism to a logic of arguing.

The transition to the phase of norm acceptance is mainly driven by TNCs' increasing belief in the legitimacy of a norm. Legitimacy is defined as the normative belief by an actor that a rule or institution ought to be obeyed (Hurd 1999: 381). Saying that a rule is accepted as legitimate by some actor, says nothing about its justice in the eyes of an

outside observer.²³

Moreover, this emerging normative commitment is mirrored by a TNC's desire to become a member of an esteemed global community of state and non-state actors. This global community shares and values the CSR norm.²⁴ At the same time the TAN as well as domestic opposition groups are strengthened because TNCs accept them as "equal" counterparts in discussions. They keep on exerting pressure on the TNC from above and below.

In the phase of norm acceptance a TNC accepts the validity of the norm, although this does not necessarily mean that a TNC always complies with the norm. On a rhetorical level a TNC regularly refers to the norm to describe and comment on its own behavior. Moreover, a TNC installs institutional mechanisms within the company that are supposed to guide corporate decisions. This may take the form of a Code of Conduct, the establishment of CSR or other specialized departments, special representatives as well as internal and external complaint mechanisms.

In their external relations a TNC undertakes sincere measures of conflict prevention. Measures introduced in the previous phase are intensified and additional initiatives are considered, such as promoting aspects of good governance on a national level. In this phase the logic of appropriateness replaces the logic of arguing as the dominant mode of interaction.

The last phase, internalization, constitutes the final stage of the norm socialization process and is dominated by the logic of appropriateness. The TNC's behavior has fully converged around the CSR norm. The TNC behaves rule-consistent.

²³ It is important to note that this is not a relational concept but a property concept that can be defined and measured without reference to another actor (Mercer 1996: 27).

²⁴ This is an attempt to specify the conditions for the transition from the phase of tactical concessions to norm acceptance within the spiral model. Unfortunately the key variable in the spiral model "regime change" does not seem applicable to private actors (Risse, Sikkink 1999: 28). At the same time, the logic of appropriateness, next to the logic of arguing, is expected to step in and to succinctly gain ground. Further research should include the specification of these conditions (Risse 2003: 120).

Even the very useful summary on socialization processes by Schimmelfennig does not provide further insights, mainly owing to the fact that he concentrates on the distinction between the logic of consequences and the logic of appropriateness and does not explicitly consider the logic of arguing (Schimmelfennig 2003: 412-415).

Conflict prevention behavior in different phases

Hypothesis 1: The more a TNC internalizes the CSR norm, the more likely it is a TNC will carry out measures of conflict prevention.

Transition processes from one phase to another

Hypothesis 2: The more a TNC values its reputation and the more powerful the mobilization and enforcement power of a TAN, the more likely it is that TNCs will move to the phase tactical concessions.

Hypothesis 3: The more a TNC believes in the legitimacy of a norm, the more likely it is that under the condition of sustained pressure by a TAN a TNC will move to the phase of norm acceptance.

Box 1: Summary of Hypotheses

These three hypotheses together form a basis on which to examine the norm socialization process of a TNC in a conflict zone. The case of Shell in Nigeria constitutes one of the most prominent examples for the role and the extent and limits of responsibilities of TNCs in conflict zones.

4. The Case of Shell**4.1. Case Selection**

In the third section of this paper a model of TNCs' norm socialization was developed, in this section the argument is illustrated using an empirical case study. The goal is to probe the plausibility of the hypotheses (Eckstein 1975: 108). Due to fact that the hypotheses are confronted with empirical data for the first time, a plausibility probe is the most appropriate instrument: The advantage is that first empirical results can be obtained without following strict methodological requirements of a theory test. Such a plausibility probe is certainly not a substitute for a theory test, nevertheless, it is a necessary step in theory-building, since it assists in distinguishing "plausible" from "less plausible" models.

For this purpose the case of the Royal Dutch/Shell Group (Shell) in Nigeria has been chosen. This case seems well suited because of a large variance on the dependent variable, namely the behavior of Shell in conflict zones. In addition, Shell is one of the most prominent cases of a TNC operating in a conflict zone and it resembles a current situation of policy concern (Van Evera 1997: 77-88).

