

If the misery of the poor be caused not by the laws of nature, but by our institutions, great is our sin.

Charles Darwin

Today's corporations are like big teenage boys. Unaware of the size of their bodies, they destroy things. Stomp, there goes a third world country. Sneeze, there goes the air quality for half the planet. Their consciousness hasn't caught up with their strength. It seems to me that it's time we get conscious of our strength and grow up. Let's really think through what it means to be a global company in a world where global companies, more than any other entity, are creating the future for the planet.

Barbara Waugh, Hewlett-Packard Labs Personnel Manager¹

The need of a constantly expanding market for its products chases the bourgeoisie over the whole surface of the globe. It must nestle everywhere, settle everywhere, establish connections everywhere.

Karl Marx and Friedrich Engels, *The Communist Manifesto*

Article 3 of the Universal Declaration of Human Rights states, 'Everyone has the right to life, liberty and security of person.' But this noble pronouncement runs smack up against the gospel of capitalism: 'Everyone has the right to a free-market economy.' The problem is, free markets don't have consciences, corporations can't really police themselves, and so loss of human life has become an acceptable by-product of business as usual.

Orion Magazine²

Business, that's easily defined - it's other people's money.

Peter Drucker

We decide what is possible when we choose how to describe the world, and what descriptions to embrace. We decide what is possible when we choose what to make visible and what to obscure. We decide what is possible when we choose which dreams we will allow to fade, and which to make real.

Brian Murphy³

¹ Cited in Lock-Hill, 1999:88

² Editorial

³ 2005: 3

University of Alberta

Creating Fragile Dependencies: Corporate Social Responsibility in
Canada and Ecuador

by

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in partial fulfillment of the requirements for the degree of

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Department of Sociology

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DEDICATION

This dissertation is dedicated to my family:

my children, Jennifer and Justin,

their partners James and Stephanie

and

my best friend Peter.

ABSTRACT

Discussion around the concept of Corporate Social Responsibility (CSR) re-intensified in the 1990s as a response to the increasing power of large corporations, the regulatory vacuum left by neoliberal market deregulation and the changing nature of the state in the context of globalization. This dissertation analyzes the constitution of CSR, grounded in political economy and situated in the context of globalization, and identifies CSR as a constitutive element of global governance. Claims made about the potential business contribution to social and economic development in developing regions are largely unsubstantiated and little is known about the impact of CSR on the people it is supposed to benefit. Mainstream literature strips CSR from its context and assumes that practice can be standardized and the results quantified. The qualitative case study analyzes the contextual practice and impact of CSR activities by EnCana Corporation, Canada's largest independent oil and gas company, on Indigenous peoples and settler communities in Ecuador, and on the Dene Tha' First Nation in Canada. Analysis of EnCana's definition and implementation of CSR reveals a conflicting narrative, attempting to reconcile competitive capitalism with broad moralistic principles and ethics. Corporate culture prioritized the business case and the assumption that triple bottom line goals are compatible and mutually reinforcing. Findings from the case study demonstrate that corporate ideology remained constant across the company's operations in the two countries, allowing adaptation of its CSR practices only within a certain range of possibilities. The case study provides evidence that EnCana Corporation had to adapt its CSR practice in response to specific articulations of local social-economic and political contexts. Specifically, CSR practices responded first, to national development goals and state capacity; and second, to Indigenous and communal resources and

strategies. The findings further suggest that CSR practice creates fragile dependencies, subjecting social, ecological and social justice objectives to economic imperatives. Two important processes contribute to the creation of fragile dependencies. First, at the business-society interface, citizens are conceptualized as stakeholders; second, participation in decision-making becomes institutionalized as a limited form of consultation, often delegated to project proponents, without sufficient involvement of the state.

KEYWORDS: corporate social responsibility, CSR, Indigenous peoples, fragile dependencies, contextuality, FPIC, Dene Tha' First Nation, Siona-Secoya, EnCana Corporation.

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List of Abbreviations

ACR	Alberta Chamber of Resources
AEC	Alberta Energy Company
AEUB	Alberta Energy and Utilities Board
AT&T	American Telephone & Telegraph
BASD	Business Action for Sustainable Development
BCSD	Business Council on Sustainable Development
BSR	Business for Social Responsibility
CA	Community Affairs
CA	Corporate Accountability
CAPP	Canadian Association of Petroleum Producers
CBCA	Canadian Business Corporations Act
CBSR	Canadian Business for Social Responsibility

CDCAC	Canadian Democracy and Corporate Accountability Commission
CDES	Centro de Derechos Económicos y Sociales
CEFD	Canadian Ecuadorian Fund for Development
CEO	Corporate Executive Officer
CERES	Consortio Ecuatoriano para la Responsabilidad Social
CIDA	Canadian International Development Agency
CONAIE	Confederation of Indigenous Nationalities of Ecuador
CONFENAIE	Confederation of the Nationalities Indigenous to the Amazon of Ecuador
CP	Canadian Pacific Ltd.
CRO	Community Relations Officer
CR & HE&S	Corporate Responsibility and Environment, Health & Safety
CSO	Civil Society Organization

CSR	Corporate Social Responsibility
DFAIT	Department of Foreign Affairs and International Trade
DFID	Department for International Development
DTFN	Dene Tha' First Nation
EHS	Environment, Health, Safety
EHS&CA	Environment, Health, Safety & Corporate Accountability
EMPRESA	Responsabilidad Social Empresarial de las Américas
EnCana	EnCana Corporation
EIR	Extractive Industries Review
FDA	Frente de Defensa de la Amazonia
FDI	Foreign Direct Investment
FEPP	Fondo Ecuatoriano Populorum Progressio
FNP	Fundación ÑanPaz

FOCAN	La Federación de Organizaciones Campesinas de Aguas Negras
FPIC	Free, Prior and Informed Consent
GDP	Gross Domestic Product
GIS	Geographic Information System
GNI	Gross National Income
GPS	Global Positioning System
GRI	Global Reporting Initiative
IDB	Inter-American Development Bank
ILO	International Labour Organization
IMF	International Monetary Fund
INAC	Indian and Northern Affairs Canada
IOGC	Indian Oil and Gas Canada
ISIS	Institute for Science and Interdisciplinary Studies

MBPP	Major Business Projects Program
MNC	Multinational Corporation
MNE	Multinational Enterprise
MSD	Multi-Stakeholder Dialogue
NADC	Northern Alberta Development Council
NGO	Non-Governmental Organization
NRTEE	National Roundtable on the Environment and the Economy
NYSE	New York Stock Exchange
ODA	Official Development Assistance
OCP	Oleoducto de Crudos Pesados
OECD	Organisation for Economic Co-operation and Development
ONISE	Organización de la Nacionalidad Indígena Siona del Ecuador
OISE	Organización de Indígenas Secoya del Ecuador

OISSE	Organización de Indígenas Siona –Secoya del Ecuador
PWC	Price Waterhouse Coopers
RBA	Rights-Based Approach
SCFAIT	Standing Committee on Foreign Affairs and International Trade
SRI	Socially Responsible Investing
TLUOS	Traditional Land Use and Occupancy Study
TNC	Transnational Corporation
TSX	Toronto Stock Exchange
UN	United Nations
UNCTC	United Nations Centre on Transnational Corporations
UNDP	United Nations Development Programme
UNCTAD	United Nations Conference on Trade and Development
UNRISD	United Nations Research Institute for Social Development

WBCSD World Business Council for Sustainable Development

WEF World Economic Forum

WSSD World Summit on Sustainable Development

WTO World Trade Organization

CHAPTER 1

Where there is great profit, there is great cost.

Luis Merino, Tarapoa, Ecuador (2006:139).

Introduction

At the time of writing, oil is gushing from a damaged well in the Gulf of Mexico at a rate of from 5,000 to 75,000 barrels per day. The massive oil spill threatens to be the largest environmental disaster in the history of the United States. Over the last decade BP Plc, the owner of the well, had spent up to US\$125 million annually on its corporate social responsibility (CSR) campaign, became a member of the United Nations' Global Compact and presented itself as an exemplar of responsible corporate citizenship. Current corporate conceptions of CSR and corporate citizenship advance the idea of voluntary action on environmental and social issues, beyond legal requirements. As recently as 2007, Fortune Magazine, the Accountability organization and CSR Network ranked BP first in its global rankings of accountable corporations (Demos, 2007).

Since rebranding itself from British Petroleum to Beyond Petroleum—complete with a blooming flower logo—BP has had a few CSR “setbacks” (Nelgadde, 2010). In March 2005 fifteen workers were killed in an explosion at a Texas City refinery; in 2007 the company settled on charges of price fixing in the propane gas market; and in 2006 it had to shut down a section of its Alaskan pipeline and production in Prudhoe Bay, Alaska, following a leak due to pipe corrosion. All of which had Robert Reich charging that “BP is the poster child for PR (public relations) masquerading as CSR” (May 17, 2010

<http://www.csmonitor.com/Money/Robert-Reich-s-Blog/2010/0517/Why-BP->

[won-t-pay-for-full-Gulf-spill-clean-up](#)). U.S. President Barack Obama blamed the oil spill on “a breakdown of responsibility” at BP (Edmonton Journal, May 23, 2010 A4).

The Gulf oil spill was preceded by a global near-collapse of the financial system, massive government bailouts of banks and financial institutions, followed by a widespread recession. According to the Financial Post “[T]he nightmare in the Gulf of Mexico is the energy version of what happened on Wall Street” (May 28, 2010). Mat Taibbi of Rolling Stone magazine described Goldman Sachs, a global investment banking and securities firm and the focus of much criticism directed at the financial system, as “a great vampire squid wrapped around the face of humanity, relentlessly jamming its blood funnel into anything that smells like money” (13 July, 2009).

Both the financial crisis and the BP Gulf oil disaster underlined that voluntary CSR mechanisms, replacing and preventing regulatory initiatives, do not work. CSR appears to not have had a substantial impact on corporate behavior. “The notion that capitalism can depend on the private market and abnegate public power is now as bankrupt as Lehmann Brothers” (Rheannon, 2010). John Elkington, described by Business Week as a dean of the corporate responsibility movement for three decades and well-known author of the concept of the ‘Triple Bottom Line,’ wondered whether BP had “ended the CSR era” (May 28, 2010, http://www.johnelkington.com/journal/journal_entry.asp?id=417).

Were the above examples simply instances of corporate irresponsibility? The result of ‘greed’, the actions of bad people, or the failure of ethics? Business Week quotes University of Kansas finance professor Bittlingmayer saying that the originators of subprime loans were not necessarily bad people, rather “[t]hey were doing what the system was asking them to do” (Steverman and Bogoslaw, 2008). Corporations conduct their business in particular structural settings. The ideology

of neoliberal capitalism suggests that the free market system is able to, not only voluntarily regulate itself, but to contribute to the solution of social, developmental, and environmental problems. However, the purpose and structure of the corporate institution limit what can be expected. The profit-maximizing and non-democratic nature of large corporations renders them inherently incapable of prioritizing social and environmental interests (McMillan, 2007; Waddock, 2007). The current constitution of capitalist corporations allows them to externalize many costs and disregard the true consequences of their actions.

During the last decades of the twentieth century, failure at various national and international levels to restrain corporate power increasingly focused attention on the lack of legitimacy and democratic accountability of business interests. Global protests against the neoliberal capitalist model focused on the ways corporations profited to the detriment of the environment and societal interests. In response, an expanded conception of CSR emerged as a normative modification to the free market system and as a conscious attempt by business to forestall international regulation and state intervention in the market.⁴ Sadler and Lloyd note that it is no coincidence that institutional activity on CSR is most prevalent in the U.K. and the United States, the two countries that “remain at the forefront of neoliberalism” (2009:615). Take-up of CSR allowed business to portray itself as a contributor to solutions leading to sustainable development.⁵ It further served as a legitimation and justification of corporate power.

⁴ I use the term ‘corporate social responsibility’ (CSR) to refer to a cluster of concepts that include corporate responsibility, corporate responsiveness, business ethics, business social responsibility and corporate citizenship.

⁵ I use ‘business’ as a shorthand to refer to capitalist “commercial enterprises organized and financed on a scale large enough to influence social and political policies.” Accessed July 12, 2009 at wordnetweb.princeton.edu/perl/webwn

At the heart of my inquiry are underlying questions regarding the structural limitations on business to act in socially responsible ways and the conviction that neoliberal capitalism is not the best available model to address serious global challenges. Mainstream literature strips CSR from its context and assumes that practice can be standardized and the results quantified. Approaches are top-down, conceptualizing CSR as an activity responding to ‘needs’ identified by selected stakeholders, but ignoring the agency through which affected populations receive, modify or reject global capitalist forces. From this perspective, sustainable outcomes and attainment of local objectives are unlikely to result from the ‘win-win’ scenarios put forth by business, governments and international institutions.

When I first started my research, finding a relevant literature was difficult. Most writing on CSR was found in theories of business ethics and management literature. Much of this literature concerned itself with stakeholder relations and identification; analysis of the relationship between CSR and corporate financial performance; business ethics; implementation and measurement; and arguments for and against CSR as management practice (Cheney, Roper and May, 2007).

CSR was variously portrayed as a way of re-aligning capitalism with social progress, putting a ‘human face’ on globalization, or as “a kind of public relations whipped cream decorating the corporate pudding” (Bellah et al., 1985:290, cited in McMillan, 2007:23). Around 2005, critical academic writing on CSR and the assumptions made in mainstream literature emerged, much of it focused on CSR practices that have specific development aims and implications (see for example, O’Faircheallaigh and Ali, 2008; May, Cheney and Roper, 2007; North, Clark and Patroni, 2006; Blowfield, 2005b; Blowfield and Frynas, 2005).

A formal and universally accepted definition of corporate social responsibility has yet to emerge; in fact a 2006 study by Dahlsrud analyzed thirty-

seven definitions. Votaw remarked that “the term [social responsibility] is a brilliant one; it means something, but not always the same thing, to everybody” (1973; cited in Jonker and Marlberg, 2007:108). The period from the 1950s to today has seen uneven but continuous development of CSR initiatives (see chapter two).

One of the most widely used definitions comes from the European Commission’s Directorate General for Employment and Social Affairs: “CSR is a concept whereby companies integrate social and environmental concerns in their business operations and in their interactions with their stakeholders on a voluntary basis” (cited in Blowfield and Murray, 2008:13). My own preference is with Scheffer’s definition, defining CSR as “a company’s duty beyond the technical requirements of national laws and regulations to comply with global principles of human rights, fair labour, environmental protection and corruption-free management” (Scheffer, 2010). The first definition is centred on the corporation and its discretionary voluntary actions. Scheffer’s definition understands CSR as a duty and refers to globally recognized principles.

The rise of CSR in the 1990s as a global concern follows historical conceptions of the role of business in society and responsibilities to the broader society. As I will show in chapter two, this role changes in response to broader political-economic contexts and evolves over time. Discussion around the concept of corporate social responsibility re-intensified in the 1990s as a response to the increasing power of large corporations, the regulatory vacuum left by deregulation and the changing nature of the state in the context of globalization (Lock, 2006). The debate on CSR now is more global in outlook and—in the sixth generation of CSR (chapter two)—includes references to development, the environment and human rights. A renewed focus on the responsibilities of corporations gained considerable prominence, with the blessing of many

governments, international organizations—particularly the United Nations—and many civil society organizations.⁶ Public alarm over the ecological and human consequences of multinational enterprise operations grew alongside a proliferation of corporate voluntary codes of conduct and industry initiatives promoting CSR, reflecting a broader trend towards non-state standard setting and private regulation (see chapter two).

CSR and tri-sector partnerships entered into national and international discourses as key approaches to the solution of global challenges, including poverty, the environment, population challenges and globalization (see, for example WBCSD 2006; Blowfield, 2005a; Monbiot, 2005; Utting and UNRISD, 2004; World Bank 2002). Under the banner of corporate social responsibility large corporations have increasingly positioned themselves as direct providers of social services through privatization, and as ‘partners’ in poverty alleviation and development, shaping business relations with the rest of society at multiple levels and altering structural and institutional relationships. This has altered the role of the state, accompanied by an increased reliance on corporate action in the public realm (Sadler and Lloyd, 2009; see chapter two).

Can business, specifically large capitalist corporations, contribute to development? This is the question that has arisen in academic literature on corporate social responsibility and its relation to development issues (e.g. Barkemeyer, 2009; Idemudia, 2008; Fort, 2007; Blowfield, 2005b; Blowfield and Frynas, 2005; Newell, 2005a). If the answer to this question could possibly be ‘no’, or even ‘maybe’, it seems to me that we need to rethink the way we do

⁶I use ‘civil society’ in the Gramscian sense referring to “the realm of autonomous group action distinct from both corporate power and the state” (Cox, Robert W. 1999:10; 59 Martinussen, John 1997).

things. If large corporations do not contribute to development, however understood, then why should such organizations exist?

Essentially, debates around CSR are concerned with the role of business in society and the legitimation of the corporation as the main economic institution in the global economy. Questions regarding the responsibilities of corporations are intricately tied to the larger context of corporate-led global capitalism, placing the subject within the theoretical field of political economy, a discipline concerned with a set of questions about the relationships between states and markets, politics and economics, and relations of power between societal groups (Blowfield, 2005a). Thus, Charles S. Mayer suggests that a political economy approach considers the sociological and political premises of economic behaviour and ideology (1987).

Michael Blowfield argued in a 2005 article that the study of CSR warranted “being considered as a discipline because there is an emerging coherent body of knowledge addressing a central theme, i.e. the relationship between business and the wider society” (2005a:174). At the same time, he argued, CSR was a “failing discipline”, because it provided only a “functional level critique” of many of its own “assumptions, prejudices and limitations” and had yet to develop the “means for internal critique” (p. 173, 174). Cloud’s understanding of CSR similarly pays attention to power relations and the political nature of business:

The capitalist firm is not a moral entity but rather a political one; it is materially invested in perpetuating necessarily unequal relations of power, both internal and external. Thus critics of CSR must concern themselves with politics, moving from a discussion of ethics and responsibility to a discussion of justice. This shift poses a new challenge: to imagine and create a different kind of world entirely (2007:229).

An alternative framework to understand CSR, Blowfield reasoned, needs to be grounded in political economy and critical globalization accounts.

Objectives and Structure of the Dissertation

This dissertation has two objectives. First, to construct a critical political economy approach to the corporate social responsibility field that pays attention to locations and expressions of power, structural limits or potentials, and the social construction of values and ideologies. A critical conceptualization of CSR is important for understanding international relations, governance, power and ethics, and the globalization project. The political economy framework constructed in chapter two conceptualizes CSR primarily in terms of its place and meaning in the international system. Drawn from diverse literatures, the chapter first traces the history of CSR, identifying six generations evolving in response to broader political and economic contexts. Secondly, this chapter identifies emerging notions of ‘global governance’ and identifies CSR as a constitutive element of governance at the global level. I argue that the term ‘governance’ is inextricably tied to neo-liberal globalism and that its goal is the accommodation and articulation of conflicting interests, setting a framework for action, and selection of actors involved in governance. Self-regulated activity beyond the state has broadened the range of actors involved in governance to include business and civil society organizations. I further examine the discourse surrounding CSR, which reveals an important field of political contestation. Differences emerge from strongly held underlying ideologies that are informed by beliefs around political possibilities within a capitalist political economy. Finally, I turn to the critique of CSR, which I approach by examining the responsibilities taken up by business actors, and the silences and gaps in the debate around the responsibilities of the private sector.