Companies in the extractive industry have received increasing public and academic attention during the last years. They have been criticized for their misconduct in internal conflicts, for example in Angola, Sierra Leone or the Democratic Republic of Congo. The risk of becoming involved in internal conflicts in these countries is very high for

TNCs. This is mainly due to the high revenues generated by these companies, which often cause conflicts between competing domestic groups. Moreover the extractive sector is of overwhelming importance to the economies in these states. TNCs in the extractive industries are characterized by a high asset-specificity, which means that they cannot easily change their production facilities, due to the enormous investments, to another location.

4.2. The Conflict in Nigeria²⁵

In 1960 Nigeria gained independence from Britain. Senior members of the armed forces dominated Nigerian politics from independence until 1999, with only short periods of civilian government. These forty years have been shaped by ethnic-based factional tensions, endemic corruption and political ambitions of the military. From 1993 until 1998 General Sani Abacha ruled the country and established a military dictatorship. After his sudden death in 1998 a guided transition to general elections and civilian rule was initiated surprisingly by another military leader. In May 1999, a democratically elected government, headed by President Obasanjo, was sworn in. Since then, however, the central state authority has not been successful in solving the country's main problem in accommodating ethnic and religious tensions between various regions. Political and communal violence has further escalated over time and over 10.000 individuals have been killed in communal violence since 1999. Nigeria's nascent democracy continues to be plagued by ethnic friction, regional contention, economic scarcity and religious polarization. Three regionally divisive and politically explosive issues threaten the new democratic order: First, the institutionalization of the sharia (Islamic law) in the predominantly Muslim north, second, the agitation for true federalism in southern Nigeria generally, and third, the fight over oil profits between the central government and the southern residents of the Niger Delta.

Nigeria is Africa's leading oil producer and ranks among the top 10 oil producing countries in the world. Oil is the country's main natural resource and accounts for 80% of its revenue and 95% of its export earnings. 90% of the country's crude oil is produced in the Niger Delta. Despite this oil wealth, this region is desperately poor and underdeveloped. Most workers survive on 300 US \$ per year and according to a report by the World Bank around 66% of the population now fall below the poverty line of 1 US \$ a day compared to 43% in 1985.²⁶ Conflicts over the distribution of oil revenues have afflicted Nigeria since its independence in 1960. In practice, much of the funds either fail to reach the producing areas or are distributed through patronage to extract

²⁵ This concise overview of Nigerias history and development since 1960 is mainly based on the Polity IV Country Report (2002).

²⁶ In 2003 Nigeria was ranked 152 among 175 graded countries, falling from rank 148 in 2002 (UNDP Human Development Report 2003).

political benefits. Widespread corruption has further diluted the development potential of oil revenues (Frankental, House 2000: 94; Transparency International 2003: 265). In addition, the local environment has been devastated by drilling and production activities of various companies. These companies include almost all of the largest TNCs in the oil sector, such as BP, Chevron-Texaco, Exxon-Mobile, Royal Dutch/ Shell, Statoil and TotalFina-Elf.

4.3. Royal Dutch/ Shell – Company Profile

In 1907 Royal Dutch and Shell merged all their operations. Despite merging their interests, the companies remain separate. Today, the Royal Dutch/ Shell Group of Companies (Shell) is one of the largest transnational oil companies. It operates in 145 countries and employs more than 115.000 persons worldwide. Crude oil production is Shell's main source of income, constituting more than 75% of its revenues. In Nigeria, Shell is active through the Shell Petroleum Development Company (SPDC), which is part of a joint venture, consisting of Shell, the Nigeria National Petroleum Company (NNPC), Elf and Agip.²⁷ This joint venture is operated by the Nigerian branch of Shell, which means that Shell manages the entire project on behalf of the other shareholders. It is responsible for half of the production of Nigerian crude oil. Shell's presence in Nigeria dates back to 1937, when the first exploration license in Nigeria was granted to Shell. Oil production in the Niger Delta started in 1958. Today, Shell employs more than 10.000 people in Nigeria, 95% of whom are Nigerian.

4.4. Shell in Nigeria – Presentation of Different Phases of Engagement

In the next section different phases of Shell's engagement in Nigeria are described, focussing on two areas of action: building human capital and the promotion of human rights. These two areas of action illustrate a TNC's changing behavior in a conflict zone and the corresponding triggers.²⁸

First Phase until 1995: Business as usual

Until the early 1990s the conflict situation in Nigeria received little international attention. Shell conducted "business as usual" and did not pay much attention to the conflict on the distribution of oil revenues between the government and ethnic groups in

²⁷ SPDC is the operator of a joint venture involving the Nigerian National Petroleum Corporation (NNPC) which holds 55 per cent, Shell (30 per cent), Totalfina-Elf (10 percent) and Agip (5 per cent) (Shell 2002 Annual Report: 52).

²⁸ Knowing that unbiased and independent data on TNCs' behavior is hard to obtain, different sources of information were consulted and balanced. These include corporate publications, civil society reports and governmental sources.

the oil-producing region. At the beginning of the 1990s unrest unfolded, mainly driven by ethnic groups.

One of the first major demonstrations against Shell was that of the Etche people at Umuechem village, Rivers State in October 1990. It was the first incident that brought the situation in the Niger Delta to international attention, and remains one of the most serious loss of life directly involving oil company activities. During protests that took place at Shell's facility at Umuechem, 80 unarmed protesters were killed and hundreds of houses were burned by the Nigerian Mobile Police (Human Rights Watch 1999). The concerns of the protesters were oil production and related environmental damages and the lack of distribution of economic benefits to the local people (Frankental, House 2000: 94).²⁹

In 1990, another ethnic group, the Ogoni people organized themselves in the Movement for the Survival of the Ogoni People (MOSOP). MOSOP campaigned for a greater share of oil revenues, political autonomy and ownership of the oil in their land. The Ogoni staged their first mass demonstrations in 1993. It demanded US \$6 billion in rent and royalties from Shell and US \$4 billion for environmental degradation. As a result of this campaign Shell withdrew and seized production from its flow stations in Ogoni, but continued its operations in the rest of the Niger Delta. Yet, pipelines carrying oil from other Shell oil fields continued to cross the area.

MOSOP with the strong support of the Ogoni people sustained its protests. Shell was criticized for calling government troops for help in response to these demonstrations. As a consequence the security forces retaliated and attacked Ogoni villages and people. In addition, Shell was accused of supporting the operations of the Nigerian security forces by providing logistics and contributing to the wages for the security forces (Human Rights Watch 1999: Chapter X). Phillip Watts, Managing Director of SPDC, stated in a letter to the Inspector General of Police, that

"we also reiterate our appreciation for excellent cooperation we have received from the Nigerian Police Force in helping to preserve the security of our operations." (Project Underground 1997b: 8)

The tensions continued to grow following the same pattern. Demonstrations led by ethnic groups were followed by repression and culminated in May 1994, when the charismatic leader of the Ogoni people, Ken Saro-Wiwa, was arrested. In May 1994, Ken Saro-Wiwa, one of the main critics of Shell, and several other Ogonis were arrested for supposedly killing other fellow Ogoni leaders and sentenced to death in a mock trial in

²⁹ There are various accounts to what has exactly happened during these protests. Shell stressed that the 80 unarmed protesters were killed and hundreds of houses were burned by the Nigerian Mobile Police in reaction to the killing of one of their colleagues. According to the company, the policeman was one of a team dispatched earlier to stop the occupation of a Shell rig location and nearby flowstation by armed youth from Umuechem community.

In contrast, civil society organizations accused Shell for requesting security protection for its facilities from Nigerian authorities, with a preference for the paramilitary Mobile Police (Human Rights Watch 1999).

June 1994.