The second objective of the dissertation took the form of a case study on the on-the-ground impact of CSR practices in developing regions. I approached the case study from a critical perspective, incorporating political, ideological and structural conditions identified in the political economy framework in chapter two. The study intends to contribute to knowledge about the ‘on-the-ground’ practice of CSR and its tangible impact on host communities. Claims made about the potential business contribution to social and economic development in developing regions are largely unsubstantiated and little is known about the impact of CSR on the people it is supposed to benefit. Furthermore, the practice of corporate social responsibility is mostly told from the corporate perspective. Corporations establish codes of conduct and then report on what has been done, the outcomes of corporate practice and the metrics by which such outcomes are quantified. Lacking in these accounts is an articulation of the perspectives of the intended beneficiaries of CSR activities (Idemudia, 2008; Blowfield, 2007).

Of specific interest in the case study are relations between corporations and Indigenous peoples in developing regions and the development implications of CSR. The case study analyzed the practice of CSR by EnCana Corporation—Canada’s largest independent oil and gas company—and its interactions with Indigenous peoples in two developing regions: north-western Alberta, Canada and north-eastern Ecuador. I also analyzed EnCana’s CSR activities related to community development efforts in settler communities in Ecuador. EnCana Corporation epitomizes the Canadian multinational resource-extraction corporation and questions regarding accountability across national jurisdictions. The company has a corporate code of conduct, and Aboriginal relations policy and a corporate constitution setting out a set of “shared moral principles” (EnCana Constitution, 2003). Since 2004 the company has published annual CSR reports.

Increased attention paid to the local impacts of globalization includes increasing scrutiny of corporate relations with Indigenous peoples. Companies find themselves faced with a growing body of international and national legal and normative instruments pertaining to the rights of Indigenous peoples. Although these vary widely from country to country and are not always upheld consistently, Indigenous peoples themselves assert their rights and are prepared to take legal and political action to defend them (Partnerships for Change, no date).

The International Labour Organization's Convention 169—incorporated into Ecuador's constitution—is often cited by Indigenous Peoples themselves as a benchmark for acceptable treatment. In Canada, the Canadian Charter of Rights and Freedoms and the Constitution Act of 1982 recognize that existing treaty and Aboriginal rights include certain rights of a collective nature. Although these rights have yet to be fully defined, the courts have confirmed rights to adequate consultation, consent to proposed activities and rights to land (Canadian Human Rights Commission, no date). Failure by corporations to understand collective rights, requirements regarding consent and consultation with Indigenous peoples could be quite costly for companies and can lead to significant reputational, and possibly legal, liabilities.

The literature review in chapter three identifies the theoretical framework used to analyze the contextuality of the practice of CSR in developing regions. First, I discuss the 'doctrine of domicile' which states that adaptation of corporate behaviour in different contexts is bounded by the norms and values existing in a corporation's home country. According to this theory, EnCana's CSR practices would vary only within a narrow range, reflecting particular cultural, political and ethical values. The second theoretical framework for the analysis of the case study, contingency theory, proposes differential outcomes resulting from specific articulations of local socio-economic conditions. An important factor leading to

variable outcomes is the agency of different actors and the degree to which they are able to influence the course of events.

A key missing parameter within the contingency perspective is the issue of consultation, or ‘free, prior and informed consent’ (FPIC). Contingency theory attempts to identify contextual factors that will allow local actors to influence capitalist activities only after the activity has commenced. From this perspective it is thought that the practice of CSR will somehow transfer some control and bring benefits to Indigenous in the same manner it is assumed to bring benefits to host communities everywhere. Instead, contemporary struggles over extractive industry projects on Indigenous lands must be understood as disputes over Indigenous control of resources and the right of Indigenous peoples to control the direction of their lives. Adding the element of FPIC to contingency theory directs attention to the requirement to engage in consent processes with Indigenous peoples directly affected by projects with a view to obtaining their free prior and informed consent. Such negotiations reveal CSR as an ongoing political contest over the meaning of sustainability, development and self-determination.

Following a framework set out by Garvey and Newell (2006) on the development implications of CSR, the second section of chapter three identifies contextual factors important to the range of outcomes resulting from CSR practices. More specifically, contextual factors affecting the outcomes of CSR practices are divided in three clusters: one, country/region specific factors; two, industry specific factors; and three, community specific factors. Within each cluster contextual factors relate to historical, political-economy, institutional and culture-ideological aspects. Broadening the section on institutional factors, I include a discussion of ‘consultation’ and how it is legally and commonly understood in each region. In addition, I briefly ascertain the institutional context of CSR in each country/region.

The research sought to understand contextual factors that affect the practice of CSR in developing regions. Questions guiding the research were:

1. How does EnCana Corporation define, practice and implement its corporate social responsibilities related to community development in developing regions and what are the outcomes of this practice?
2. Are CSR practices and outcomes different across the two locations and if so, what are the contextual locations of this difference?
3. From the perspective of communities affected by oil and gas extraction activities, what strategies and mechanisms are available to them to hold corporations to account and gain desired outcomes?
4. Does the practice of CSR advance sustainable development?

I approached the qualitative case study from a critical theory perspective, allowing me to study the subject of CSR as a political and ideological struggle over meaning, and as a way to uncover structures that control and restrain human action. Chapter four describes the methodological underpinnings of the study and provides a justification and description of this particular methodological approach. Data for the study were derived from fieldwork in north-western Alberta among the Dene Tha' First Nation and fieldwork in Ecuador among the Siona-Secoya Indigenous peoples and settler communities in EnCana's immediate field of operations. I conducted a total of sixty-three open-ended interviews, and spoke to twenty-two additional people during a guided tour of EnCana's community development projects. Additional data came from letters, minutes of meetings, press releases, reports, policy statements, memos, court documents and documentation submitted to government agencies. Extensive information on EnCana Corporation was found on the corporate website, in annual reports and from press reports. Analysis of the data was inductive and focused on developing themes from the raw data into a framework that identified key themes and

processes. Following the precepts of the extended case method, the analysis included social, cultural, political, economic and ideological structures and mechanisms, situating the case study within the widest relevant social field.

The findings of the case study are presented in three parts. Chapter five relies on evidence from corporate documentation and publicly available reports to firstly, construct a general profile of EnCana Corporation, and secondly, a CSR profile based on the company's constitution, code of conduct and Aboriginal engagement policy. An analysis of EnCana's internal corporate ideology relies on published speeches by Gwyn Morgan, the company's president and CEO, and public documents. EnCana's model of social responsibility is voluntary and strongly grounded in the business case, which views CSR as a practice that is good for business and adds value. While the business case promotes the rhetoric of sustainable development, ultimately the boundaries of the social responsibility of business are restrained by the economic limits of the market. As Jones points out, CSR equates with good business practice and thus becomes "redundant and unnecessary" (1996:63). Analysis of EnCana's definition, practice and implementation of CSR reveals a dual and conflicting narrative, attempting to reconcile competitive capitalism with broad moralistic principles and ethics. Confirming the doctrine of domicile, corporate ideology remained constant across the company's operations in the two countries of the case study, allowing adaptation only within a certain range of possibilities.

Chapters six and seven address the outcomes of EnCana's practice of CSR. Chapter six discusses EnCana's relations with the Dene Tha' First Nation in north-western Alberta. Chapter seven presents the findings of EnCana's interactions with the Siona-Secoya Indigenous peoples and settler communities of north-eastern Ecuador. Each chapter begins with a profile of the respective First Nation and chapter seven adds a profile of the colonist community in Ecuador.

Both chapters are narrative presentations of the multiple perspectives present in the field and the multiple storylines found in the data. Corporate, community and NGO narratives presented polarized accounts of EnCana's practice and the impacts of CSR initiatives.

Chapter eight presents the conclusions and implications of the research. EnCana corporation had to adapt its CSR practices in response to location-specific factors. This confirmed contingency theory's thesis of differential outcomes resulting from specific articulations of local socio-economic conditions. Specifically, EnCana adapted its CSR practices, first, in response to national development goals and state capacity, and second, as a response to community resources and strategies.

My findings further suggest that CSR practice creates fragile dependencies. By this I mean that CSR maintains and reinforces the social disembeddedness of the corporation and subjects social, ecological and social justice objectives to economic imperatives. I argue that fragile dependencies are created by two important processes. First, at the business-society interface, citizens are conceptualized as stakeholders; second, participation in decision-making becomes institutionalized in a limited form of consultation, often delegated to project proponents, without sufficient involvement or oversight from the state.

Chapter eight further identifies a human rights approach to CSR as a promising area for further study. A reconceptualization of CSR as a human rights issue could redirect the debate towards alternative approaches to ensure the rights of people(s)—Indigenous and other—versus the rights of corporations.

Significance of the Problem

Analyzing the practice of corporate social responsibility as a political contestation over the meaning of development and self-determination provides a distinctly different perspective from the mainstream literature on CSR. The atheoretical, apolitical and instrumental nature of the literature limits analysis of corporate interrelations with affected communities to operational and measurement issues. CSR is presented as a voluntary measure undertaken by corporations to manage risk, protect reputation and add value.

This study contributes, first of all, an analysis of CSR within the framework of political economy and globalization theory, an approach advocated by Blowfield (2005a). The analysis offers insight into the operation of power at the global level, and the insertion of business interests into global governance. It interrogates unquestioned assumptions in the CSR mainstream literature and provides a structural analysis of the role of business in society.

Secondly, the case study contributes knowledge about CSR impacts on Indigenous peoples in Canada and Ecuador and settler communities in Ecuador, and claims about business contributions to development in developing regions. The study not only examines EnCana's corporate perspective on CSR, but includes the perspectives of the intended beneficiaries of CSR activities. A number of comparative studies on extractive resource industries and their relations with Indigenes have been done, but comparisons have focused on industry activities in low-income countries (see for example Sawyer and Gomez, 2008; Korovkin, 2003; Steyn, 2003). Similarly, the activities of NGOs have primarily focused on industry and the Canadian mining presence in low-income nations, coupled with concerns about the Canadian government's lack of regulation of Canadian companies abroad (see for example Government of Canada, 2007; North, Clark and Patroni, 2006).

This study investigates two communities, one in Canada and one in Ecuador. The analysis of the relations between one oil and gas company and Indigenous peoples in a high-income country and a low-income country is unique. Accordingly, the study makes a contribution to understanding the influence of contextual factors on the practice of CSR both at home and abroad. EnCana's Dick Wilson, special advisor to the president, agreed that research in "two geographical contexts and one company would help provide perspectives on meeting significantly different challenges in the upstream sector of both environments" (Personal communication, June 20, 2003). The study augments our understanding of political struggles in different locations, first, the processes whereby local communities and groups act to hold corporations accountable and attempt to gain benefits suitable to their own development goals; and secondly, the important role of government.

CHAPTER 2

A CRITICAL POLITICAL ECONOMY CONCEPTUALIZATION OF CORPORATE SOCIAL RESPONSIBILITY

Introduction

The purpose of this chapter is to synthesize literature from a diverse number of sources to construct a critical sociological theoretical approach to the corporate social responsibility field that pays attention to locations and expressions of power, structural limits or potentials, and the social construction of values and ideologies. The issue of corporate social responsibility cannot be considered in isolation. The array of debate and activity undertaken under the CSR banner denotes an influential ideology with significant material, social and environmental effects. Essentially, the debate surrounding the responsibilities of corporations is intricately tied to the larger context of corporate-led global capitalism, placing the subject within the theoretical field of political economy, a discipline concerned with a set of questions about the relationships between states and markets, politics and economics, and relations of power between societal groups (Blowfield, 2005a).

Corporate social responsibility is a broad, dialectical concept. Corporate social responsibility (CSR) is related to and embedded in notions of business ethics. Corporate codes of conduct and voluntary initiatives are an outgrowth and consequence of the demand for ethical business practices and CSR. I treat these concepts as part of the same set of questions under the rubric of CSR. In the most general terms, CSR relates to the voluntary self-regulation of business activities.⁷

⁷ While I use the term ‘business’ throughout this section as constituting an unproblematic homogeneous entity, this is not to deny the fact that corporations themselves are arenas of conflict, cooperation and power relations, nor that corporations among themselves compete and cooperate in many different ways.

At a deeper level of analysis, debates around CSR are concerned with the role of business in society and the legitimation of the corporation as the main economic institution in modern societies. Taken to the systemic level, however, questions arise on how the logic of extended corporate responsibility for complex social and environmental problems coheres with the logic of a capitalist, global economic system.

A literature review for a study of this nature must necessarily draw from a range of disciplines and perspectives; these include: management studies; business ethics; globalization studies; and development studies. As a practice-based field of study, the debate related to CSR is not necessarily found solely in the academic literature. Included in this discussion are the constantly moving and evolving conceptions and arguments surrounding CSR generated in international institutions, business and government circles, and civil society organizations. The review and theoretical presentation is divided into five sections. The first section presents a brief history and identifies six generations of CSR. The rise of CSR as a global concern follows historical conceptions of the role of business in society and responsibilities to the broader society. As I will show, this role changes in response to broader political-economic contexts and evolves over time.

Section two examines the changing state-market relationship in the context of neoliberal globalization. I begin with the question of how state-market relations are presented in the globalization literature and then broaden this inquiry to the role of business participation in evolving practices of 'global governance'. I conclude this section by presenting CSR as a constitutive element of the enactment of 'global governance.'

Discourse regarding the potential or limitations of CSR marks it as an important field of political contestation, with differences emerging from strongly held underlying ideologies that are informed by beliefs around political

possibilities within a capitalist political economy. The third section focuses on the discursive formation of CSR and I argue that CSR can be understood within three frames: the 'property rights' frame, the 'business case' frame and the 'governance' frame.

In the fourth section, I turn to the critiques of CSR, which I approach by asking which responsibilities are taken up by business, and which responsibilities are not taken up under the rubric of CSR. An understanding of the silences and gaps in the CSR debate identifies values that business considers negotiable or non-negotiable. Non-negotiable values reveal a series of rights that are granted to business interests by default. The fifth and final part of this chapter, discusses remaining critical questions related to the responsibilities of the state.

To understand CSR it is necessary to place the ideological origins and current meaning of CSR within the framework of the global political economy. However, analyses of ideologies and discourse, while necessary, do not suffice to understand the actual practice of CSR in specific spaces where global capital flows touch down. This is of specific concern in developing regions, the subject of the case study. While questions regarding the operations of transnational corporations beyond national boundaries have generated a long-standing debate, only since the mid-2000s have these questions begun to be asked about CSR practices that have specific development aims and implications.

Chapter three will identify theories to analyze the case study and review literature on CSR in developing regions. The chapter will further establish the background and context of the case study.

*A brief history of corporate social responsibility*⁸

Current meaning of CSR

A formal and universally acceptable definition of corporate social responsibility has yet to emerge. In a broad sense it is the ethical behaviour of a company towards society (WBCSD, 1998). Many business advocates acknowledge that the demand for CSR is a necessary “price to pay” for reduced taxation, fewer trade barriers, and economic liberalization (Coles and Murphy, 2002). Business representatives express their understanding of CSR as a series of requirements that they ‘consult widely with all stakeholders’ and ‘earn a social license to operate.’ Interestingly, this way of framing the issue constitutes an acknowledgement that the continued existence of a business depends on societal consent to achieve legitimacy, a proposition not applied in a literal or legal sense. The Canadian Democracy and Corporate Accountability Commission (CDCAC) considers the term most useful when it describes instances where “companies respond to interests in addition to those of their shareholders”. Obligations of companies must include “human rights, environmental concerns ... (and) the interests of employees, suppliers, customers and communities” (2002:i). In a more critical vein, the development aid organization Christian Aid defines CSR as “an entirely voluntary, corporate-led initiative to promote self-regulation as a substitute for regulation at either national or international level” (2004:5). I understand CSR and codes of conduct as a result of the reorganization of power, and as an area of political contestation, rather than a solution to problems created by the conduct of corporations, or the negative consequences of neoliberal global capitalism (see also Jenkins, 2001).

⁸ Parts of this section are drawn from a book chapter, published in 2006 (Lock).

Responsibilities of business in history

Historically, questions regarding the conduct of businessmen and merchants can be traced back as far as ancient Greece (Hetzner, 1997). Braithwaite and Drogas trace the conceptual legal framework of globalized business regulation to ancient Rome and medieval Western Europe (2000). A continuous renegotiation of the division of roles and responsibilities between the state, business entities and civil society⁹ has taken place since then. More recently, periods when business-society tensions reached the boiling point were in the 1890s and the 1920-30s (Levy and Egan, 2000). Towards the end of the nineteenth century and following a wave of mergers, business suffered a major legitimacy crisis and concerns mainly focused on the size of corporations. Large corporations responded with rhetoric that presented them as “friends and neighbours” (AT&T) and “family” (General Motors) (Bakan, 2004:18). In the 1930s, the belief that business greed and mismanagement had caused the Great Depression led to Franklin D. Roosevelt’s “New Deal”, partly designed to curb the power of corporations, “prompting a small group [of business leaders] to plot a coup to overthrow the Roosevelt administration” (Bakan, 2004:20).

The state exercised a formative role in early Canadian enterprises from the beginning (Marsh, 1988). Thematic histories of Canadian business portray the business community as an all-powerful upper stratum of Canadian society (see *inter alia* Peter Newman, 1975 and 1982; Wallace Clement, 1975 and R.T. Naylor, 1975).

⁹ I use ‘civil society’ in the Gramscian sense referring to “the realm of autonomous group action distinct from both corporate power and the state” (Cox, 1999:10; Martinussen, 1997).

The modern era of corporate social responsibility

The modern era of corporate social responsibility begins, according to some, in the 1930s with Berle and Means' classic work demonstrating the separation of ownership and management. If corporations were to retain their legitimacy, the authors argued, managers had to serve the interests of society as a whole, not just their absentee owners (1932). Archie Carroll, a prominent writer on CSR, places the beginning of the modern era of CSR in the 1950s, with Harold Bowen's influential work, *Social Responsibility of the Businessman* (1999).

The chart in table 1 traces six generations of CSR, the first five adapted from Mendes and Clark and modified from other sources, and an added sixth generation, starting in the late 1990s (Mendes and Clark, 1996). Periodization of the generations is not exact and overlaps, but may be roughly conceptualized by decade, starting with the 1950s. The first generation of CSR evolved from the 1950s onward and was hastened by a wave of public and business scandals in the US and abroad in the 1960s and 1970s, leading to the study of business ethics in universities and academic writing on the social responsibilities of corporations. Up to this point responsibility did not extend beyond the corporation itself and the rationale was to protect the company from the behaviour of its employees (Davis, Whitman and Zald, 2006).

Beginning with the second generation of CSR, the understanding of corporate responsibilities progressively incorporates broader public interests. The responsibility question flared up again in the 1960s with the expansion of international business, and the accompanying problems of dealing with corruption in foreign countries and business involvement in bribery and kickback schemes.