Although pressure on Shell from international civil society organizations and domestic groups increased, the company declined to act on behalf of Saro-Wiwa and the others, stating that:

”There are now demands that Shell should intervene, and use its perceived ‘influence’ to have the judgement overturned. This would be dangerous and wrong. ... A commercial organisation like Shell cannot and must not interfere with the legal processes of any sovereign state.” (Shell 1995a; b)

Shortly before the execution was scheduled, Shell for the first time responded to public demands: Cor Herkströter, President of Royal Dutch, wrote a personal letter to General Abacha and appealed for clemency of the death sentence of Ken Saro-Wiwa on humanitarian grounds. At the same time Shell explicitly denied that this intervention was a comment on the proceedings of the tribunal, restating that as a multinational company to interfere in such processes, whether political or legal, in any country would be wrong. This intervention did not change the course of events. The eight Ogoni leaders, including Saro-Wiwa, were finally hanged on November 10, 1995. Following the execution many NGOs started to call for a boycott of Shell to hold it accountable.³⁰ Human Rights Watch contacted Shell regarding its role in Nigeria urging the company to take constructive steps to end human rights violations in connection with its operations. In a first substantive response Shell wrote:

”You have called for Shell to become involved in, and to take a public stance on, several issues ... all of which are political. They are clearly issues where we as a commercial organisation have neither the right nor the competence to become involved and they must be addressed by the people of Nigeria and their government.” (Human Rights Watch 1999: 2-3)

Moreover, Shell repeatedly referred to its own contribution in improving the communities’ quality of life in the Niger Delta. In 1995 Shell spend a total US\$ 25 million on community development projects (Shell 1995a).³¹

In this first phase Shell was confronted with increasing criticism by a transnational activist network. Shell did not accept any responsibility for the events in the Niger Delta. Instead, Shell repeatedly referred to the issues at stake as being public ones. At this stage, human rights considerations were not included in Shell’s business operations. Some efforts were made to develop human capital (community development projects), yet these programs were heavily criticized for not meeting communities’ basic needs.

Second Phase 1995-1998: Shell moves

³⁰ In 1995 Shell was also under pressure by a campaign lead by Greenpeace. Activists occupied the Brent Spar oil platform which had come to the end of its working life and was due to be dumped at sea.

³¹ As a comparison Germany made payments of official development assistance (ODA) of 40 Mio. Euro in 2002.

In 1996 Shell started the world-wide dialogue programme "Societies changing expectations" to better understand society's changing expectations of multinationals and to explore the reputation, image and overall standing of the company. In addition, Shell started a dialogue with major NGOs, such as Amnesty International and Pax Christi (Tangen 2003: 8).

On the ground Shell intensified community programmes. In May 1997 SPDC announced the launch of a ten-month Ogoni youth training scheme, which would train 366 youths in a variety of skills like carpentry and computer studies. As another example Shell took over the running of the Gokana hospital in Ogoni land. These new and intensified programmes were immediately criticized by MOSOP leaders and unrest continued.

In addition, the restructuring of local councils that year caused ethnic violence in particular in Warri. Changes in the local government structure had strong effects on the distribution of wealth from the oil revenues between different ethnic groups (CIDCM 1999). Furthermore, oil spills and pipeline explosions continued to ravage communities and the environment in Nigeria.³²

International civil society organisations stepped up their naming and shaming strategies by calling the victims of supposed Shell activities "Shell Refugees" or "Shell Prisoners" (Project Underground 1996). For example civil society organisations revealed that Shell had been in negotiations for the import of arms for use by the Nigerian police (Human Rights Watch 1999: 9). Further a lawsuit by the families of the executed Ogoni leaders has been filed against Shell in New York under the Alien Tort Claims Act for complicity in the execution of Nigerian activist Ken Saro-Wiwa and other Ogoni leaders. And in 1997 a special rapporteur was appointed by the Commission on Human Rights to submit a report on the human rights situation of Nigeria. The report, submitted in February 1998, criticized the Nigerian governments failure to address the plight of the Ogoni people and additionally called for an investigation into the activities of the multinational oil giant Shell (United Nations 1998).³³

Owing to this sustained pressure and during the one year global consultation process Shell published its reviewed version of the group's Statement of General Business Principles in 1997 (Human Rights Watch 1999: 13).

Shell explicitly committed itself to

³² Oil spills can either be caused by sabotage or by technical failure. Shell pointed out that oil spills are well documented and investigated. The company emphasized the fact that the results of investigations (usually done by a combined team comprising regulators, the operator and the community) are available from the regulators (government offices) in the States.

However, NGOs often question the results of these investigations, because the decision whether a oil spill occurred because of sabotage or technical failure is also related to the issue of compensation for local communities. If a oil spill occurs due to sabotage, there is no compensation for local communities (see for example Human Rights Watch 1999).