From the 1960s onward, broad public coalitions called for business withdrawal from South Africa to protest the apartheid regime, resulting in the formulation of the Sullivan Principles. Corporate responsibilities now included

Six Generations of CSR

Approximate dates	Catalyst(s)	Issues	Extent of CSR	Stakeholders	Business Rationale
1 st Generation 1950s	Wave of public and business scandals in the U.S. and abroad	Conflict of interest	Employees should obey laws and act exclusively in the company's interests	Shareholders	Protect company from the conduct of its employees
2 nd Generation 1960s	Expansion of international business; South Africa anti-apartheid campaigns	Commercial conduct in foreign countries (bribery; kickbacks)	Dependent on host country's willingness to enforce laws	Includes reputation of home government	Protect reputation; ensure fair competition
3 rd Generation 1970s	Ethical consumerism; campaigns and boycotts (e.g. child labour, working conditions in South); Legislation treats companies as instruments of public policy	Worker and other 3 rd party interests; Workplace safety and discrimination; product quality and safety	Corporation has obligations to workers, customers and suppliers; uncertain about employees abroad or behaviour of subcontractors	Employees, customers, suppliers	Motivated workforce; satisfied customers; improved supplier relations
4 th Generation 1980s	Bhopal, Exxon Valdez and Chernobyl	Environmental disasters; affected communities	Proximate communities; Environmental responsibilities	Extended to community and natural environment (some include indigenous populations);	Reduce legal liability; maintain corporate image
5 th Generation 1990s	Globalization Neoliberal practices Deregulation and privatization 1987 Brundtland Report Rio Earth Summit 1992	Corporate power; subjection of social and environmental values to corporate rights; social justice	Codes of Conduct Voluntary Initiatives Consultation	International community	"Do well by doing good" Improve reputation Earn 'social license to operate'; risk management
6 th Generation 2000 and beyond	'Anti-globalization' protests; rise of networked transnational civil society; changed role of state; WSSD Johannesburg 2002	Asymmetries of power; Human rights; development	Partnerships Calls for binding corporate accountability	Expanded to include a responsibility to the poor	Expand markets; Improve profitability; risk management; create business opportunities out of tackling the world's major problems

Table 1

¹ Sources: (Davis, Whitman and Zald, 2006; WBCSD 2006; Prahalad, 2005; Bendell, 2004; Utting, 2004; Holliday and Schmidheiny, 2002; Braithwaite and Drahos, 2000; Carroll, 1999; Mendes and Clark 1996).

the need to consider the reputation of home governments. The 1970s saw the rise of social movements for the protection of workers, with a specific focus on labour conditions in the South and child labour, ethical consumerism and the environment. Business responded with responsibility initiatives to forestall government legislation. However, during the 1960s and 1970s national governments also began to treat corporations as instruments of public policy, aimed at creating safer workplaces, ending discrimination, ensuring product quality and safety, and improving environmental quality. Responsibilities extended to employees, customers and some consideration of supplier practices.

The deadly gas leak in 1984 at the Union Carbide plant in Bhopal India, followed in 1986 by the explosion of a nuclear reactor in Chernobyl, Russia and the 1989 Exxon Valdez oil spill off the coasts of Alaska and British Columbia led to the fourth generation of calls for greater corporate responsibility and codes of conduct, primarily in relation to the natural environment and affected local communities. Business saw the need to maintain the corporate image as a positive force in society and to reduce legal liability. Environmental campaigns stressed the need to incorporate responsibility for the natural environment into business practices.

Renegotiation of the crucial business-society relationship is prominent once again and has become increasingly so since the early 1990s. Human rights organizations such as Amnesty International began to pay attention to the behaviour of corporations and joined the CSR debate, broadening the question of corporate responsibility once again. The revival is closely related to globalization, the consequences of neoliberal practices, deregulation and privatization, the regulatory vacuum at the global level and developments at the international level, particularly as related to events initiated by the United Nations. In the following

sections I will concentrate on the fifth and sixth generations of CSR as related to changing ideologies at the United Nations.

The role of the United Nations in the current revival of corporate social responsibility

Two key shifts reconceptualizing the role of business in society took place at both UN sponsored summits on sustainable development: the Earth Summit at Rio de Janeiro in 1992 and the World Summit on Sustainable Development (WSSD) at Johannesburg in 2002. Before Rio, the activities of corporations were considered the main causes of environmental degradation, human rights abuses, and labour, health and safety violations. Businesses were the “bad guys” (Gardiner, Rubbens, and Bonfiglioli, 2003:69). In the words of Susan Sonntag, business “manoeuvred brilliantly” at United Nation’s summits to avoid regulation (Kirk, 2002).

At the international level, a major effort took place in the 1970s and 1980s to develop international standards for corporate behaviour. Concern with a growing imbalance between the power of transnational corporations and nation states - particularly in the South - combined with the more critical attitude of social movements in the North towards transnational corporations (TNCs). Calls for a ‘new international economic order’ from Southern governments included the conviction that regulation of corporations was necessary in order to ensure that developing countries gained development benefits from the activities of TNCs in their territories (Jenkins, 2001; Sauvant, and Hasenpflug, 1977). Most of the efforts to develop international codes of conduct emanated from international organizations, particularly the United Nations Centre on Transnational Corporations (UNCTC). The UNCTC draft Code of Conduct was intended to be a means of regulation of TNCs by international bodies, supplemented and

supported by national state regulation (Jenkins, 2001). As a countermove, the corporate sector—embodied in the International Chamber of Commerce—issued its voluntary Guidelines for International Investment in 1972, and the OECD adopted its non-binding Declaration on International Investment and Multinational Enterprise in 1976. The latter was described by one commentator as a “pre-emptive Western strike emphasizing business responsibility” (Robinson, 1983, cited in Jenkins, 2001).

International efforts at regulation were paralleled in the 1970s by legislation controlling activities of TNCs, especially in developing countries and nationalization of foreign corporations, which reached a peak in the mid 1970s (Jenkins, 2001; Stopford and Strange, 1997).

The countries that had imposed restrictions on foreign ownership in the 1970s had abandoned them by the 1990s and national governments’ policies shifted to the privatization of state-owned enterprises and services. Ironically, the ‘new international order’ was realized as globalization. Previously, business was left out of development thinking – either ignored or seen as problematic – but this changed in the 1980s when the private sector came to be seen as the “liberator of underdeveloped economies” and business became a “development accelerator” (Blowfield, 2005b:516). Shifting attitudes towards TNCs, now regarded as ‘engines of economic growth’ and ‘creators of wealth’, paralleled a more general shift toward market-based policies and away from state-intervention (Jenkins, 2001). While in the 1970s the demand for corporate regulation came from the South, in the 1990s and beyond pressure for regulation is concentrated in Northern NGOs and institutions. Southern governments are concerned about access to overseas markets and the promotion of exports and have strongly opposed attempts to include environmental and social clauses in the World Trade

Organization (WTO). Southern NGOs, too, have often opposed any measures that could prove to be a non-tariff barrier to exports (Bendell, 2004; Jenkins, 2001).

During the 1980s and early 1990s, social movements concentrated on specific instances of corporate wrong-doing, 'one-harm-at-a-time', and pressured corporations to ameliorate the consequences of their decisions. Issue-directed campaigning existed in tandem with a belief in the mainstream development community that foreign direct investment in Third World countries was an important way of alleviating poverty and misery. As it became clear that many governments turned a blind eye to human rights and environmental abuses in the interest of 'global competitiveness' and to protect and attract investment, organizations such as Human Rights Watch and Amnesty International joined long-established environmental and labour campaigns pressuring corporations for more responsible behaviour (CSRwire 2002; Klein, 2000:338).

By the late 1990s, "corporate lobbying had effectively undermined multilateral attempts at addressing their power" (Bendell, 2004:12). Prior to Rio, business representatives organized the Business Council on Sustainable Development (BCSD) – later to become the World Business Council for Sustainable Development (WBCSD) – partly to protect its own interests. The BCSD was a major sponsor of the Earth Summit and had two functions: "spread the sustainable development message among business and produce business input for the Summit" (Hirschland, 2004; Holliday, Schmidheiny and Watts, 2002:15). The group managed to keep the international Code of Conduct on TNCs, negotiated by the UNCTC since 1978, off the agenda at Rio - effectively killing it - and instead, took a leading role in re-defining the corporate role. Business was included in the action plan of Agenda 21, but only in very broad terms, stating that business had a role to play. Most other references to business were eliminated and where they were included, emphasized the role of self-regulation. The BCSD

substituted a voluntary code of conduct, drawn up by the corporations themselves. Paul Hawken writes: “Virtually none of the 30,000 NGO delegates supported the proposals put forth by the BCSD” (1993:168). Following Rio, large corporations became a group leading the search for voluntary initiatives and solutions and promoted the idea that industry could play a key role in sustainable development.

Since the 1992 UN Summit on the Environment in Rio de Janeiro, the discourses of sustainable development and CSR have blossomed side by side, demanded by citizens groups and encouraged by a growing number of large corporations. The concept of CSR is not only interlinked with the discourse of sustainable development, but often regarded as synonymous (see *inter alia* Holliday, Schmidheiny and Watts, 2002; Conference Board of Canada 2000; WBCSD, 1998). Corporations had previously worked primarily through national governments, but at Rio, corporate groups seized the political space and manoeuvred themselves into decision-making positions at the international level. “Since then, corporations have been legitimized as ‘stakeholders’ whose inputs must be reflected in all major social and environmental treaties” (Girona Declaration, 2002). In the decade and a half since Rio, corporate influence over the international social and environmental debate has grown considerably.

The United Nations launched its Global Compact in January of 2000. It consists of ten principles that address human rights, labour issues, environment and anti-corruption. There are no enforcement or monitoring mechanisms. Instead, the Global Compact and all other CSR initiatives rely on voluntarism, transparency, public accountability, the enlightened self-interest of corporations, the media and public pressure (Bakan, 2004; Bendell, 2004; Jenkins, 2001; Utting, 2000). As part of the Global Compact Secretary General Kofi Annan promised to “continue to make a strong case for free trade and open global markets” (2000:12). Scholte comments that, since the 1990s, UN agencies have

largely come into the laissez-faire market framework, “albeit with greater hesitation and qualification”, and according to Harcourt, the Global Compact signalled a loss of confidence in the state (2005:8; Harcourt, 2004). But the Global Compact also “took the wind out of the sails of the recommendations of the 1999 UNDP Human Development Report. The report’s authors had investigated ways to give neoliberal globalization a human face” (Richter, 2003:79). According to the report, the task to build a more coherent and democratic architecture for global governance had to include a binding code of conduct for TNCs. With the announcement of the Global Compact “the role of non-state actors in global governance were irrevocably changed” (Zadek, 2004:20).

The corporate presence was even more pronounced in Johannesburg at the World Summit on Sustainable Development (WSSD) in 2002, marking CSRs arrival on the international agenda and resulting in increased calls for voluntary initiatives, public-private partnerships, such as the UN’s Global Compact, and partnership relations with NGOs. In the minds of many, and especially those in the NGO community, the Johannesburg Summit stands out as the U.N. business summit. A new organization, Business Action for Sustainable Development (BASD)—related to the WBCSD but formed specifically to represent business at Johannesburg—took an active role in the planning, execution and framing of the event and its subsequent plan of implementation (Hirschland, 2004). “At Johannesburg, CSR became one of the discourses through which global governance was enacted” (Charkiewicz, 2005:78). The WSSD was attended by 700 business delegates and in the ten years since Rio business had engaged in showcasing ‘best practices’ and partnerships. The Johannesburg summit focused on ‘Type II outcomes’, or public-private partnerships, and at the end identified 220 international partnerships as a result. The final pronouncements and

documents of the WSSD were remarkably similar to those of the U.N.'s Millennium Summit, where business also had a prominent presence. The summit also stood out for UN Secretary-General Kofi Annan's appeal to business "not to wait for governments to make decisions", effectively bypassing state power (cited in Gardiner, Rubbens and Bonfiglioli, 2003:68).

Counter-globalization and corporate social responsibility

The rise of counter-globalization movements and their visibility on the streets of many cities in the years prior to the Johannesburg summit reinforced the urgency for business to present itself as part of the solution, especially with regards to increasing inequality, severity of environmental problems and the lack of progress in the South. CSR discourse gained ground at the same time critiques of the social and environmental effects of global neoliberal restructuring became more widespread. Re-direction of dissenting action away from state institutions and towards international institutions and corporate interests followed. At the 1999 World Trade Organization meeting in Seattle, civil society protesters directed their anger at business and the trade framework put in place through international institutions such as the WTO. This was followed by the broad success of popular works, such as Naomi Klein's *No Logo* (2000) and the documentary *The Corporation* (2004). According to Jarold Manheim – professor of political science at George Washington University and a prominent anti-CSR voice – CSR is related to the rise of a "new anti-corporate Left" (a loose alliance of liberal foundations, labour unions, religious activists, environmentalists, activist pension funds and CSR boosters). New tactics of political confrontation construct corporations as identifiable enemies against which to mobilize. Manheim argues that this new "anti-corporate Left" is trying to re-capture power taken from them by the Reagan administration (and, I suggest, in other countries

by neoliberal policies). While still loosely allied, the movement is slowly converging on a new language, and a common strategy, of which CSR language and theory are a major part (Manheim, 2004). Due to its increasingly close relationship with corporations, the United Nations—for the first time in its history—also became subject to protests from activists at Johannesburg.

Following Johannesburg, the movement towards the sixth generation of CSR gained ground.¹⁰ For many in the NGO community, the outcomes of Johannesburg increased their criticism of corporate power and the impotence of voluntary initiatives. According to Bendell, it “became more apparent than ever that the various people and groups working on corporations and world development issues did not share the same diagnosis of the problem to be addressed” (Bendell, 2004:17). By the late 1990s commentators, notable among them Robin Broad and John Cavanagh, began to describe a “corporate accountability movement” (Bendell, 2004:17; see also *inter alia* Charkiewicz, 2005; Doane, 2005a; Friends of the Earth International, 1998). To hold corporations accountable means that people and communities who are affected by corporate activities should have democratic and human rights to meaningful participation, “especially when [such activities] affect the material foundations of self-determination”— in other words, the “democratization of corporations” (Bendell, 2004:42). This does not necessarily mean a return to state regulation, but rather that there is a need to “reconceive governance processes without losing sight of democracy and rights” (Bendell, 2004:42). It must be noted that most of the proposals made so far have tended to use existing state mechanisms to support “new forms of local or supra-state governance” (Bendell, 2004:44).

¹⁰ While I have conceptualized the move towards corporate accountability as the ‘sixth generation of CSR’, it can also be seen as a move away from CSR and towards a more systemic change of capitalist dynamics.

It is precisely the discourse of ‘governance’ that justifies and contains the discourse of CSR. The following section will place CSR within the context of neoliberal globalization and the rise of a “global governance” discourse.

The changing role of business in the context of neoliberal globalization

At the end of the twentieth century and at the beginning of the twenty-first century, the hegemonic ideology of neoliberalism and its justifying discourse of globalization permeate the circles of the powerful. Solutions to the major problems of our time are looked for in the reified ‘market’ – an essentialist and economic entity. Transnational corporations and ‘business’ in general are expected to play a major role. In this context the issue of corporate social responsibility is emerging as a new discipline that examines the nature of the relationship between the private sector and society at national, international and global levels (Blowfield, 2005a; Bendell, 2004; Shamir, 2004; Ruggie, 2004). In this section I will first review how this relationship has been conceptualized in the globalization literature, followed by an examination of the rise of “global governance” and “private authority,” followed by an analysis of CSR as a constitutive element of global governance (Sassen, 2005; Scholte, 2005; Ruggie, 2004; De Angelis, 2003; Drache, 2001; Cutler, Haugler and Porter, 1999; The Commission on Global Governance, 1995).

State/market relations in the globalization literature

With the advance of globalization and the increasing “extraterritoriality” of market forces, questions regarding the respective roles of states, business and civil society have taken on added urgency and salience (Scholte, 2000).¹¹ One of

¹¹ The discussion that follows generally ignores the roles and growth of civil society organizations, a subject that has been theorized by many other writers. Since my focus is on the

the key dimensions of the world economy today is the rise and power of transnational corporations. In the latter half of the twentieth century, changes in the technologies of transportation, communication and production facilitated the growth of transnational corporations and transnational production networks, increasingly accompanied by state efforts to open markets and lower barriers to international free trade (Vernon, 2001; Vernon, 1992). The number of TNCs has grown dramatically to 70,000 in 2005, accounting for 80 percent of the world's industrial production and US\$19 trillion dollars in annual sales (Drucker, 2005).

According to the World Business Council for Sustainable Development – an organization comprising more than 180 of the largest international companies from 30 countries – “global companies are engines of globalization,” harking back to Adam Smith's hypothesis of the market as the main source of economic growth (WBCSD 2006:23). Leslie Sklair also understands multinational enterprises (MNEs) to be the representative institution or structural carrier of economic globalization (1991). This position is also present in the early literature on globalization, which saw globalization mainly as an economic process involving the evolution of international markets and corporations, leading to an intensification of global interdependencies (Steger, 2002).¹²

Thus, many commentators in the economic globalization literature saw a shift from a state-dominated to a market-dominated world. Jan Aart Scholte comments that

theoretical area of corporate social responsibility, my exploration will focus on the role of TNCs and business organizations and actors.

¹² It is not my intent here to provide an overview of the vast globalization literature, an exercise well beyond the scope of this chapter. I understand globalization, as I stated above, as a justifying discourse for neoliberal global capitalism. In that sense, the term ‘globalism’ would better express my understanding of the discourse, denoting ‘globalization’ as a powerful ideology, with material, cultural, environmental and social effects.

market economics have become so pervasive in contemporary globalization that policy makers now tend to naturalize the situation. That is, they treat the market as an inherent and normal condition, while other economic arrangements are treated as aberrations that require correction (2005:8).

The literature on globalization as a political process has examined this shift mainly by focusing on the changing role of the modern state. Kenichi Ohmae argued that the modern state had become irrelevant, in a world increasingly linked together in economic trading blocs (Ohmae, 1995). Others argue that the state has not so much become superfluous, but rather that its role has shifted from an interventionist to a market-enabling role (Scholte, 2005); from being a service provider to an arranger of services; and from having a directive function to taking on an insurance function (Vernon, 2001). For example, Mittelman speaks of the ‘courtesan’ role of states (2000); Lowell and Farrell assert that “the role of government is reduced to that of serving as a ‘superconductor for global capitalism’” (cited in Steger, 2002:29); and Waters fears that the state may become globalization’s “chief victim” (1995:27). According to Drache, the state has become a “major facilitator of the private interest” (2001:5) and in the apt words of Jem Bendell, “the state was not in retreat: it was on the march in support of corporations” (2004:9).

A second group of writers highlights the central role of states in enabling globalization. They argue that political decisions lifted international restrictions on capital and that the particular shape and form of current globalization processes has been politically determined by the world’s most powerful nations (see *inter alia*, Scholte, 2000; Held et al., 1999; Castells, 1996; Panitch, 1994). The velocity of globalization processes has most certainly increased through state

enacted trade liberalization, financial deregulation and asset privatization (Drache, 2001).

A more nuanced approach realizes that “the distribution of roles and function between states and markets is only one aspect of a more comprehensive problematique” (Martinussen, 1997:257). According to Martinussen, the dichotomy between state and market is false, the borderlines are not clear and markets require a legal and regulatory framework which only states can provide (p. 264). However, under conditions of the extraterritorial operations of capital, only part of the legal and regulatory framework is provided by states.

The appropriate division of labour between the state and the market becomes more complex at the global level, where international institutions such as the World Trade Organization have set regulations for the operation of global trade. Generally, commentators agree that the political and social institutional framework of globalization lags far behind the economic institutionalization of global processes. It is especially at the global level that market forces have the capacity to redefine areas of responsibility and to push this redefinition towards the market-end of the spectrum. It is here also, as I will argue, that the discourse of CSR is intimately linked to processes of ‘global governance’.

Beyond the state/market debate: conceptions of global governance

Accompanying the power of TNCs to operate across traditionally-drawn state borders, new regimes and practices have appeared that bypass national legal systems and regulations, resulting in “unaccountable and disembedded” market forces operating in arenas beyond the interstate system (Mittelman, 2000:56; Ruggie, 2004; Scholte, 2005; Drache, 2001; Kobrin, 2001; Sassen, 1997). Robert Gilpin points to the inevitable political implications:

These giant firms and their global strategies have become major determinants of trade flows and of the location of industries and other economic activities around the world...As a consequence multinational firms have become extremely important in determining the economic, political and social welfare of many nations. Controlling much of the world's investment capital, technology and access to global markets, such firms have become major players not only in international economic, but political affairs as well (2000:24).

This ascension of actors other than the state onto the global stage is referred to as 'global governance', or simply as 'governance.' The theoretical origin of the following discussion resides in Massimo De Angelis' article "Neoliberal Governance, Reproduction and Accumulation" (2003).

De Angelis writes that the term 'governance' entered in the 1980s into political speech and in the documents of international institutions such as the World Bank, the OECD and the United Nations and according to Ruggie, the concept had gained widespread currency by the early 1990s (Ruggie, 2004). It differs from the previous usage of 'government' in many ways, most importantly in the sense that 'government' is intricately tied to the processes of policy-making, enforcement and implementation; 'governance' on the other hand refers to processes, methods and networks, more so than it does to acts of policy. The goal of governance thus is the accommodation and articulation of conflicting interests, setting a framework for action, and selection of actors involved in governance (p.4). A second important difference is the role of non-governmental actors. In the context of policy set by governments, non-state actors' role is to obey the rules; in 'governance', non-state actors participate in the definition of rules.

The most comprehensive definition of ‘governance’ is given by The Commission on Global Governance:

Governance is the sum of the many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative action may be taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceive to be in their interests (1995:2).

The thrust of De Angelis’ argument is that the use of the term ‘governance’ rather than ‘government’ is not simply the occurrence of a nice and neat new political science term, but that the term is specifically linked to the ideology and institutions of neoliberalism and leans heavily towards the management of the latest crisis phase of capital and accumulation. As such, the discourse of ‘governance’ can be analyzed as part of the process to re-establish accumulation and legitimize the actions of market agents.

“Neoliberal governance” can thus be defined as:

a purposive act, usually by state actors, aiming at providing stability in socio-economic flows, normally entailing more or less coercive systems of regulation, and crucially relying on the networked active participation and self-management of non-state actors such as NGOs and other civil society groups as well as business (p.4).

The definition relates to two layers of governance, as defined by De Angelis.

“International relations literature deals mostly with layer I governance, so discussions abound on issues such as reforms of international organizations and institutions (World Trade Organization, World Bank, International Monetary Fund down to the United Nations)” (p.11). For the purposes of this argument, I

will focus on the second layer of governance, or the “networked participation and self-management of non-state actors” (p.4), evoking the Foucauldian suggestion that power manifests itself in networks of relations. In this second layer of governance, business and civil society are considered key players to engage in rule-shaping (p.10). For the purpose of my argument I will mainly focus on the role of business.

De Angelis defines three characteristics of layer II governance. First, it is constituted by a network of diverse social actors, including representatives of national governments, business, and civil society organizations; second, it is an organizing framework for social action; and finally, it is a discursive practice in fields of power relations, designed to establish a “continuity of power for capital” (p. 14, 18).

The above characteristics are supported by other writers. Jan Aart Scholte writes about the “privatization of governance” (2005:7); David Held speaks of “multi-layered, multi-dimensional and multi-actor” governance, which occurs “within an expanding array of different kinds of networks” (2004:79, 84) and Ruggie notes “political activity at the global level *apart from* the system of states” (2004:502, italics in original). Certainly it can be concluded that the impact of globalization on states has created conceptual and real openings for other actors at all levels of governance.

At international gatherings everywhere, business and civil society actors are prominent attendees and participants. Although states remain powerful actors at such gatherings, at others the state has taken a back seat. As shown above, the influence of business at the United Nations has increased dramatically. Simon Zadek, for example, reports that at the launch of the United Nations’ Global Compact, “lining the back of the chamber where the Global Compact was announced, in unmarked seats were representatives of many nation states”

(2004:21), constituting a marked shift in agency, through the “substitution of dominant actors” (Reich, 2001:122).

Since the late 1990s, a small literature has emerged dealing with the rise of “private authority” and “private governance” at the global level, referring to the assumption by business organizations and civil society groups of roles traditionally associated with the state (Sassen, 2005; Ruggie, 2004; Drache, 2001; Cutler, Haufler and Porter, 1999). Cutler, Haufler and Porter contend that “private sectors are beginning to replace governments in ‘governing’ some areas of international relations” (1999: 4). On the other hand, Ruggie argues that no actual shift away from the public to the private sector has taken place, but rather that this constitutes “new non-territorial spaces and management systems” (Ruggie, 2004:503). At all levels of political activity, including the global and national levels, the centrality of market mechanisms “extends the interaction of networks” (Reich, 2001:122). ‘Governance’ in this sense means a much greater “degree of power sharing among a larger pool of actors” involving “‘new’ private agents, whose actions and innovations in the public domain have arguably forced a recasting of responsibility and accountability in the public domain” (Hodess, 2001:133, 129). Given this, it may be said that this shift is ‘post-political’ (Devetak and Higgott, 2001) and that there is a “newly emerging global public domain that is no longer co-terminous with the system of states” (Ruggie, 2004:519).

While it is a given that relations between state, market and civil society exist at all levels of action, questions of power, legitimacy and accountability have largely been stripped from this debate. The rise of ‘governance’ raises questions regarding its two main difficulties: power asymmetries and legitimacy. It is assumed that power relations in these new configurations of governance are constituted ‘horizontally’ and new actors are engaged on their respective bases of

knowledge and expertise. Reich, for example, comments that the relative influence of business or civil society is “reflective of the issue area to which they contribute” (2001:119). This may be true, but it also underestimates the qualitative differences between the power, influence, resources, breadth and especially the wealth of TNCs versus civil society. Braithwaite and Drohas comment that the capture of nation-states is common in the case of business actors resisting or promoting particular regulatory regimes, but that, in comparison, the state’s capture by environmental or other civil society groups is rare (2000).

Whether private sectors are replacing governments, as suggested by Cutler (1991) or are engaged in new non-territorial spaces as argued by Ruggie (2004), the nature of the legitimacy of private action in the public domain is less often questioned. The question is addressed, to some extent, in books such as *The Silent Takeover*, in which Noreena Hertz demonstrates how democracy is being undermined by corporate dominance (2001a) and David Korten’s celebrated book *When Corporations Rule the World* (1995). As networks become larger and often are constituted transnationally, they exhibit “less cohesive cultural and social linkages” (Reich, 2001:115). Governance, without a central locus of control or unified relationships becomes a matter of managing networks, where one of the most important activities relates to the selection and degree of influence of diverse actors.

To some corporate power is unproblematic, for example The Commission on Global Governance states that TNCs are “legitimate international actors with a part to play in an emerging system of global governance” (1995:26). Others raise questions about how legitimacy is gained when it is de-coupled from electoral processes. Cutler comments that legitimacy is often granted by governments, and that ‘private authority’ is exercised in the public realm either through the

delegation of authority by states, or as a result of deregulation and privatization (1999). Hodess notes an “expansionist” conception of the business role, where legitimacy may be gained through performance, when business action delivers on socially desirable goals (2001). A sense of legitimacy may be achieved through recognition of the efficacy and ability of non-state actors, as also hypothesized by James Rosenau:

Where legitimacy once derived from habitual and traditional norms perpetuated by macro structures and processes, today the enlarged analytic skills and cathetic capacities of citizens increasingly enable them to ascribe legitimacy on the basis of performance activities that they perceive as appropriate (1990:381).

It should be emphasized that even when business gains a certain legitimacy through the pursuit of highly desirable goals, even the best of intentions do not result in processes that are open and accessible to either state or society (Hodess, 2001). In the words of Eva Charkiewicz, civil society groups gain “voice without influence” (2005:81), while McQuade and Johnson question the legitimacy of business leaders who “constitute a self-perpetuating oligarchy” (2003:2). Devetak and Higgott take the critique a step further, noting that “global governance without a sense of community ... is sham governance. Real governance is about political contests over issues such as distribution and justice” (2001:377).

As I will show in the following section, using the discourse of corporate social responsibility, business interests have largely self-selected to become important actors in global governance and rule-making. This self-selection is coupled with the reduction of the state’s role to one of providing a framework for the global operation of capital and establishing competitive business environments perpetuated through a discourse of state-incapacity.

Corporate social responsibility as a constitutive element of 'global governance'

De Angelis defines the second characteristic of layer II governance – the “networked participation and self-management of non-state actors” – as a “framework for social action” (2003:4). In the same vein, David Held comments that, at the global level, we see a “growing enmeshment of public and private agencies in the making of rules, the setting of codes and the establishment of standards” (2004:84).

If we see CSR as the “outcome of the reorganization of power”, then what is the nature of social action constituted through the global governance framework described above (Charkiewicz, 2005:76)? More importantly: whose priorities, goals and interests are served and what are the means through which power is acquired, exercised and maintained (Blowfield, 2005b; De Angelis, 2003)? Two of the pillars of layer II governance are self-regulation and co-regulation, and partnerships among social actors (De Angelis, 2003:19). Both comprise the issue area of corporate social responsibility.

The World Business Council for Sustainable Development asks: “So having been the agents of globalization, how do businesses handle the obligations it brings?” Part of their answer is that business must “work with governments and international bodies to create new or improved frameworks at the global level” (2006:24). Large corporations, already organized transnationally, have “taken to the changed scene like ducks to water” (Chandler, 2002:16). The WBCSD asserts that CSR “is firmly on the global policy agenda”, acknowledging that pressure for greater responsibility is the logical corollary to the expanded rights of business at the global level (1998:2). European Union Commissioner Pascal Lamy remarked that “voluntary social and environmental practices of business going beyond companies’ existing legal obligations, can play a major role in filling the governance gap in a creative and innovative way” (2004). The Virtual University

for Sustainability (an initiative of the WBCSD and the Virtual Learning Consortium) promotes the belief that CSR and CSR management are part of an “attractive transition to sustainability” (2001).

This reorganization of power is “merging corporate responsibilities with those of government” (Warhurst, 2005:165). It is interesting to note that the CSR discourse gained ground at about the same time that critiques of the social and environmental consequences of global neoliberal restructuring became more widespread. CSR was presented as a normative modification to the free market system and became a “low-cost response” to adapt to the undesirable consequences of globalization by sub-contracting governmental responsibilities to the private sector and civil groups and also by involving civil society groups in monitoring and compliance (Charkiewicz, 2005:81). Moreover, as Hetzner argues, the business community has evoked the discourse of CSR for several different purposes, “all of which represent an effort to diminish the power of government” (1997:31).

Business involvement at the international political level is not a new phenomenon. Merchants of a century ago and more played large roles in governance, and in Canada, the nineteenth century was a time when businessmen had enormous influence over every facet of commercial and political life (Welling, 1995:157). The Hudson’s Bay Company, in addition to carrying on the fur trade, also acted on behalf of the British government, making laws and regulations. Internationally, the American-based United Fruit Company used to run whole countries.¹³

A well-documented literature shows how business organizations have manoeuvred on the international scene to serve their particular interests. A prime

¹³ For an extensive discussion of how representatives of business interests came to be key players in policy-making, particularly in Canada, but also globally, see Dobbin, 1998 and Clarke, 1997.

example of this is the role of business at the UN conferences on sustainable development, as described above. Other examples include Motorola writing many of its own patents into International Telecommunication Union standards and the involvement of the pharmaceutical and entertainment industries to push the intellectual property rights agenda at the WTO (Braithwaite and Drahos, 2000; Ruggie, 2004). The ascendant power of corporations, financial and trade institutions is also implicated in the problem of ‘institutional capture’, where these institutions come to exercise influence over decision-making processes located in the public sphere (Utting, 2000:vi).¹⁴ As an editorial in *MacLean*’s effectively puts it: “If the CEOs of the big corporations have begun to talk like government leaders, it is not entirely accidental: these days they run the show” (cited in Glasbeek, 2002:231). As Tony Clarke has pointed out, the proposed Multilateral Agreement on Investment contained language that would give investors – in effect, corporations – the same status as nations (1997).¹⁵

Although CSR may seem like a natural evolution and simply a response to imbalances resulting from accelerated globalization, this conceals the purposeful nature of business action – supported in many instances by national governments – that over time acquire legitimacy (Warhurst, 2005; Zadek, 2004; Windsor, 2004; Ruggie, 2004).

Business understands CSR to hold new opportunities for “balanced representation in decision-making at macro and micro levels”, and taking their “rightful place” at the negotiating table (Gardiner, Rubbens and Bonfiglioli, 2003:75; Cutler, Haufler and Porter, 1999:10). The position of the International

¹⁴ See Dobbin, 1998, for an extensive overview of the way in which policy came to be discussed, not in democratic governmental institutions, but in closed, exclusive organizations, such as the Trilateral Commission, the World Economic Forum and the Bilderberg forum.

¹⁵ The MAI was defeated at the OECD following broad opposition from citizens organizations. For a discussion see Johnston and Laxer, 2003.

Chamber of Commerce is that “decision-making must become global with business involved in a meaningful policy dialogue” (2000). CSR became one of the discourses through which ‘global governance’ was enacted, particularly at and following the 2002 World Summit on Sustainable Development at Johannesburg (Charkiewicz, 2005).

Within the discursive construction of ‘global governance’ lies an important difference from previous eras, generally not addressed in either the CSR literature, or the globalization literature. Governments have not only been the slowest actors to respond to a changed world, but the “governance gaps” that are being filled under the rubric of CSR are often a response to the self-professed incapacity of governments to deal with the increased complexity of problems at home and across their borders (Ruggie, 2004:518). Dominant neoliberal ideology is to shrink the role of the state, especially reducing social welfare and cultural obligations and to off-load responsibilities onto individuals and the private sector. In 1999, Pierre Pettigrew, then Canadian Minister of Human Resources Development, said: “The need for change is pressing ... because the state – government itself – can no longer take sole responsibility for all the needs of its citizens – even the most urgent ones.” This is not surprising, considering that the corporate share of income taxes in Canada has fallen from 43 percent of all income tax collected in 1955, to 11 percent in 1995 (Franklin, 1999: 160). In the United States corporate income taxes fell from 4.1 percent of GDP in 1960 to just 1.5 percent of GDP in 2001 (Doane, 2005b:27).

Other authors comment on the perception that governments are increasingly incapable of acting on behalf of their citizens. N. Craig Smith notes “the growing recognition of the failure of governments to solve many social problems and...the diminished scope of government” (2003). Nick Tilston, a business graduate student and winner of a CSR writing contest, believes that

“today’s leading social force is not the state but the business corporation”, and as a result of the “loss of governmental moral authority and effectiveness”, business will increasingly assume a “value-shaping role” (2005). Peter Drucker, a celebrated management writer, argues that the state has not delivered on the promise that it would solve social problems and instead, “modern government has become a huge welfare bureaucracy” (2005:4). Cutler remarks that “governments today often are unwilling or unable to intervene in global commerce” and the international economic framework relies to a large degree on the cooperation and participation of TNCs. Especially in cases of technological complexity, or where private firm participation is necessary, governments are often considered less capable than the private sector which can bring enormous resources to complex tasks (1999:5, 6). In addition, government responses to required regulation are to either ignore, or to delegate responsibility to the private sector itself. Increasing numbers of private/public partnerships and ‘for profit’ companies delivering in traditionally ‘not-for-profit’ areas, e.g. education, contribute to the blurring of the roles of government, business and civil society. The World Bank’s Public Sector & CSR initiative concludes that the role of the state now becomes one of “mandating, facilitating, partnering and endorsing”, essentially a ‘cheerleader’ function (Fox, Ward and Howard, 2002:3).

Robert Cox’s analysis of global civil society movements leads him to conclude that the ideology of globalization is undergirded by historic forces consisting of powerful economic actors, policy networks and their allies in government. His analysis is worth quoting at some length:

The new popularity of the term ‘global governance’ suggests control and orientation in the absence of formally legitimated coercive power....There is something that could be called a nascent global historic bloc consisting of the most powerful corporate economic forces, their

allies in government, and the variety of networks that evolve policy guidelines and propagate the ideology of globalization. States now by and large play the role of agencies of the global economy, with the task of adjusting national economic policies and practices to the perceived exigencies of global economic liberalism. This structure of power is sustained from outside the state through a global policy consensus and the influence of global finance over state policy, and from inside the state from those social forces that benefit from globalization (the segment of society that is integrated into the world economy) As many analysts of world affairs have suggested, we seem to be moving towards a 'new medievalism' with multiple layers of authority and multiple loyalties. (1999:12).

With the rise of globalization, national governments share the political stage with an array of other institutional actors. Intergovernmental institutions, non-state actors such as nongovernmental organizations and large corporations and others participate intensively in global politics (Held et.al, 1999). Governments and states remain powerful actors, but face a diffusion of political authority and widely diffused sources of political action. This new configuration of forces is usually referred to as an emergent framework of multi-layered 'global governance', which includes all those institutions and organizations that "pursue goals and objectives which have a bearing on transnational rule and authority systems" (Held et al, 1999:50; Rosenau 1997). While CSR is intended to fill so-called 'governance gaps' it must be acknowledged that these gaps and state withdrawal from essential areas of government often have arisen from business rhetoric demanding small government, low taxes and minimal regulation.¹⁶

¹⁶ As Patricia Marchak put it, the overall message was clear: "Government was bad; the market was good" (cited in Clark, 1997:51). The rhetoric of big and bad government was rooted in

Within this new configuration, large corporate interests have largely self-selected to become a powerful group in ‘global governance’, while states have used this arrangement to profess their incapacity to deal with complex problems. Following Rio, Judith Kimerling remarked that “the understated reality, however, seemed to be that governments were counting on private corporations to pay for and carry out sustainable development” (2001:65). According to Jem Bendell, CSR initiatives are “often used to promote an ideological agenda that gets big business and government off the hook for the state of the world” (Baue, 2004). States have offloaded expensive and complex responsibilities onto the private and civil society sectors, while at the same time ignoring the need for regulation and democratic control.

The unreflexive nature of the CSR literature means that very few questions are raised regarding the systemic problems of neoliberal global capitalism. CSR is a strategy that “accepts the very premises of corporate capitalism as its starting point” (Glasbeek, 2002:251). Blowfield contends that the CSR literature has not fostered rigorous debate about business society relations and “by framing the discourse in a particular manner may actually have prevented this debate from happening” (2005a:174). Discourse about responsibility may be not so much about ethics, as it is about new power relations. CSR may be the last hand the powerful have to play, before the system reveals itself as irreparably broken and incapable of dealing with serious ecological and social contradictions.