³³ Shell emphasized that it was not invited to participate in any investigations.

”respect the human rights of their employees ... express support for fundamental human rights in line with the legitimate role of business.” (Shell 1997)

For many NGOs this represented a public relations strategy, but for others this move constituted a positive step, because from then on Shell added these principles to each new joint venture agreement (Schwartz, Gibb 1999: 32). This was the first time that the Shell Group had included a general commitment to human rights principles or sustainable development in such a document (Human Rights Watch 1999: 13). In addition, Shell formed a new twelve-member Social Accountability Committee and assigned a senior director to be responsible for CSR issues.

On the local level Shell’s behavior remained still ambivalent. In January 1997 Shell stated that it would not return to Ogoni Land without an ”invitation” of the local community. However, numerous reports indicate that Shell has been bribing local officials to sign such statements of invitation (Project Underground 1997a: 1).

In June 1997 Shell opened negotiations with MOSOP representatives and in mid 1997 Shell believed that a process of reconciliation was underway and that there would be a breakthrough before the end of the year.

To sum up, after 1995 self-criticism became a common feature in Shell statements and reports. Shell admitted that it had not fully comprehended the consequences of its actions (Tangen 2003: 7). Shell explicitly and actively put human rights on the agenda by including human rights aspects into the revised Statement of General Business Principles. On the ground Shell made first steps and launched new community development programs.

Third Phase since 1998: Signs of Acceptance

Since 1998 Shell has consistently referred to itself as a responsible corporate citizen. It has also published several reports, many of them focusing on their involvement in Nigeria. In 1998, Shell published its first sustainability report, named ”Profits and Principles – Does There Have To Be A Choice?”, a document of landmark character dealing with the question of how to integrate aspects of social responsibility into business. The report states:

”This report is about values ... We care about what you think ... We want to ensure that our businesses are run in a way that is ethically acceptable to the rest of the world and in line with our own values. Without principles no company deserves profit ... There does not have to be a choice between profits and principles.” (Shell 1998b: 3)

This report marked an astonishing reversal to many observers, since at the 1997 annual shareholder meeting, retiring chairman John Jennings had stated that the board could not accept activist demands for such a report (Schwartz, Gibb 1999: 28-29).

In the following years Shell introduced different management primers, dealing for example with human rights, child labor and bribery and corruption, explaining to its

employees how to tackle such delicate issues. Moreover, Shell introduced an annual "Business Principle Letter", that has to be signed by every country chairman, thereby confirming that the Business Principles are understood and implemented.

Regarding its activities on the global level, Shell became a member of new initiatives, such as the UN Global Compact, and became more involved in human rights and other related social issues in networks such as the World Business Council for Sustainable Development or the European Roundtable of Industrialists.

In 1998 Shell also left the Global Climate Coalition, a coalition which heavily lobbied governments to turn public opinion against concrete action on greenhouse gas emissions. Instead, on the local level SPDC has started ISO certification of its facilities (ISO 14001 Standards for Environmental Management Systems) which entails mandatory surveillance and re-certification every three years (Shell 2003c; d). Regarding the major environmental problem of oil spills Shell changed its position and today publicly reports on the number of incidents, the volume of oil spilled and which measures were taken (Shell 2001; 2002).

On the local level community protests persist because of a perceived continuing gap between Shell's rhetoric and the reality in Nigeria. Positive changes in Shell's stance were exemplified, when in January 1998 following the arrest of the Ogoni leaders Batom Mittee, Shell appealed for the highest standard of human rights to be upheld (Frankental, House 2000: 96). Mittee was subsequently released and the Military Police withdrew from Ogoni. Shell also actively lobbied for a better treatment for the Delta Region including an increase of the oil revenues that are given to the oil producing regions. The figure raised from 3% to 13% in 2002 (Litvin 2003b: 267). Regarding the sensible issue of security forces Shell adopted in 1998 Use of Force Guidelines. In relation to these guidelines SPDC declared that "under no circumstances must SPDC engage or call to be engaged any military or paramilitary forces" (cited in Frankental, House 2000: 95). Shell also intensified its community activities by increasing its spending and by extending the involvement of local communities in developing these projects.³⁴ These projects include extensive education programmes, including scholarships and peace education programme training women and youth in leadership and peace making, stakeholder workshops etc. Moreover these community development projects are today monitored by KPMG and supplemented by an external stakeholder monitoring (Shell 2003b; 2002).