I now turn to an analysis of the way the discourse about CSR is framed in diverse literatures.

libertarian ideals of freeing the economy from government intervention and regulation and turning it over to market forces entrenched in individualism, free choice, property rights, productivity, and competitiveness.

The discursive formation of corporate social responsibility

This section draws on diverse sources to establish diverging constructions of the significance and definition of the concept of corporate social responsibility. Important differences underlie the extensive debate on the nature of the business-society relationship and whether corporations ought to assume responsibilities outside of their traditional sphere of activity, and if so, what the nature and boundaries of these expanded responsibilities ought to be. Whether the perspective is critical of CSR, or advocates its implementation and expansion, speakers and authors advance particular representations both of problems and possible solutions filtered through conceptual frames that form the basis on which they act (Shmuell, Kaufman and Elliott, 2003). Such framing includes assumptions about the nature of society and human beings, and about the proper relationships between institutions (Freeman and Gilbert, 1992). Discourse regarding the potential or limitations of CSR marks it as an important field of political contestation, with differences emerging from strongly held underlying ideologies that are informed by beliefs around political possibilities within a capitalist political economy.

Conflicting beliefs, values and interests separate different camps within the CSR debate. Framing refers to both the construction of interpretive frames and their representation to others. Frames can be defined as cognitive shortcuts that help to interpret the world around us and organize complex information. Frames can significantly affect negotiations around conflicting definitions of and proposed solutions to complex problems. Because frames are built on underlying ideological structures, they often lead to incompatible interpretations of events (Shmuell, Kaufman and Elliott, 2003; Elliott and Lewicki, 2003; Buechler, 2000).

Discursive framing is not to be understood simply as an abstract matter of representation only. Discourses grounded in particular ideologies have material

and social effects and presume specific ways of acting and relating. They are therefore essential to understanding processes of social change and shifting relations of power.

Broadly, three different conceptual frames can be identified within the CSR debate. I have identified these as: one) the 'property rights' frame; two) the 'business case' frame; and three) the 'governance' frame. I will describe each of these in turn.

The 'property rights' frame:

In January 2005 *The Economist* magazine published an issue entitled "The Good Company: A Sceptical Look at Corporate Social Responsibility" (Crook, 2005). In different sections of the report, its authors argued the classical case of rational market economics: that the only responsibility of business is to make a profit for its owners. In this, they follow the 1962 dictum of Chicago school economist Milton Friedman, who argued that "few trends could so thoroughly undermine the very foundations of our free society as the acceptance by corporate officials of a social responsibility other than to make as much money for their stockholders as possible" (Friedman, 1962:133). Classic liberalism, in the tradition of John Locke and Adam Smith, promotes the belief that market forces will bring liberty and prosperity to all of humankind. *The Economist* echoes this assessment by stating that "merely by running a profitable company, [corporations] are likely to be advancing the public good as well" (p.6). While some argue that this point of view is outdated, it is instructive to note a quote from Nestle Corporation's Peter Brabeck-Letmathe. At the 2004 World Economic Forum in Davos, he argued: "My first social responsibility is to make sure I'm operating a long-term profitable company" (Davos Report, 2004:1). Similar views were expressed to the Canadian Democracy and Corporate Accountability

Commission (also referred to as the 'Broadbent Commission'). Submissions by the conservative Fraser Institute and the Institut économique de Montréal argued that to "respond to a set of ill-defined social imperatives that go beyond profit maximization would amount to an expropriation of the property invested by shareholders in the firm" (Canadian Democracy and Corporate Accountability Commission (CDCAC) 2002:11). According to Allen White, "shareholder primacy is a tenet so entrenched in management theory and business education that it has a self-fulfilling, self-perpetuating quality" (2006:31).

Corporate leaders frame the characteristic identity of the corporation in terms of the standard received idea that corporations are essentially and primarily institutions that facilitate economic growth and wealth (Freeman and Liedtka, 1991). They are 'creators of 'wealth' or 'value' and 'generators of jobs'. A 2002 book on stakeholder management starts with the sentence: "For more than a century the business corporation has been a successful and widely adopted institutional arrangement for creating and distributing wealth" (Post, Preston and Sachs, 2002:1). This rhetoric serves to establish the purpose of the corporation and its legitimacy in a narrow and ultimately fallacious way. The assertion that corporations 'create' wealth and 'generate' jobs is based on false premises, if we take into account the foundations that must be in place for corporations to do their work. Left out are—among others—labour, publicly financed infrastructure, the (unpriced) services of nature and the informal economy, especially the caring, reproductive work of women. Furthermore, corporations are also destroyers of wealth—especially natural wealth—and jobs, a fact not acknowledged by corporate leaders, or in the business literature. A standard management studies textbook, following a discussion of the sources of criticisms of corporations, states that "[t]he defense of industrial capitalism is that, for the most part, the changes it brings represent progress, a condition of improvement for humanity" (Steiner and

Steiner, 2003:111). While there is no denying that living conditions for part of humanity have improved in many ways, this un-nuanced frame constructs the world through an industrialized lens, neglecting the majority of humanity living in the global South and the consequences of industrialized capitalism for the biosphere.

The 'property rights' frame is represented in management studies as stockholder theory. According to this theory "businesses are merely arrangements by which one group of people, the stockholders, advance capital to another group, the managers, to be used to realize specified ends and for which the stockholders receive an ownership interest in the venture" (Hasnas, 1998:21). In 1932 Berle and Means noted the separation of ownership from management, but suggested that management control could be used to further social goals, an argument that became known as the "managerial paradigm" (Rowland, 2005; Jones, 1996:58; Berle and Means, 1932). In practice, however, managers who are not majority owners of a corporation are legally obligated to follow the directions of stockholders. In today's climate, managers rely on the directions of the stock market, often indicated by re-valuation of stocks following the issuance of corporate quarterly financial results (Enderle, 1997; Hasnas, 1998; Henderson, 2005b; Solomon, 1994). Doug Henwood of the Toronto Star reports that, in surveys, corporate managers "repeatedly complained of pressure from money managers and Wall Street analysts to produce quick profit growth" (cited in Rowland, 2005:98). The recurring theme is that corporations exist to produce profit.

The notion that the purpose of a corporation is to create profit and in particular maximal profit for its owners, rests on the idea that markets operate best under one primary form of regulation: that of property rights (Kelly, 2001). Kelly argues that in this sense stockholders are similar to the aristocracy of old: they too

hold the “divine right” to “income detached from productivity” (p.29). The claim to this income is based on the risks taken by owners. Kelly notes, however, that currently only one out of every one hundred dollars traded on financial markets reaches corporations. The other ninety-nine are speculative. In the late 1990s, stocks were held on average for eight months, compared to two years in 1990 and eight years in 1960, contributing further to increased speculation (Mitchell, 2001:5). Any risks taken are thus not related to corporate activities, but rather to speculative activities among investors themselves, removing the most important claim to the proceeds of corporate activities.

The stockholder model is often related to the Anglo-Saxon corporate model and more specifically to the way this model operates in the United States. As globalizing forces spread this model to more of the world, the conceptual ‘property rights’ frame takes on added importance. CSR in this view is peripheral to the demands on corporations and consists solely of legal obligations.

The ‘business case’ frame

If any one case has been made in the CSR literature, it is the ‘business case’. From the business perspective, CSR is a tool to enhance competitive advantage, manage ‘reputational capital’, respond to consumer politics, respond to the threat of regulation and cope with the changing conditions of global production.

A central claim of the proponents of CSR is that businesses that practice CSR perform better economically than those that don’t and the practice does not harm shareholder value. Viewed through this frame the notion of CSR rests on rational calculations that connect social responsibility to long-term enlightened self-interest. While there may also be a normative element expressed as a desire to ‘do good’, or to ‘give back’, the notion prevails that CSR is necessary to the long-

term survival of the firm and that business benefits when it takes social and environmental effects into account. Framed in terms of ‘making the business case for CSR’, CSR obtains an instrumental rationality in a way that ties ‘doing good’ to profits (Lock, 2005).

Numerous studies, books and reports focus on attempting to prove that socially responsible businesses are more profitable. Canadian Business for Social Responsibility (CBSR), a business-led organization of Canadian companies, finds that the benefits of CSR can be measured and quantified. According to their website, “positive effects” on the financial bottom line can be found in “reduced operating costs; enhanced brand and image reputation; increased sales and customer loyalty; increased ability to attract and retain employees; publicity and increased public image from good works” (CBSR, 2005). The World Business Council on Sustainable Development argues that “a coherent CSR strategy based on sound ethics and core values offers clear benefits...[it] helps control risks and identify market opportunities” (WBCSD, 1998:2). Many organizations, corporations, governments, institutions and authors promoting CSR follow the same line of reasoning (CDCAC, 2002; BSR Staff, 2001; Carroll, 1991; Drucker, 1984; Elkington, 1998; Enderle, 1997; Ethical Corporation, 2005a; Fiorina, 2004; Holliday, Schmidheiny and Watts, 2002; Holme and Watts, 2000; McWilliams and Siegel, 2001; Menguc and Ozanne, 2005; Ruggie, 2004; Solomon, 1994; Steiner and Steiner, 2003; Thomas, 2003; WBCSD, 1998; Whittaker, 1999). This perspective is closely tied to the field of Socially Responsible Investing (SRI).

Two meta-studies, together reviewing about 100 empirical studies attempting to show a positive relationship between socially and environmentally responsible corporate behaviour and profits, conclude that results are mixed, but slightly favouring a positive relationship (Margolis and Walsh, 2003). Another meta-analysis of fifty-two studies into the relationship between CSR and

corporate financial performance concluded that “corporate virtue in the form of social responsibility and, to a lesser extent, environmental responsibility is likely to pay off” (Orlitzky, Schmidt and Rynes, 2003). This theme is echoed by the CDCAC stating that CSR is no longer portrayed as a cost to business, but as a ‘profit-centre’ within corporations (2002:11). The report notes that “many of our participants, from the business, academic, and non-governmental sector, were emphatic in arguing that CSR does not require that profits be sacrificed” (p. 11). Business expects a return on its investments, exemplified also in ‘Return on Responsibility’, the theme for the 2002 conference of Business for Social Responsibility, an influential organization whose members have US\$2 trillion in combined annual revenues and six million workers world-wide (BSR Staff, 2001).

A careful overview by Ann Zammit of UNRISD of numerous studies into the relationship between CSR and shareholder value concludes that, “on the basis of present research there is no business case for CSR” (2003:137). Studies carry an inherent bias, because “companies are less willing to share information on sustainability initiatives that went wrong” (SustainAbility et al. 2002, cited in Zammit, 2003:137). David Vogel reaches the same conclusion, arguing that there is no solid evidence that CSR companies do better financially (2006).

A 2006 study conducted in the U.K. found that the average return for the least socially responsible companies was 24 per cent higher than for the most ethically minded businesses and 17 per cent higher than the average for the market. One of the study’s authors, Chris Brooks of Cass Business School, said: “If the sole objective is to maximise returns it is still worth looking at CSR indicators but in a negative way. Invest in firms with the lowest scores because they will generate the highest returns” (Telegraph Staff, 2006).

While the evidence suggests that “CSR can create shareholder value for some issues, in some industries, with some companies and for some management

strategies,” this also points to a clear limitation of corporate social responsibility. Will companies invest in CSR if the costs are no longer matched by benefits (Zammit, 2003)? A further question lies in the way CSR is measured and reported. Benefits of CSR, as identified by the business community, often are difficult to measure. The WBCSD, for example, sees emerging positive links between social and financial performance, especially in fields of “intangible assets, such as reputation, brands and knowledge networks” (2006:113). In some cases a business is considered socially responsible simply because it issues a CSR report. Who measures, who sets the measurement frame, what is included in the measurement and how this affects corporate profitability remains open for question.

It appears to be necessary and at times difficult, to convince business leaders that it is in their interests to operate in a socially and environmentally responsible way. The World Business Council for Sustainable Development champions CSR as a process leading to business practices that will achieve sustainable development. Sustainable development when viewed through the conceptual frame of the WBCSD is “not only...not anti-growth but also it call[s] for serious economic growth” (Holliday, Schmidheiny and Watts, 2002:15). WBCSD leaders acknowledge that it has not been easy to sell sustainable development and CSR to companies. Paul Tebo, vice president for safety, health and environment at DuPont, coined the term ‘sustainable growth’ to get the message across:

Growth was very important. I tried *sustainability* and the business leaders saw it as status quo. I tried *sustainable development* and they viewed it as environmental sustainability. I tried *sustainable business* [but] growth is what organizations want—either you’re growing or you’re

not and not growing is not a very good sit (Spencer-Cooke 2000, cited in Holliday, Schmidheiny and Watts, 2002:15).

While growth should be ‘eco-efficient’—a method of production that reduces material and energy use—the issue of continuous economic growth as an intrinsic economic requirement within a capitalist system is not taken up. Of note here also is the report of the Canadian Democracy and Corporate Accountability Commission. The Commission’s final report *The New Balance Sheet*, issued in 2002, used as its subtitle the line: “Corporate *Profits* and Responsibility in the 21st Century” (CDCAC 2002; emphasis added).

The ‘business case’ conceptual frame seeks to combine three goals: “economic prosperity, environmental quality, and social justice” (Elkington, 1998:ix). Elkington’s influential 1998 book *Cannibals with Forks* summarized these three goals as the ‘triple bottom line’ of business, “reframing sustainable development in terms business could understand” (Charkiewicz, 2005:77). To do justice to Elkington’s argument, it must be noted that he questions whether capitalism can ever deliver sustainability, but he nevertheless looks to the free enterprise model as “the best hope of moving in that direction—provided that it is suitably shaped by social and regulatory pressures” (p. 35, 37). The argument for the ‘business case’ appears to be winning converts: a 2002 survey of 1,100 chief executives reports that sixty-eight percent said that CSR was vital to profitability, and by 2005, 52% of Fortune Global 250 largest firms produced CSR reports, of which 30% were independently verified, usually by accounting firms (Overell, 2002; Davis, Whitman and Zald, 2006:8). What goes unacknowledged is that hard business calculations are involved: “more than 90 international banks undertake environment-related financial risk assessment of their borrowers, and, of these, 50 incorporate environmental and social liability into loan terms” (Warhurst, 2001 cited in Zammit, 2003:134). Such liabilities are also considerations for insurance

companies that more and more frequently require social and environmental risk assessments (Gibson, 1999). As acknowledged by the WBCSD, companies have also been hesitant to sign on to the Global Compact, even though its ten guidelines are very broad and universal, because “[c]ompanies—and their lawyers—are wary of the possible legal implications.” Companies “embrace CSR for the purposes of competition” (Holliday, Schmidheiny and Watts, 2002:105).

The underlying discourse does not essentially question the ‘property rights’ frame, it only adds a broader range of social actors who have an interest in, or are affected by corporate activities. The literature of the WBCSD—which exists in part to make the business case for sustainable development and consequently CSR—consistently forwards the argument that “most companies benefit society simply by doing business” (WBCSD 2006). CSR simply benefits society because goods and services are produced more responsibly, risks are managed, employees are kept happy, and images and brand names are protected, giving participating corporations a competitive edge. According to the WBCSD:

In this view of the role of business, shareholder value is seen as the measure of success in fulfilling the more fundamental purpose of providing improving goods and services that today’s and tomorrow’s consumers want (2006:9).

As the quote’s section heading states: “The products are the purpose—the profits are the prize” (p.9).

Arguments based on the ‘business case’ are grounded in the assumptions that ‘triple bottom line’ goals are compatible and mutually reinforcing. According to Björn Stigson, president of the WBCSD “[w]e are now more convinced than ever that companies can do themselves good through doing right for society at large and the environment” (2002:8) .

While it may be true that CSR practices might meet both environmental and social justice concerns and provide shareholders the greatest possible return on investment, they also might not. The discursive framing of the debate around CSR reveals biases that prioritize ‘economic prosperity’, specifically economic benefits for shareholders and expanding market share. The ‘business case’ thus promotes the rhetoric of sustainability and CSR, but tries to find the level and boundaries of their responsibilities in the optimum level set by the market. In this discursive formulation broader democratic, social and environmental priorities are subordinated to the ‘generation of profits’ and the ‘success of corporations.’ As Jones points out, the problem with this view is that CSR equates with good business practice and thus becomes “redundant and unnecessary” (1996:63).

Normative stakeholder theory, emanating from the field of business ethics and management theory, addresses the broader responsibilities of corporations, beyond the narrow stockholder frame. Stakeholder theories claim that business enterprises ought to consider the interests of all those affected by the firm’s actions, an idea that has become commonplace both in academic and professional management literature. It describes the corporation as “a constellation of cooperative and competitive interests possessing intrinsic value” (Donaldson and Preston, 1995:65). Fundamentally, the normative claim that competing interests have intrinsic value is based on the acknowledgement that the activities of corporations affect a broader range of persons or groups than the stockholders only and thus rejects the “dictatorship of the stockholders’ interests” (Bishop, 2000:575). Within the managerial paradigm stakeholders have to be managed, if managers are to stay in control (Freeman and Gilbert, 1992; Jones, 1996).

Stakeholder theory can be seen as complementary to the CSR debate, as it provides a way to operationalize the identification of specific constituencies asserting to have a claim on a corporation (Matten, Crane and Chapple, 2003).

Within the theory, however, there is very little agreement on who (or what) the stakeholders of a corporation are, or what Freeman calls ‘The Principle of Who and What Really Counts’ (1994). In an attempt to clarify the issue, Mitchell, Agle and Wood theorize that stakeholder identification should be based on stakeholders possessing one or more of three relationship attributes: power, legitimacy and urgency (1997). Managers should pay attention to stakeholders who have the power to influence the firm, have a legitimate relationship with the firm and/or have an urgent claim on the firm. While claimants may possess the attributes of legitimacy and urgency, those without power are often not heard. Peter Newell’s analysis formulates the problem as an issue of the processes “by which a company’s social and environmental obligations come to be determined, enforced and made locally relevant” (2005a:556). Such processes are highly political, often involve unequal bargaining power and—especially in developing regions—generate community conflict. In cases where government regulation imposes a ‘duty to consult’ with local populations, the nature of that consultation and consequent obligations of the corporation are very often unclear.

The business management literature is ambiguous, often contradicts itself and contains a tacit acknowledgement of the dominant role of the firm. The following example will serve to illustrate this point. An otherwise thoughtful article about the relationship between CSR and sustainability, written by an environmental lawyer, concludes that:

[t]here is no ‘one way’ or ‘model’ of business sustainability. Each company must undertake a pragmatic, thoughtful analysis of opportunities and threats in the economic, environmental and social fields to determine whether a sustainability strategy will create new markets and positively impact financial performance and shareholder value (Thomas, 2003:45).

What is the obverse of this statement? If a sustainability strategy does not create new markets or positively impact financial performance, one wonders whether an ‘un-sustainability’ strategy is the correct approach. There are many examples where business would lose if they acted on true sustainability principles, and cases where conflicting priorities have resulted in withdrawals from responsible practices. Some examples are the case of internet search engine Google censoring search results in China; the management of Yahoo giving the Chinese government e-mails of citizens who were consequently arrested; and the case of jeans manufacturer Levi’s, which phased out production in China in 1993, but had to reverse its policy five years later to remain competitive (Vogel, 2006). David Vogel concludes that CSR is not a defining factor of financial success, but just one dimension of corporate strategy (2006). CSR will fall short of the goal for a just and equitable economic system and voluntarism will leave it on the periphery, unless one swallows the ‘business case’, hook, line and sinker (Balch, 2005).

The more important question remaining to be asked is whether society needs a ‘business case’ to be made in order to pursue social, environmental and moral objectives (Lock, 2006; Blowfield, 2005a). Of interest here is De Angelis’ observation of a ‘Polanyian Inversion’ at work in the ‘global governance’ debate, especially as it relates to the voluntary self-regulation of market actors. Perhaps his most famous contribution to social thought, Polanyi’s conception of ‘embeddedness’ is the idea that the economy is not independent and separate from society, but that it is subordinated to social relations. Economies become ‘disembedded’ when they are uprooted or divorced from social and political institutions. De Angelis observes that the ‘global governance’ discourse turns Polanyi’s criticism of the disembedded market on its head, “as it is based on the need to *embed society and the environment into the economy*, into business priorities” (2003:23; emphasis in original). According to the European

Commission, for example, CSR involves the requirement that companies integrate “social and environmental concerns into business operations” (2006). Discourse that attempts to ‘make the business case for CSR’ infers that environmental and social values must be incorporated into business practices, because it is *good for business* and the economy (my emphasis). The associated discourse of voluntarism prevents true re-embedding of the market in the Polanyian sense by forestalling state intervention and social control over the market.

The ‘governance’ frame

The ‘governance’ frame of CSR can be understood as an extension of the ‘business case’, but differs in its proposed forms of execution of social and environmental initiatives. The ‘governance’ frame focuses exclusively on partnerships between private business, governments and civil society organizations, to facilitate the achievement of social and environmental goals. The discourse centres on “problems that are too big for any one group to handle” (Financial Times, 3 February 2005). The World Bank sees the notion of ‘partnerships’ as central to the CSR agenda. The “complementary skills and inputs” of the public and private sectors and civil society are necessary to resolve “complex social and environmental problems” (2002). While the ‘business case’ can account for many different forms of action, from simple philanthropy to complex partnership activities, it does not necessarily involve partnerships with other groups.

From approximately the late 1990’s onward, the notion of ‘partnerships’ has become a central element within the CSR debate. Key proponents in this debate are national governments, international institutions such as the World Bank and the United Nations and the World Business Council for Sustainable Development. The World Bank views partnerships as a response to criticism

coming from sources arguing the ‘property rights’ frame. David Henderson, formerly a leading economist at the OECD, argues that CSR privatizes public policy and removes governments from their core responsibilities. A similar argument is made by *The Economist*, that governments are forcing corporations to pursue “what used to be their own social ends.” The answer to re-thinking CSR in response to such criticisms is partnerships, branded as ‘smart’ or ‘intelligent’ corporate social responsibility (World Bank 2002).

A key element of ‘governance’ is that it is self-regulatory. The United Nation’s 2000 launching of the ‘Global Compact’ signalled a major change in the attitude of the United Nations and its agencies to relations with the business community. Controversial at the time of its launching, the UN’s voluntary initiative remains a target of progressive critics who accuse the UN of ‘selling out’ and of ‘bluewashing’ questionable corporate activities (TRAC 2000; Karliner and Lewis, 2002).

Finance and development agencies that form part of the multilateral and bilateral system emphasize public-private partnerships—often referred to as 3Ps, or tri-sector partnering—in their policies and programmes. At the World Bank a program was set up within the Business Partners for Development’s Natural Resources Cluster to explore how “business, governments and civil society...can work more closely together...to manage social issues...[in ways] that draw on the talents of organizations from across the three sectors of society.” According to the World Bank, tri-sector partnering is

from the corporate perspective...a step forward for building a more durable ‘social license’ to operate, enabling companies to leverage additional resources to manage social issues, and sharing the risks of social investment....From a development perspective, the approach brings to some of the poorest regions of the world the performance and

technical strengths of oil, gas and mining corporations, but puts them to use in ways that ‘facilitate’ the implementation of government development programmes, rather than ‘replacing’ them. In addition, the presence of the company, and of its own ‘in-house’ strategies for corporate social responsibility, provide an entry point for communities, non-governmental organizations and international donors to realize poverty reduction targets across a wider population (2002).

The role of national governments in this framework is less clear. Apart from the ‘cheerleader role’ assigned by the World Bank—‘mandating, facilitating, partnering and endorsing’—public funds may also be used “strategically to stimulate and set up commercially viable approaches” to partnerships (Fox, Ward and Howard, 2002).

Some commentators see the trend towards partnerships arising from mixed motivations. Deborah Doane of the New Economics Foundation, for example, comments that for NGOs the “move can be seen in part due to frustration over the failure of governments to regulate the behaviour of TNCs” (UNRISD 2003:27). Civil society organizations (CSOs) also realized that confrontation has its limits as a tool for achieving results. According to Allen White, the “CSO community has little choice but to diversify its engagement practices to preserve and expand its influence in the corporate community” (2006). For business, partnerships are part of the “invisible pact that has dominated CSR discussions since its inception”, that is, if business behaves better, governments will not step in and introduce stricter regulation, whether at the national or international level (UNRISD 2003:27).

Public-private partnerships became the centerpiece of the 2002 United Nations World Summit on Sustainable Development in Johannesburg. At the same time, NGO criticism of CSR, voluntary initiatives and partnership increased,

as it became clear that many projects failed to live up to expectations (Utting, 2004; UNRISD 2003). At the Global Compact's 2004 annual meeting, NGOs such as Amnesty International and Friends of the Earth expressed serious reservations, arguing that the Compact has become little more than a corporate public relations exercise. Even *Business Week* chimed in, reporting that "several groups are so upset that they are threatening to scale back their participation." NGOs complained that their input was not heeded and reiterated that lack of reporting and compliance mechanisms makes the program's effectiveness impossible to evaluate. Not so to *Business Week*, which had little problem evaluating the effectiveness of the Global Compact. Their article's title "Global Compact, Little Impact," indicates very little effectiveness and result from the UN's flagship program (Engardio, 2004).

Partnership thinking reached a new level at the 2005 World Economic Forum (WEF) and G8 meetings. At the WEF meeting the message was that it is no longer a question of 'if', but 'how' business can contribute to meeting development challenges and the UN's Millennium Development Goals. The G8 meeting took up the theme of 'Making Poverty History' and concluded that "corporations...are not the cause of Africa's problems but the solution" (Monbiot, 2005). Implementation of the U.S.' African Growth and Opportunity Act was outsourced to the Corporate Council on Africa, a lobby group representing large U.S. TNCs with interests in Africa, among them Halliburton, Exxon Mobil, Coca-Cola, General Motors and others. Something similar is being put in place in the U.K. The Investment Climate Facility, a US\$550 million fund financed by the U.K.'s foreign aid budget, the World Bank and the other G8 countries will be "driven and controlled by the private sector" under the auspices of the Business Action for Africa group (Monbiot, 2005). The October 2005 conference of Ethical Corporation—an independent publisher and conference

organizer on CSR issues—focused on business action in Africa and “innovative solutions” to developmental problems that “become not only profit-making ventures, but new forms of social investment” (Ethical Corporation, 2005b). Professor of Business Administration C.K. Prahalad advocates dropping the term ‘the poor’ and replacing it with “consumers” at the “bottom of the pyramid”. He argues that businesses operating in developing countries gain competitive edge marketing to this untapped market (2005).

The ‘governance frame’ linked to ‘partnerships’ effectively extends ‘global governance’ from participation in rule-making to one where business is supposed to take a leading role in delivering sustainability and development goals, and CSR as an important discourse through which global governance is enacted. The underlying ideology remains one that regards property rights and unregulated markets as an unquestioned and unquestionable principle of social organization. Partners come to adopt dominant discursive norms through a “process of domestication and diffusion of market norms and priorities”, implying that the goals of different actors are mutually compatible (De Angelis, 2003:21). Consequently it forecloses debate on values and promotes internalization of a particular mode of acting.

The Critique of Corporate Social Responsibility

Critical attention to CSR has been given throughout the preceding sections. Some important clarifications remain to be made. Despite profound structural questions and contradictions, CSR has entered into national and international discourses as a key approach to the solution of global challenges, including poverty, the environment, population challenges and globalization (WBCSD 2006). Many of the critiques of CSR contend with the ‘how’ of CSR and matters of implementation, measurement and monitoring, amounting to a

‘politics of the possible’. An analysis of what is politically viable, what is on the table and what is not, reveals numerous silences in the CSR debate that constrain which responsibilities are taken up and which ones are not. Furthermore, as Blowfield points out, CSR also grants rights that are neither acknowledged, nor questioned (2005a).

The following sections will first briefly examine the structural form of the corporation, and then analyze the critiques of CSR by asking which responsibilities are taken up, which ones are not, and the nature of the implicit rights granted to corporations under the current framework. I will then briefly describe some of the questions remaining as they relate to the broader framework of ‘global governance’.

Structural form of the corporation

The notion that a corporation should be held responsible for social and environmental problems caused by its activities and to have a role to play in solving them should be part of the normative environment in which production is organized. That it is not has much to do with the legal and structural form of the corporation, a critique that has been made eloquently in the film *The Corporation* (2004), Joel Bakan’s book *The Corporation: The Pathological Pursuit of Profit and Power* (2004) and by Harry Glasbeek in his book *Wealth by Stealth: Corporate Crime, Corporate Law and the Perversion of Democracy* (2002). Both authors argue that the legal form of the corporation prevents responsible behaviour – especially the legal attributes of limited liability, personhood and potentially perpetual life (see also Ostas, 2001; Post, Preston and Sachs, 2002; Yaron, 2000). The attributes of separate personhood and limited liability bestow substantial privileges, making incorporation an extremely advantageous way of doing business. Glasbeek, professor emeritus of commercial law at York

University, Toronto, demonstrates in his book that “anti-social and criminal behaviour are endemic to the very structure of the corporation-for-profit (2002:4).” Since the attraction of the corporate form resides in its legal ability to avoid responsibility, Glasbeek views CSR as a “politics of impotence” that attempts to solicit responsibility without fundamentally altering the essential nature of the corporation” (2002:42). In effect, the argument that corporations should be responsible to groups of public stakeholders rests on shaky legal ground, raising serious contradictions for CSR as a means of reform.

CSR: Responsibilities taken

Risk management and market expansion:

The nature and extent of CSR derive from ways corporations *choose to* respond to social, environmental and economic conditions, in ways that are amenable to corporate concerns, giving business the power to set the terms of its own conduct (Blowfield, 2005a; Shamir, 2004; Hertz, 2001b). Those values that the business community considers negotiable are on the table and the issues taken up under the CSR banner are those that can be reconciled with the ‘business case’. Primary objectives from the business point of view are risk management, and market share maintenance and expansion. The business discourse promoting CSR frames the practice as one of ‘win-win’ scenarios, where there is complete consensus on means and ends, and the diagnosis of the problem at hand is shared. Thus, the WBCSD considers CSR both “ethical and enlightened self-interest,” and a form of “social investment.” In the long term, however, business “seeks to extract certain identifiable returns for its social spend” (1998:5). Investment in, for example, education and health, especially in developing countries, returns healthier employees and markets in the long term. The WBCSD acknowledges that there are situations where there is no ‘business case’, but in such cases the

organization advises only that such situations must be handled with care, or, more prominently, the fallback position is to look for “government action” (2006:29).

Ultimately, the ‘business case’ fails to acknowledge that often trade-offs must be made between company profits and ethical outcomes, or that moral reflection in many cases demands that social investments must be made without an expectation of an immediate return on that investment.

Voluntarism:

The CSR field, including codes of conduct and the discourse of business ethics, shows “strong biases towards the voluntary, the philanthropic and the non-enforceable” (Shamir, 2004:686). Business rationales for voluntarism are that responsible behaviour cannot be compelled, only encouraged; voluntary action ensures the ‘flexibility’ to respond to varied circumstances; and voluntary action keeps the ‘heavy hand’ of government regulation at bay. However, few ‘voluntary’ initiatives are truly voluntary. Many codes of conduct were implemented after a corporation was the target of adverse publicity, initiated by civil society groups. Shell’s code of conduct following the Brent Spar incident comes to mind, as well as Nike’s initiatives following a long-term campaign against labour conditions in the corporation’s subcontractors’ facilities. Nevertheless, voluntary activities by targeted corporations in many cases did not reduce civil society criticism. The reason for this, according to Bendell, was that “what most proponents of voluntary corporate responsibility had failed to realize was that the key issue was corporate power, not just corporate practices” (2004:29). To many critics, voluntary CSR only increases corporate power and fails to address the root problem of too much corporate power.

Governments’ willingness to embrace voluntary CSR is often coupled with strategies of deficit reduction, leading to the gutting of regulatory agencies

and social programs. Voluntary initiatives thus are proposed as “substitutes for regulation and justification for dismantling regulatory capacity” (Gibson, 1999:7).

The voluntary nature of CSR signifies that corporations have the choice to enter into CSR programs, but also that they have the choice to exit such programs at will. In effect, this makes CSR subject to the continued generation of profits.

Evidence from Japan and India shows that some corporations there have withdrawn from community programs during periods of economic downturn (Doane, 2005; Chandler, 2002; Hertz, 2001b). As long as investors reward companies for driving down short-term costs, investments in social programs and the environment are likely to be part of cost reductions when necessary.

Stakeholder selection:

To whom are corporations responsible? ‘Stakeholder’ rhetoric serves to identify the relevant groups that are affected by or influence a corporation (Freeman, 1994). Corporations set the terms of engagement and choose their relevant constituencies, shaped by the ‘business case’. While the stakeholder literature engages in taxonomic attempts to identify stakeholders, it remains the case that selection processes are, in many cases, a function of corporate choice, not of legal obligation. As noted earlier, Mitchell, Agle and Wood argue that the selection of stakeholders depends on the three relational attributes of power, legitimacy and urgency and conclude that those without power often are not heard, even though they have legitimate and urgent claims (1997). In effect, the discourse of stakeholder selection conceals asymmetric power relations. Michael Blowfield comments that:

We therefore need to be open to the possibility that either, (i) following Gramsci, the partnerships and the groups defined as stakeholders are simply some of the institutions through which a ruling class claims and maintains its hegemony, or (ii) following Foucault’s disciplinary

approach to power, that standards, auditing and the concepts of stakeholders and partnership are amongst the techniques of normalization through which entities regulate their own behaviour, and which structure thought and discourse into mutually exclusive categories such as correct-incorrect or desirable-undesirable (2005a:182).

However, the structuring of thought and discourse cannot be conceptualized as a linear and unidirectional process only. Business engagement with various stakeholders and partners contains the possibility that alternative conceptualizations of problems and solutions are brought into negotiations, with the possibility of broadening what were essentially closed and self-referential value and reference systems.

One particularly exclusive category appears to be the basis on which stakeholders are consulted. Stakeholder consultations ask *how* a project should be implemented, not *whether* it should proceed. Where corporations are obliged by law to consult with affected communities the option of not proceeding is usually not available. There have been some well-publicized cases where communities have voted against a project, only to see it proceed against their wishes.

CSR: Responsibilities not taken

Burden of proof

Many critics, especially NGOs, consider CSR wholly inadequate to deal with environmental and social problems and argue that CSR is used to mask the impact of corporate activities (see *inter alia* Amnesty International, 2004; Christian Aid, 2004; Global Witness, 2000). CSR consists of those areas that business has been willing to negotiate over, causing development NGO Christian Aid to portray CSR as a “systematic attempt to keep control over social and environmental policies and practices in corporate hands and out of regulators

hands” (cited in Baue, 2004). The voluntary nature of CSR appears to limit the effectiveness of at least environmental initiatives. A 2003 OECD report concludes that “environmental effectiveness of voluntary approaches is often questionable and their economic efficiency is generally low” (2003:23). Similarly, findings of Canadian studies on voluntary environmental initiatives collected in Robert Gibson’s book *Voluntary Initiatives: the Politics of Corporate Greening*, lead him to conclude that:

[t]he most effective inducements, however, have been closely tied to the exercise of government authority in three overlapping forms: action to impose, maintain, and where necessary supplement environmental regulations, or to make a plausible threat to do so; action to establish and enforce a broader legal framework for environmental responsibility; and action to shift the market so that a corporation will gain competitive advantage by improving its environmental performance (1999:241).

Gibson concludes that the choice is not between voluntary initiatives or regulation, but that the two are interdependent and must be integrated.

Partly because voluntary initiatives often do not result in effective and desired change towards sustainable development, many civil society organizations have begun to call for ‘corporate accountability’ (CA). Briefly, specific CA activities are composed of four types of legal regulatory strategies. First, the need for transparency would mandate compulsory social and environmental reporting. Second, a focus on consultation would include compulsory stakeholder engagement and the necessity of signing community agreements. Third, where states fail to uphold citizens’ rights, extra-territorial performance requirements would look to national governments to extend the jurisdiction of national courts to cover practices abroad of nationally based corporate entities. Finally, international regulation would take place through supra-state mechanisms. For example, some

proposals seek to extend the jurisdiction of the International Criminal Court to include corporations (Bendell, 2004:27).

Ultimately, the credibility and legitimacy of corporate self-regulation must be judged by the acts of corporate agents. Scant research evidence exists on the implementation and effectiveness of corporate social responsibility initiatives and codes of conduct. S. Prakash Sethi observes that it would be easy to write a book describing the vast variety of codes being formulated, but that only a few pages can be written on research evidence of code effectiveness and implementation (Sethi, 2000). The burden of proof that voluntary initiatives deliver desirable results remains to be fulfilled and must rest with the corporate community.

Access rights

Analyzing corporate social responsibility reveals an ongoing political contest over the meaning of sustainability and the boundaries of the commons. As currently practised, CSR reinforces and justifies patterns of unsustainable development, including growing inequality, continued economic growth for its own sake, market-dictated production, exponential increases in material and energy throughputs, and externalization of environmental and social costs. CSR contributes to the commodification of the commons in order to renew capital accumulation and justifies capital eating away at the boundaries of the commons by drawing upon a globalist rhetoric that legitimizes the property rights of capital and the expropriation of environmental and livelihood space on a global scale (Lock, 2006). Western notions of property rights are universalized across cultures that may have a different understanding of ownership.

Power, legitimacy and scale

By focusing on CSR as a solution to global problems, perhaps the most problematic issues relate to the possibilities that are pre-empted by taking this trajectory. Old models are adjusted without fundamental alteration or challenge.

Recognition of responsibilities does not enable the creation of new forms of economic and social life (Freeman and Liedtka, 1991). CSR takes the corporate form and scale of TNCs as a given, foreclosing the possibility of an economic system based on smaller scale enterprises or of local, community-focused development (Utting, 2000). Furthermore, CSR rejects the idea that the corporate legal structure and corporate power are at the root of dysfunctional corporate outcomes.