Nevertheless Shell has not always complied with its own proclaimed standards. The relationship between local communities and Shell is still characterized by mistrust and misunderstanding. Ogoni people still fear that Shell will resume oil production on their

³⁴ Shell increased its spending from about \$4 million a year in the late 1980s to \$25 million in 1995 and finally to \$50 million in 2003 (Litvin 2003b; Project Underground 1997b).

land and they still fight for a fair share and adequate compensation for environmental damages. This holds true for all other ethnic groups in the Niger Delta. For example when in April 2000 the Ogoni people began peaceful protests in reaction to the construction of a new road by one of Shell's contractors, police and military forces immediately swept into Ogoni Land (Project Underground 2000b). Oil spills caused by Shell's oil production continue to ravage communities and the environment. Responsibility for these spills is still not always accepted by Shell, for example in Gokana fires caused by ruptured pipelines, had been burning for two months without reaction from authorities or Shell. In addition, when in June 2000 a Nigerian court ordered the oil giant Shell to pay 40 Mio US \$ in compensation for an oil spill, that had happened 30 years ago, Shell filed an additional motion further delaying the communities long awaited redress for damages by the spill (Project Underground 2000a).

In a speech before the 2003 Commonwealth Business Forum in Abuja, Nigeria, Shell managing director Chris Finlayson analyzed Shell's involvement in Nigeria:

"At that time [mid 90's, authors' note], we were facing strong external challenges – not least about our operations in Nigeria. We began by trying to understand how people's expectations of business around the world were changing – and this included engaging with critics about their concerns. As a result, we added two new commitments to our business principles – to support fundamental human rights and to contribute to Sustainable Development. We also put sustained effort into embedding these principles in our organization and processes. And we began a comprehensive assurance process to monitor compliance throughout our operations in the 145 countries where Shell is present." (Shell 2003c)

To summarize, it can be inferred from this statement and the arguments presented that Shell has accepted some responsibility for the impact of its operations and paid more attention to stakeholder expectations. As an outcome it gradually changed its behavior since 1998. Human rights commitments were detailed in several documents and Shell introduced institutional mechanisms to support compliance with the CSR norm. In the Niger Delta community development programs were further intensified and improved, including a stakeholder monitoring process. In some instances Shell publicly spoke out in favor of human rights.

Underlying the gradual change in Shell's behavior two causes have been identified that have triggered Shell's new understanding of the business environment and its societal impact: Reputational concerns and the legitimacy of the CSR norm.

First, for a variety of reasons the structural characteristics of Shell have made it vulnerable to societal protests. The vulnerability is dependent on its relationship with stakeholders and this relationship in turn hinges on how much confidence and reputation a company enjoys with them. Starting with Shell's host countries, due to the fact that

most of Shell's upstream activities take place in developing countries with weak governments, human rights violations are not uncommon, corruption and civil violence are widespread. Shell has been particularly vulnerable to community anger and disturbances in on-shore oil production because of the physical location and spread of its facilities in large areas (Litvin 2003b: 259; New York Times 2004; Shell 2003a; Tangen 2003: 3). Owing to community unrest Shell until today could not return to Ogoni land and resume its oil drilling operations and supposedly loses money on a daily basis (Daily Champion 2004). Home states instead might start investigations based on TNC's violations of international agreements, such as the OECD Guidelines for Multinational Enterprises.³⁵

Moreover, gas stations can be seen as Shell's Achilles' heel in their home states and in large parts of OECD states: Shell has a large share of gas stations in markets where consumer boycotts have been commonly practised, e.g. Germany and the UK (Tangen 2003: 5). This might have direct effects on profits. Moreover, the stock market might see future earnings at risk, if a company has to cut proven reserves and, in addition, has trouble to continue oil drilling in some designated oil fields.³⁶

For these reasons, Shell is very susceptible to TAN pressure. This pressure has the potential to cause reputational costs. In the second phase Shell started realizing that a relationship with the people of Nigeria is rewarding. Shell admits on its homepage that stakeholder workshops have improved relations with people of the Niger Delta and brought about a much greater understanding of local problems (Shell 1998a).