The notion of CSR accepts as legitimate the existence of all corporations, no matter what they do or what they produce, including the 100 corporations world-wide that produce implements of torture (McMurtry, 1999:237). In contrast, David Barkin argues that sustainable development “requires a redefinition of not only what and how we produce but also of who will be allowed to produce and for what ends” (1998:60). Corporate environmentalism seldom encourages different consumption patterns; market-dictated production and consumption neglects use values in favour of commodity values (Princen, 2002). The Body Shop and Ben & Jerry’s ice cream, two corporations well known for their claims to socially responsible practices, use resources that could be put to more life-enhancing purposes (Glasbeek, 2002). Since labour remains accounted for as a cost to the bottom line, the question does not arise whether more employment should be created than is absolutely necessary. Neither is the right to a ‘living wage’ considered, as it does not amount to a competitive advantage (Blowfield, 2005a).

Within partnerships, especially between business and NGOs, partnerships are considered to create a situation of ‘mutual dependency’. This does not take into account the fractured nature of civil society and corporate resource advantages (White, 2006). “Partnership that is based within disparity is, at least in part, exploitation” (InterPares 2004:12). Asymmetrical power relations in a

mutually dependent relationship in effect create a dependent relationship, where the party with the most power and resources has the advantage.

CSR: Rights granted

Divine rights of capital

It has been said that “a firm's income statement may be likened to a bikini -- what it reveals is interesting, but what it conceals is vital” (Malkiel, 1997). The same can be said of the CSR debate which conceals many vital silences, particularly on what Marjorie Kelly has termed the ‘divine rights of capital’ (2001). The focus of CSR is on where, how and what corporations produce, rather than the core purpose of the corporation as entrenched in its legal structure. At root the problem is structural and the debate fails to link CSR to the essential nature of capitalism and its inherent contradictions (see O’Connor, 1988). As a result, CSR tends to deal with symptoms, not the fundamentals that would allow a transition to a socially just and sustainable society.

Vital silences within the CSR debate may be summed up as the non-negotiable items of: corporate taxation, corporate lobbying, the acceptance of the market as the single determinant of price and production decisions, the right to invest/disinvest at will (freedom of capital), the right to make a profit (limitless), the promotion of the universal good of free trade, the supremacy of private property, the tendency towards increasing commodification, and the privileging of corporations as citizens and moral entities (Allinson, 2004; Baue, 2005; Bendell, 2004; Blowfield, 2005a; Christian Aid, 2004; Doane, 2005a; Dobbin, 1998; Freeman and Gilbert, 1992; Glasbeek, 2002; Jenkins, 2005; Jones, 1996; Matten, Crane and Chapple, 2003; Shamir, 2004; Utting, 2000; White, 2006). Simon Zadek, reporting on the 2004 meeting of the World Economic Forum, concluded that these silences constitute “institutionalized veils of ignorance” (2004). If CSR

is to be successful, it must be open to an examination and inclusion of the full range of corporate activities.

Brian Murphy asks two further important questions that must be added to the ‘institutionalized veils of ignorance’. First, “the issue of profitability begs the question: whose investment vs. whose return? And at what cost, and at whose cost?” (2002:6). Second, “if profit depends on limited liability, who pays for the phenomena for which corporations are not liable?” (2002:7). The answer to both questions points to major shortcomings when considering the possibilities inherent in CSR.

Another primary oversight of CSR is that it excludes financial capital from consideration (Bendell, 2004). The role of the investment community, such as fund managers, analysts, credit rating agencies, pension fund trustees and stockbrokers often promotes a short-term evaluation of business performance, and in effect, prevents businesses from taking a truly responsible approach to their operations. Given this, it appears that the barriers to responsible behaviour are at least as powerful, if not more so, than the incentives.

Hegemony of discourse and modes of knowing

CSR discourse may be understood as a Foucauldian normalization process that reproduces ideological hegemony through the use of language, and modes of thinking and acting that are acceptable to the business community. The discourse serves to legitimize and universalize particular forms of knowledge – in particular, ways of knowing that are rooted in Western cultures. As a result, market principles are elevated in partnerships and community practices, and implementation and measurement of CSR principles depends on techniques rooted in Western financial management systems (Blowfield, 2005a; Doane, 2005a). Scholte notes that a neoliberal economy based on competitive

individualism “assigns priority to efficiency over equity when the two conflict,” with “unhappy implications for social justice” (2005:13).

Particular conceptions of what social justice can or cannot be are embedded in the CSR debate, allowing business to appropriate the meaning of ethics (Murphy, 2002; Blowfield, 2005a). Generally, social justice is reduced to the economic development function of market participation, and subject to a cost-benefit analysis (Charkiewicz, 2005). CSR turns social problems into corporate strategies and community projects become commodities that can be sold to bolster a corporation’s image or brand (Freeman and Liedtka, 1991; Shamir, 2004). Within partnerships, segments of civil society become marketized and serve as proof of corporate responsibility (Doane, 2005b).

The above discussion raises important questions about the possibilities of CSR within a capitalist global economic system and reveals numerous barriers to the achievement of a just and sustainable future.

CSR and ‘global governance’: remaining questions

Return of the state?

Popular singer-songwriter Paul Simon writes that these are the days of “staccato signals of constant information” and “a loose affiliation of millionaires and billionaires” (1986). Institutions of global governance and gatherings of the powerful, such as the World Economic Forum, the Trilateral Commission, the Transatlantic Business Dialogue and the Bilderberg group, indeed do seem to be such—perhaps not so loose—affiliations. While representatives of nation-states are present at such fora, what is the role of the state with regards to CSR?

As discussed earlier, CSR represents a constitutive element of ‘global governance’, but at the same time it obscures the new role of corporations within this governance (Matten, Crane and Chapple, 2003). Only one of the major CSR

initiatives—the OECD Guidelines for Multinational Corporations—is intergovernmental. Most other initiatives are business responses to NGO pressure. Governments, it seems, are out of the loop, although they are still the only actors with jurisdiction over the private sector. Furthermore, “even though most international CSR initiatives address issues that are highly relevant to global public policy, there has been little substantive linkage between the work of the CSR movement and international public policy processes – possibly to the detriment of both” (Calder and Culverwell, 2005:35). Many NGOs, expert groups and some government and business representatives point out that the limitations of the CSR agenda can only be addressed by increased government action.

Calder and Culverwell list some difficulties of more government involvement (2005). First, national governments face the problem of infringement on other governments’ sovereignty in transboundary cases. Second, it remains difficult to balance sustainable development and human rights objectives with economic development objectives. Third, there are questions about where in the process governments should intervene. Finally, there are challenges related to the different cultures, languages and objectives of governments versus the private sector. Fair enough. But it can be argued that business entities face the same problems in their practice of CSR and relations with host countries and communities. So why are governments not doing their jobs? And is there any evidence that a return of the state in its regulatory, political, distributive and social security functions is imminent?

Allyson Warhurst, of the Corporate Citizenship Unit at Warwick University’s Business School in the UK, writes that “society is increasingly expecting global business to work in partnership with others to solve the numerous humanitarian crises and endemic problems facing the world” (2005:152). On the other hand, Laxer argues that, following the September 11,

2001 terrorist attacks on the United States, there were rising public expectations that “governments can again do more for them than civil society, corporations, or markets,” an expectation which may have been undermined again by the incompetent U.S. government response to hurricane Katrina (2005:322).

Currently, the U.S. is deploying its “hard” and structural power to selectively regulate, promote, eliminate and deregulate global flows, in this way contributing to both globalization and deglobalization, while seeking to extend U.S. state power. The pendulum may be swinging back towards the state as the guarantor of security¹⁷, but has there been a reduction of corporate power and expectations that business will solve social and environmental problems? Will the increased acceptance of the “visible fist of governments” in security and defense matters translate into a more broadly revived public sector? (Harmes, 2004:204).

Polanyi demonstrates that the return of the state, after a period of *laissez-faire* market capitalism, can take both progressive and regressive forms (2001 [1957]). Certainly, the U.S. reaction to 9/11 was protectionist and a re-statement of the importance of borders. At the same time, President George W. Bush equated security with ‘free’ trade and the interests of American corporations. Corporations are not subordinated, but rather an integral part of the U.S. security strategy. The American Homeland Security Bill supports partnerships, and according to Congressman Sherwood L. Boehlert (R-NY), public-private partnerships are essential to security:

If there was ever an endeavour that cried out for public-private partnerships, it is the research and development related to homeland security. Here is a case in which the government cannot carry out its

¹⁷ Security must be understood in a limited sense, as referring to a form of physical security, enforced by military activities. Security in the sense of security of employment, livelihood rights, or social support systems remains precarious.

most basic mission of security without the cooperation of the private sector (2004:3).

Here we again find the same rhetoric that permeates the CSR and 'global governance' debate: incapable governments must partner with the private sector to achieve public objectives.

Other events, especially in the United States, had perhaps more effect on the business-society relationship. The U.S. stock market crash (resulting in many people's decreasing investment and retirement funds), corporate scandals such as Enron, Tyco and WorldCom and the failure and reversal of electricity deregulation in California, saw a substantial increase in government regulations related to corporate governance, the accounting industry (Sarbanes-Oxley Act) and airport security (Harmes, 2004).

In Canada a similar retreat from too much deregulation took place in some areas. In Ontario, price caps and government rebate cheques followed electricity deregulation and the Walkerton water crisis of 2000 saw the Ontario government re-intervene in the water supply system. In Alberta, the government instituted a cap on the price of natural gas paid by Albertans. Yet, such regulatory activities are evidence of reactions to events and public agitation, not a fundamental re-thinking of the role of the state versus the market.

Some authors express doubt that regulation of TNCs is likely at the international level. First, the failed UNCTC attempt at a global code of conduct for TNCs makes a new attempt unlikely in the foreseeable future. Second, the institutional framework and supporting networks of economic globalization are now even more firmly entrenched than they were in the 1970s and 1980s. According to Ruggie "there is little chance of transnational firms becoming subject to legally binding regulation at the global level anytime soon; the political

will or even capacity simply is not there, and much of the corporate world would unite to fight it” (2004:518).

Conversely, Bendell argues that the past ten years of debate and the practice of CSR have delivered the key lesson that market-based mechanisms for social and environmental goals are too weak to deliver true progress towards social and environmental sustainability. Business leaders were “beginning to see a business case for governments performing their regulatory function on social and environmental issues...Coupled with a growing awareness of the limits of voluntary responsibility, various people and groups within the private sector were awakening to the role of government and intergovernmental institutions in providing a countervailing force to capitalism” (2004:46). The Vancouver based credit union VanCity—broadly recognized for its socially responsible behaviour—commissioned a report on future trends. It read:

there is a strong view that market leaders will increasingly call for regulation in an attempt to institutionalize the market levers that give them a competitive advantage. There is extreme likelihood that corporate CSR leaders will be either neutral or supportive of future regulation, an environment that is increasingly conducive to government involvement (Strandberg 2002:15, cited in Bendell p 36).

Striking in this statement is that the issue of competitive advantage remains the ultimate goal. It remains unclear where the institutional locus of regulation over supra-territorial business activities should be located.

On a cautionary note, many authors point to the existence of a “dependency relationship” between the state and corporations (Glasbeek, 2002:233). Succinctly stated by Snider:

...it is widely accepted that modern states do have an interest in facilitating the development, growth, and accumulation of capital by the

private sector, and in promoting the extraction by capital of surplus value. In other words, the structural realities of modern national states are such that they *must* try to ensure the profitability of the private sector...the survival of the nation-state, its revenues, its social welfare, educational and military programmes (as well as the fate of the party in power), are all dependent on this, both directly and indirectlyThe real and perceived interest of business, then, shape everyday government discourse at every level, and are part of every government decision (cited in Yaron, 2000:120, footnote 364).

Furthermore, the increasing emphasis on public-private partnerships deepens the state's dependency on corporations. The corporate provision of welfare not only becomes dependent on the continued generation of profits, as Hertz argues, but, as Charkiewicz points out, state dependence on corporate provision is incompatible with the regulatory function of the state (Hertz, 2001; Charkiewicz, 2005). The state also relinquishes its traditional role of mediator between markets and civil society.

The favoured instrument of governments to deal with different goals and tensions between parties in, for example, extractive industries is the multi-stakeholder dialogue (MSD). It is instructive to note the analysis of Joan Kuyek, a long time activist with MiningWatch Canada:

...the term 'stakeholder' is particularly misleading and makes assumptions about the rights of different parties to be at the table, assumptions that are symptomatic of the repositioning of governments and citizens vis-à-vis the corporation and the 'private' sector. Some 20 years ago the state was seen as the arbiter of different interests within its jurisdictions; it held the power to make the final decision and was – ostensibly – there to represent the public good in this exchange, on

behalf of its citizens. Now we are confronted with the state being merely one of the stakeholders at the table, on an 'equal' basis with less powerful citizen groups and more powerful corporate interests. Its authority to govern has in fact been dismantled (2006:215).

Many have commented on the 'democratic deficit' in globalization and this is particularly true of 'global governance' as currently constituted. The multistakeholder dialogue and CSR – partly instituted to address this deficit by providing a 'voice' to different interests – “assumes a transformation in the structures and norms through which the state and its citizens relate to corporations and the realities they impact” (Murphy, 2002).

The true democratic deficit – and the most troubling – may be that Murphy's and Kuyek's observations about the 'repositioning of governments and citizens' assume that the interests and objectives of governments and citizens are aligned. It is surprising that the assumed incapacity of governments and the utter lack of progress towards sustainable development have not resulted in a questioning of the structures of capitalism itself. The gap between what citizens value and the lack of government action to achieve those values may be the most serious disconnect of all (Chandler, 2002).

Conclusion

During the twentieth century, failure at national and international levels to regulate and restrain corporate power increasingly focused attention on the lack of corporate democratic accountability. CSR emerged as a normative modification to neoliberal globalism and as a conscious attempt to forestall international regulation and state intervention in the market. Despite profound structural questions and contradictions, CSR has entered into national and international

discourses as a key approach to the solution of global challenges, including poverty, the environment, population challenges and globalization.

Mainstream CSR discourse functions as a Gramscian normalization process, reproducing ideological hegemony through the use of language and modes of thinking and acting that are acceptable to the business community. Using the discourse of CSR, private sector interests have taken on important roles in an unfolding international system of global governance and rule making.

A sociological, political economy perspective on CSR reveals that, in mainstream literature, basic assumptions include: first, that the 'business case' is of primary importance in the business uptake of social responsibilities; second, that in the context of globalization, business should take on a larger role in solving social and environmental problems, revealing CSR as a constitutive element of an emerging network of 'global governance'; and third, analysis of the literature exposes an anti-political 'Polanyian inversion', where social and environmental considerations must be 'embedded' in the economy, because it is good for business.

Business uptake of increased responsibilities rests primarily on the business case: the assumption that CSR is good for business. The business case seeks to combine the triple bottom line goals of economic prosperity, environmental quality and social justice and assumes that these goals are compatible and mutually reinforcing.

Business interests insist that CSR must be voluntary. In effect this gives business the power to set the terms of its own conduct. The precise articulation of responsibility is at the discretion of the corporation. Management chooses where and how to engage with social issues; whose interests to take into account and how to respond; and the circumstances under which it chooses to exit from its programs.

Governments' willingness to embrace voluntary CSR often is coupled with strategies of deficit reduction and the professed governmental inability to meet the needs of its citizens. Critics point out that CSR functions as a substitute for political regulation and as a justification for the dismantling of regulatory capacity. Nationally and internationally, public-private partnerships are promoted as a way to address complex social, environmental and developmental problems.

The presentation of corporations as entities voluntarily taking up broad responsibilities rejects the idea that the corporate legal structure and corporate power are at the root of dysfunctional outcomes. Yet, it is precisely the structural form of the corporation that gives corporations the legal ability to avoid responsibility. CSR allows the fundamental nature of the capitalist system to go unquestioned and denies deeper, systemic problems with today's dominant business and economic model.

CHAPTER 3

THE CASE STUDY: LITERATURE REVIEW AND CONTEXTUAL FACTORS

Introduction

The central tenet of the case study research is that corporate social responsibility practices and outcomes are highly context-specific. The study focuses on one company—EnCana Corporation—and its CSR activities in two countries. The theoretical review in this chapter focuses on the country/regional context of EnCana's operations. I will show that, in the case study regions of north-western Alberta and north-eastern Ecuador, the struggle over the content of desired outcomes is a political contestation over the meaning of development and self-determination of affected Indigenous peoples.

Analyzing the practice of corporate social responsibility as a political contestation over the meaning of development and self-determination provides a distinctly different perspective from the mainstream literature on CSR. The a-theoretical, a-political and instrumental nature of the literature limits analysis of corporate interrelations with affected communities to operational and measurement issues. Mainstream literature strips CSR from its context and assumes that practice can be standardized and the results can be quantified. From this perspective, sustainable outcomes and attainment of local objectives are unlikely to result from the 'win-win' scenarios put forth by business, governments and international institutions.

The theoretical framework in chapter two conceptualized CSR primarily in terms of its place and meaning in the international system. The case study analyzes interactions between the Canadian oil and gas company EnCana Corporation (EnCana) and Indigenous peoples in two locations: north-western

Alberta and north-eastern Ecuador. In north-western Alberta, EnCana operates on lands traditionally occupied by the Dene Tha' First Nation, and in north-eastern Ecuador on lands traditionally occupied by the Siona and Secoya Indigenous peoples, complemented by a population of agricultural settlers in the Amazon forests, following the opening up of the forests by resource extraction activities. The study also analyzes EnCana's community development efforts in the settler communities directly adjacent to the company's primary centre of operations in the Ecuadorean Amazon. In this study, I conceptualize both north-western Alberta and north-eastern Ecuador as developing regions.

The overall purpose of this chapter is to situate the case study research within theories related to the practice, implementation and outcomes of CSR activities in two distinct developing regions. Despite extensive research and reading on CSR, I have found few theoretical formulations on the subject of CSR practice specific to community development. The literature review therefore draws from broad literatures to construct an analytical framework for the case study.

This chapter is divided into two sections. The first section addresses the contextuality of CSR practice and examines two theoretical formulations. First, the doctrine of domicile analyzes CSR from the perspective of multinational enterprise behaviour. Second, contingency theory approaches CSR from a development perspective. I then examine the academic literature on the development implications of the practice of CSR.

This review is intended to draw attention to the limitations of existing literature which understands CSR as a voluntary measure undertaken by corporations as a means to manage risk, protect reputation and add value. Instead I argue that CSR must be understood as a political struggle over the meaning of

development and self-determination of affected populations and the way power operates to establish CSR as a legitimation and justification of corporate power.

The second section identifies contextual factors important to the range of outcomes resulting from CSR practices. More specifically, contextual factors affecting the outcomes of CSR practices are divided in three clusters: one, country/region specific factors; two, industry specific factors; and three, community specific factors. Within each cluster contextual factors relate to historical, political-economy, institutional and culture-ideological aspects.

Broadening the section on institutional factors, I include a discussion of a key missing parameter of contingency theory: the issue of ‘consultation’ and how it is legally and commonly understood in each region. In addition, I briefly ascertain the institutional context of CSR in each country/region.

Theoretical formulations on the practice and outcomes of CSR

In contrast to previous waves of CSR, today the debate is conducted at the “intersection of development, environment and human rights and is more global in its approach and outlook” (Fabig and Boele cited in Blowfield, 2005a:500). CSR considers private companies as potentially important development agents. Many core development issues are also CSR issues, for example, human rights, labour (including child labour), health, education, transparency, conflict, Indigenous rights, and community development (Fox, 2004).