Second, Shell have communicated in different ways that they believe in the CSR norm and that the norm has become more important to the company. Accompanied by persistent TAN pressure Shell has started to reflect on its corporate strategy. Today, Shell openly admits that in the past it has focused mainly on the physical impact of any given project on its immediate location, but this has changed so that the three 'pillars' of sustainable development are taken into account equally (Shell 2004). It is hard, if not impossible, to find out whether this is pure rhetoric or whether there is a true commitment by Shell. At least Shell has opened up itself in Nigeria to stakeholder dialogues and has even cooperated with the World Bank's Business Partners for Development project on examining 'Tri-Sector Partnerships for Managing Social Issues in the Extractive Industries' which comes close to some form of external monitoring. Within a stakeholder dialogue in 2002 Shell even reacted to claims about dialogue and peaceful resolution of conflicts by stating that they plan to empower the community development staff in the use of dialogue and peace building techniques (Shell 2003e). A

³⁵ This has happened already in at least two cases in the extractive industry, both of which have remained anonymous in the OECD procedure.

³⁶ As a consequence of a reassessment of its oil fields in Nigeria that led Shell to cut proven reserves by 20% last month, the stock prices plummeted by 8% on one day and six weeks later the CEO of Shell, Philipp Watts, stepped down (Financial Times Germany 04.03.2004; Financial Times Germany 12.01.2004).

Shell representative admitted that one of the goals of taking part in this World Bank project was to bring about a social license to operate (World Bank 2002: 1). On the international level Shell has made various attempts to demonstrate that they are willing to follow the CSR norm and that they want to be part of an esteemed global community by participating in a number of initiatives such as in the World Bank's Business Partners for Development Programme, the World Business Council for Sustainable Development, the UN Global Compact, the Prince of Wales Business Leaders Forum and the US-UK Voluntary Principles (Nelson 2000: 25).

Summing up, reputational concerns and the belief in the legitimacy of the CSR norm are triggers for changing Shell behavior towards adopting more conflict prevention measures.

5. Conclusion

The conjecture that norms other than habitual cost-benefit calculations have an impact on TNCs' behavior in conflict zones does not intuitively come to mind. However, the presented case study provides a comprehensive account of how Shell has started changing its way of thinking about business and also how it has modified its behavior concerning social issues in zones of conflict.

From a theoretical standpoint, the spiral model can be successfully taken as a platform for developing a model of norm socialization by private actors. The results of the study confirm the introduced hypotheses, because the suggested relationship between the increasing importance of the norm and the corresponding behavior of the TNC could be established.

When the conflict in Nigeria erupted in the early 1990s Shell did not leave but stayed in Nigeria, despite being steadily attacked by a TAN. After all, it did not ignore the raised complaints but instead gradually adjusted its behavior and for the past years has been in the midst of transforming its way of thinking, beginning to internalize the "triple bottom line" and "walk the talk", as it has become the jargon within the so-called CSR community.

A TNC that decides to stay in a zone of conflict has several behavioral options. In the Shell case study measures in both analyzed areas of action could be observed. Both areas, such as building human capital and promoting human rights standards are important contributions to a transition to a more peaceful society. Moreover, it has been found out that the two examined areas of action are intertwined and isolated efforts in one area have only limited potential to improve the situation in a conflict zone.

Furthermore, it is important to note that for several reasons TNCs will never resolve a conflict alone. First, despite the fact that Shell has invested large sums in community development, the task of building infrastructure, livelihood opportunities and building local institutions, the resolution of conflict and the sustainable improvement of conditions

on the ground is beyond the capability of a single company (World Bank 2002: 8). Second, in the case of Nigeria a comprehensive solution to the conflict hinges on the willingness of the government and the various ethnic groups.³⁷ Third, the participation of all companies in the oil sector would be necessary. This would eventually also lead to the much contested "level playing field" for all companies. However, the readiness to pool resources is limited. In addition, in Nigeria Shell was confronted with criticism that it has broken ranks with some of the other oil companies by being proactive in the human rights arena (Frankental, House 2000: 96).

Shell's behavior, its market position and its self-image were succinctly influenced by the emerging CSR norm. This norm requires TNCs to behave ethically responsible and to integrate social and environmental aspects into its core business activities. The internalization of the norm is complicated by its lack of specificity (Legro 1997: 34). A common ground on some core ingredients has been established, but further parts and guidelines are contested.

It has been analyzed that the transition processes are shaped by two triggers. In the early stages Shell's reaction was based on a cost-benefit analysis. Tactical concessions led to a process of self-entrapment and an ongoing dialogue with NGOs has evolved. In order to remain credible Shell had "to put its money where its mouth is". In the further development of the socialization process this purely rationalist logic was supplemented by a logic of appropriateness. Shell has begun to accept the CSR norm and engages in a number of initiatives on the local, national and global level.

The results suggest that both material interests and global norms, supported by ongoing TAN pressure can influence TNCs' behavior. Each of these factors has a stronger emphasis in a different phase. In fact both, the logic of consequence and the logic of appropriateness are necessary in order to coherently explain the gradual change of TNCs' behavior in conflict zones (see Snidal 2002: 80). In the beginning the fear of bad consequences trumps any developments of possible norm adoption or even internalization, but through ongoing interactions between the company and its stakeholders the logic of appropriateness may take over.³⁸ Fearon and Wendt speak of a developmental division between different ways of norm enforcement (Fearon, Wendt 2002: 62).

Transferring these results to other cases, as presented in the introduction, an application of the developed hypotheses seems promising. Unocal, an American company operating in Burma, is confronted by a TAN but has tried to reduce its vulnerability by selling its

³⁷ Shell stressed that TNCs operating in conflict zones are in serious dilemma brought about by a range of issues: law and order, security/ absence of security, poverty and other social problems. Moreover he asked the very valid question, whether this dilemma is appreciated and acknowledged by the developed world.

³⁸ In this context Shell made a very important point, that it might be possible, that international standards/ norms and the needs or demands of local communities are at variance. In this case it is very difficult for TNCs to achieve a balance.

downstream activities (gas stations). Only recently Unocal made first steps and started to defend its behavior in Burma. Taking BP Amoco in Colombia as another example, BP seems to be proactive in CSR issues. Compared to other cases, TAN pressure is rather moderate, but reputational concerns and CSR leadership seem to be particularly important to BP.

A preliminary look into the relevant literature indicates that many European companies take a more proactive and comprehensive approach towards CSR issues than American companies. Research on the influence of a home state on TNCs' behavior and state-TNC relationship might explain more variance in a company's approach than intuitively expected (Kollman, Prakash 2001; Pauly, Reich 1997).

Yet, the question remains whether there will be a point of no return. A point of no return would be reached when a company considers it a matter of course that it is important and necessary to reflect on its corporate social responsibility in conflict zones, no matter how intense the external pressure by NGOs or other stakeholders. Even if internalized, to a large degree the so-called soft issues such as human rights and environmental protection need constant pressure or support by social and/ or legal institutions. Applied to companies, this implies that either a national or international legal system imposes enough litigation risk, or, if this is not possible, that CSOs and stakeholder groups exert constant pressure. This is due to the fact that the norm socialization process is at such an early stage that many employees would hardly notice the closure or downsizing of CSR departments, which are still not well-positioned or not even established in most companies.

In addition to political risk from above or below, the market itself may exert enough pressure on a single company so that no company can evade a CSR movement that is gaining ground. At some point processes of emulation or isomorphism may step in, but even here the same battle between vulnerability and legitimacy takes place, following either the logic of the population ecology approach, that stresses the influence of competition, or sociological institutionalism, that emphasizes normative pressure and mimetic processes (DiMaggio, Powell 1983; Hannan, Freeman 1977; Hannan, Freeman 1984).

This theoretically informed case study has shown that a TNC in the extractive industry has started reflecting on its behavior and has made some headway. But it has also been demonstrated that without constant pressure by civil society organizations the CSR norm has only limited success. Critics may argue that only state regulation will be effective in the end, however it has to be kept in mind that public tasks will be never be carried out in its entirety by private actors. State regulation can at most advance the "do no harm" approach and not oblige private actors to engage in societal activities.

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