Ultimately, the credibility and legitimacy of corporate self-regulation must be judged by the acts of corporate agents. Little research evidence exists on the actual practice of CSR and the outcomes of CSR programs. Likewise, theoretical writing on the subject from a sociological perspective is rare.

Assuming that CSR outcomes are context-specific, theoretically difference in practice could be located in two possibilities. The first possibility is that

differences in practice and outcome are located within the corporation, and particularly, within the values and ideologies held by its employees. These values and ideologies are closely tied to the corporation's home country value-system. A second possibility is that difference is related to the location of economic activity. Contextual factors influencing practice and outcomes relate to governmental and institutional capacity, interactions between elites and global capital, and the actions and agency of local populations and civil society groups.

The first part of this section presents a summary and critique of two theoretical frameworks related to the practice of CSR: the doctrine of domicile, addressing the first possibility and contingency theory, addressing the second option. I then broaden the theoretical framework to describe a key missing parameter of contingency theory: the issue of consultation, or the 'free, prior and informed consent' of affected populations. Literature on CSR in the context of development and theoretical insights gained from this literature conclude this section.

Doctrine of Domicile

Most corporate social responsibility literature is found in theories of business ethics and management. This literature generally accepts the capitalist system as the dominant regime of accumulation and theorizes CSR either as an investment in the long-term profitability of the corporation, or as a moral modification to the consequences of capitalism. Little differentiation is made between large corporations with respect to nationality, type of industry, or the size and relative economic power of particular corporate sectors and institutions within which they are embedded.

While there is broad evidence that TNCs have become more dominant in global economic transactions, it is problematic to discuss TNCs as a

homogeneous aggregate, increasingly divorced from national structures, institutions and ideologies. A study by Doremus, Keller, Pauly and Reich, concludes that “the global corporation, adrift from its national political moorings and roaming an increasingly borderless world market, is a myth”, and in particular an American myth (1998:3, 143). The research focused on the comparison of investment and trading strategies, research and development operations, internal governance and core financing of TNCs from the United States, Japan and Germany. The results of the study point to

a persistent divergence in corporate strategy and structure ... Different ways of organizing the institutions and underlying ideologies that frame the modern state continue to shape decisively the organization of [TNC]s ... Different ways of organizing the relationship between states and their societies are mirrored directly in the relationships that constitute fundamental corporate operations (p. 7).

The authors of the study argue that the core strategic behaviour of firms varies widely, relating to the domestic institutions and ideologies within which companies are most firmly embedded (Doremus et al., 1998:9). Such distinctive national histories are not limited to basic national institutions of economic and political governance, but include dominant national ideologies – “the collective understandings that channel the way individuals in particular societies relate to one another” (p. 16).

Although differentiation and adaptation occurs when MNEs operate internationally, changes are limited to the “extent that those underlying institutions and ideologies permit such change” (p. 17). John Dunning adds a further layer to this, arguing that, in a globalizing economy, the CSR of TNCs “is especially influenced by the content and quality of their internal institutions and those of the other organizations of global capitalism with whom they have

associations” (UNRISD, 2003). Dunning cautions however that the practice of CSR will vary across national boundaries, because “underpinning institutions are a set of values, belief systems, and ideologies which, at any moment of time, reflect the inherited culture of both firms and societies” (UNRISD, 2003).

In a clear reference to the ‘business case’ framework for CSR, Stander and Becker argue that the ‘doctrine of domicile’ (originally formulated by R.L. Sklar, 1987), arises because TNCs must legitimize their presence in a host country “in order to obtain the stability it needs to plan the maximization of capital accumulation under its control” (Stander and Becker 1990:198, cited in Anderson, 1999:58). CSR responses of corporations thus are framed as instrumental approaches to obtain legitimacy and a stable business environment.

Others argue that the globalization of production and sales has been accompanied by “globalization in regulatory jurisdiction, as firms fine-tune their legal homes for tax and other benefits” (Davis, 2006:16). The authors speak of a ‘responsibility paradox’ where “the interests of a transnational company are not the same as those of the country from which it originates or of the workers it has historically employed. It has become, to coin a phrase, a ‘rootless cosmopolitan’” (Martin Wolf, 2004 cited in Davis, Whitman and Zald, 2006:18). A certain blurring of national boundaries also is evidenced in lawsuits brought in the United States under the Alien Torts Claims Act, for violations committed by TNCs in other countries. While this may be evidence of ‘rootless cosmopolitanism’ as Wolf seems to suggest, it could also be seen as evidence of the ‘doctrine of domicile’, where corporations are held accountable to the legal system of their home country. It must be noted that the use of the U.S. Alien Torts Claim Act is under attack by major U.S. based transnational corporations, who see this as an unacceptable extension of U.S. jurisdiction to other sovereign countries.

While many have a positive view of the application of home country values and standards, others find this more problematic. They speak of a “unilateral imposition” of norms and practices that were developed domestically.

According to Child and Rodrigues

[t]his unilateral imposition reflects what Tony LeTrent-Jones (2002) has called the MBA and consultancy supported ‘culture of smartness’. It readily becomes a ‘culture of elitism’, where the attitude is ‘I know best and nobody else’s opinion counts for anything’. Hence the tendency towards a non-transparent and unaccountable exercise of corporate power among [T]NCs abroad (2003:237).

Where policies and practices are introduced by foreign multinationals, “biases toward home country, global or national concerns can result – at the expense of approaches that build directly on local considerations and priorities” (Ward, Borregaard and Kapelus, 2002). As I have described in chapter two, CSR originates from the industrialized countries and the values and priorities of those countries tend to dominate.

The common methodology accompanying the doctrine of domicile perspective is a top-down approach to the activities of TNCs. The analysis occurs at the macro level of interaction between powerful elites and practices associated with transnational regimes of capital accumulation. From this point of view, CSR serves to legitimize the presence of foreign investors and stabilize the business environment. The perspective tends to reinforce hegemony by maintaining silence around various dimensions of power differentials between groups.

Differences in the application of CSR are attributed to the domicile of the corporation operating in a host country and the domestic ideologies and values within which a corporation is embedded. In addition, practices are influenced by internal corporate values and more widespread ideologies and paradigms, such as

the values of organizations or institutions of global capitalism. However, under neoliberal globalism and changes in the international division of labour, the interests of the TNCs' country of domicile often are in conflict with the interests of international capital.

The perspective does not consider how the changing nature of the international context influences the possibilities of corporate action. For example, what happens when economic circumstances change, such as recessions or depressions?

There is also some evidence that the 'doctrine of domicile' does not apply in particular contexts. Studies by Child and Rodrigues in China and Brazil found that:

[t]he degree to which MNCs allow for local participation in the governance of their overseas activities is highly context specific. It appears to depend far more on the extent to which national institutions enforce this through laws and regulations than on any sense of obligation and responsibility by the companies themselves. For instance, MNCs moved significantly away from the participation of local companies in the governance of their affiliates in China, once regulations requiring the formation of joint ventures were relaxed. German multinationals do not conform to the principles of co-determination in contexts such as Brazil where there is no legal obligation to have employee participation (2003:235).

The notion of the 'doctrine of domicile' assumes that place-based contextual factors—a host country or region's traditions, history and inherited social, economic and political institutions—are of limited importance as determining factors of development, or of corporate behaviour.

Completely absent from the perspective are those levels below the elites of transnational capital and national governments. Where Dunning speaks of “the inherited cultures of both firms and societies”, and Doremus et al. refer to “collective understandings”, no allowances are made for internal differences within cultures, or for the ways in which corporate activities are understood, accepted or rejected by populations within the operational sphere of influence of a corporation. Of specific interest for this study are different strategies undertaken by Indigenous peoples to hold corporations to account.

Contingency Theory

In contrast, insights from theories of dependent development show that external factors would have very different impacts on developing regions, depending on dissimilar internal socio-economic conditions and political institutions (Martinussen, 1997). A second perspective, contingency theory, takes up this point and focuses on the relationships and interactions between a developing region and the capitalist global economy and suggests that outcomes are not preordained by some basic law of capitalism. Rather, “*the outcome experienced at a particular time and in a particular place is contingent on a variety of factors, many of which are under at least the partial control of the people of the developing region* (Anderson, 1999:33; emphasis added).” As the creator of the contingency perspective, Robert Anderson, concedes, the basic premise of the perspective – that there is a range of possible outcomes – means that any outcome is consistent with the theory.

Anderson attempted to overcome the impasse in development theory between modernization/dependency, radical/orthodox, and internal/external explanations and proposed an amalgam of theories he named the contingency perspective. Contingency theory is an amalgam of regulation theory, the post-

imperial perspective, and alternative and indigenous development perspectives.

The following description is from Anderson, 1999:55-74,218-224.

The contingency perspective takes global capitalism as a given and posits that communities, regions and nations must accommodate themselves to the dominant regime of accumulation. At the same time, the relationship between a developing region and the global economy can exhibit characteristics unique to that region—the result of interactions between leaders of the developing region and the capitalist economy—and serve the particular needs of its peoples.

Successful integration to the dominant regime of accumulation depends on an appropriate mode of social regulation. Anderson argues that “the local” plays a key role and modes of regulation are created through “highly localized processes, where economic structures, values, cultures, institutions and histories” contribute profoundly to success and to an appropriate and desirable mode of development. This requires active “people at the grassroots”, or an active civil society. If a resulting mode of regulation is unacceptable, this should lead (and according to Anderson, has led) to a modification of arrangements.

Central in this endeavour are an “active civil sector capable of articulating the needs of the people and a leadership capable of developing the strategies and negotiating the arrangements necessary to address those needs.” Anderson argues that these elements are “essential to the creation of a mode of development that will deliver benefits beyond the elites to the general population of a developing region” (p. 71).

Strong emphasis in this perspective is placed on the “characteristics and actions of the parties involved” (p. 72). One such characteristic relates to whether or not a corporation acts and behaves according to the ‘doctrine of domicile’, discussed above. When a corporation does, Anderson suggests that there is the

“potential for the formation of mutually beneficial alliances of various types between TNCs and developing regions” (p. 71).

TNC behaviour according to the ‘doctrine of domicile’ is a “manifestation of the approach to corporate social responsibility adopted by a firm’s managers/owners” (p. 58). Accepting the ‘business case’—that the ultimate goal of this approach is stability, legitimacy and the maximization of profits—it could indeed be “advantageous for companies to internalize social values, rather than having them constrain their operations from the outside” (Goldman, 1995:30, cited in Anderson, 1999:62). The ultimate criterion, however, is that arrangements do not impair the companies’ ability to “survive in the global economy” (p. 62).

Within the contingency perspective, corporate social responsibility may be conceptualized as a partial response to the crisis in the mode of social regulation. As I have argued in the previous chapter, CSR must be seen as a constitutive element of ‘global governance’, which may be conceptualized as an evolving social mode of regulation. Contrary to business ethics and hegemonic perspectives, contingency theory correctly understands this response as *partial* and acknowledges that outcomes will be contingent on the ways in which this response is either accepted, rejected or modified by a specific population. This will involve strategies that are rooted in community values, cultures, economic structures, institutions and histories (Anderson, 1999).

One of the main shortcomings of contingency theory is that it does not include a theory of power. Anderson unproblematically theorizes that leaders in developing regions can ‘negotiate’ changes to unacceptable arrangements. Corporate resources and influence typically outstrip those of developing regions and even countries by a large margin. Strained relations may exist between local populations—especially those who bear the costs of resource extraction and gain

little of the benefits—and their regional or national governments over what is and what is not acceptable.

Contingency theory predicts that, where a corporation behaves according to the ‘doctrine of domicile’, outcomes of CSR practices may have multiple and unique expressions contingent on the socio-historical context in which CSR is practiced. However, Anderson fails to explain why the ‘doctrine of domicile’ would necessarily lead to the potential of mutually beneficial alliances between TNCs and developing regions. TNC home countries, just as TNCs themselves, cannot be seen as a homogeneous entity. Home country values and ideologies will differ, changing the value-context in which any particular TNC is embedded.

While contingency theory predicts different outcomes according to socio-historic context, it accepts that regions have very little influence on the dominant regime of accumulation. This position precludes an outright rejection of capitalism itself and only recognizes local adaptation to global regimes. Neither does the theory acknowledge that much resistance to TNC activity originates precisely as a reaction to the negative consequences of neoliberal global capitalism, the dominant regime of accumulation.

A key missing parameter within the contingency perspective is the issue of consultation, or ‘free, prior and informed consent’. Contingency theory takes up after TNC activity has begun, and fails to take into account whether populations in a developing region have had an active and participatory voice in decision-making *prior to* the start of extractive activity and continue to do so during the project. I now turn to a review of the literature on consultation.

Consultation: Free, Prior and Informed Consent

An important question is whether CSR simply shifts dependencies of receiving communities from governments or international aid agencies to

corporations. If so, on what grounds can legitimate demands be made on corporate resources? While the stakeholder paradigm presumably provides for consultation with affected communities, is it consistent with participatory development approaches?

Participation has been variously described as a means and an end, and as an educational and empowering process necessary to correct power imbalances between rich and poor. Differences in definitions and methods aside, there is some common agreement concerning what constitutes authentic “participation”. Most importantly, participation refers to the capacity of local populations to make and implement decisions in situations that may change their lives. It is driven by a belief in the necessity of self-determination by engaging, recognizing and using local capacities and knowledge, and avoiding the imposition of priorities from outside (Jennings, 2000). In this, it follows dependency theory’s goal of self-centered economic development, located in pre-existing conditions and people’s own resources (Martinussen, 1997). Does participation, or stakeholder consultation become a means to convince local populations of the merits of a project, or projects they took no part in initiating?

Rights of Indigenous peoples to free, prior and informed consent to development on traditional lands are internationally guaranteed (Salim, 2004). In contemporary international law, Indigenous peoples have

the right to participate in decision-making, and to give or withhold their consent to activities affecting their lands, territories and resources or rights in general. Consent must be freely given, obtained prior to implementation of activities and be founded upon an understanding of the full range of issues implicated by the activity or decision in question (International Network for Economic, Social and Cultural Rights, 2005:18).

These rights are based on the International Labour Organization (ILO) Convention on Indigenous and Tribal Peoples (ILO 169). The convention was adopted on June 27, 1989 and entered into force on September 5, 1991. Canada has not ratified the convention; Ecuador did ratify ILO Convention 169 and incorporated its principles into its 1998 Constitution (Santoyo, 2001).

Further efforts to enshrine the rights of Indigenous peoples to their lands and resources, and protection from forced assimilation and destruction of their cultures, were dealt a setback in November 2006. A subcommittee of the United Nations General Assembly referred the Declaration on the Rights of Indigenous Peoples for further study, even though the declaration had taken more than twenty years to negotiate. Most likely, opposition from Canada, Australia, New Zealand and the United States resulted in the deferment. Canada, which had been a strong promoter of the resolution under previous Liberal governments, reversed its position under its new Conservative government and lobbied hard to get the declaration delayed for further negotiation (Evans, 2006; Rizvi, 2006).

Efforts to entrench FPIC as a condition of access to international financing have run into serious opposition. In the fall of 2000, the World Bank undertook an evaluation of its investments in extractive industries and their contribution to poverty reduction and sustainable development, known as the Extractive Industries Review (EIR) which was completed in 2003. One of its conclusions pointed to the need to accelerate the use of free, prior and informed consent for extractive projects, and that its use should be seen as “the principal determinant of whether there is a social license to operate and, hence, as a principal tool in deciding whether to support an operation” (International Network for Economic, Social and Cultural Rights, 2005:18). Initially, the conclusions of the EIR were publicly supported by James Wolfensohn, then president of the World Bank. Following vicious attacks and intense lobbying by the extractive industry sector,

“which saw its access to development capital and political risk insurance being jeopardized,” the World Bank subsequently refused to support and implement the recommendations (Kuyek, 2006:211).

In Canada, firmly established in Supreme Court rulings, the legal foundation for consultation is “the Crown’s fiduciary duty to Aboriginal people¹⁸.” The National Roundtable on the Environment and Economy views consultation as “a legal and practical requirement for non-renewable resource development in the North” (NRTEE, 2002:79). Furthermore, the report argues that consultation is key if non-renewable resource extraction is to contribute to Aboriginal community sustainability. However, the Supreme Court has also ruled that Aboriginal peoples do *not* have the right to veto.

The concept of free, prior and informed consent presents particular difficulties for corporations. In many cases, national or provincial/state governments approve projects on lands claimed and/or occupied by Indigenous Nations. However, FPIC (except in Canada, as noted above) potentially gives Indigenous peoples the right to refuse consent, giving veto power to small groups. In many countries, national governments have failed to acknowledge this veto power, or fail to act as fair intermediaries between conflicting claims and interests.

It is also not clear whether the duty to consult rests primarily with governments or with corporations. Often national governments cede the responsibility for consultation to the corporations, substituting for the responsibility of the state. Power imbalances, differing levels of capacity and differential access to resources between the multiple parties raise serious

¹⁸ Important Supreme Court decisions in this regard are *R v. Sparrow*, 1990; *Council of the Haida Nation v. British Columbia*, 2004; *Taku River Tlingit First Nation v. Minister of Forests*, 2004; and *Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage)*, 2005.

concerns. Companies also face “challenges ... distinguishing between *recognized* versus *representative* leaders and institutions” (Culverwell, Lee and Koziell, 2002:10; emphasis in original). Simply negotiating with a particular group may bestow legitimacy, while the group may not represent all interests in the community. Conversely, consultation on projects is often presented by corporations as an implied endorsement on behalf of the indigenous population. Participation in the consultation process may replace and neutralize opposition and dialogue is interpreted as agreement (Oilwatch, 2001).

Despite the acknowledgement that consultation is a key legal and practical requirement for non-renewable resource extraction to proceed on Indigenous lands, actual practices take place on a continuum of participation, from information sharing to formal consultation to participation in decision-making. The emphasis on participation is closely linked to a shift in focus from the national to the local arena (Gideon, 2005).

Participation may become an institutional technology of control and serve to co-opt opposing interests. Co-optation is defined here as “the process of absorbing new elements into the leadership or policy-determining structure of an organization as a means of averting threats to its stability or existence” (Selznick, 1948, cited in Trumpy, 2008:481). The predominant role of corporate actors in facilitating certain kinds of mechanisms and spaces of participation means that consultation is organized and carried out according to the logic and timetables of corporations.

Consultation and participation are inherently political processes, taking place within deeply embedded power structures. Corporations have little obligation to yield to outside claims as they are not governed by a democratic ethos (Trumpy, 2008). Some assume that relationships between corporations and social movements—including Indigenous movements—necessarily lead to co-

optation and reduces movement autonomy and influence (see e.g. Sklair, 2002; McAdam, 1982, cited in Trumpy, 2008). Others have argued that when groups work with corporations to achieve specific goals “what appears to be co-optation” may be part of a process that possibly leads to positive results for both parties (Trumpy, 2008).

The spread of participatory practices as an integral element of new modes of governance does not necessarily lead to citizen empowerment (Blakeley, 2010). In the absence of mechanisms for accountability, or ways to address power and resource inequalities between parties, an illusion of inclusion is created. Often some access to power is granted, without actual participation in organizational decision-making, or changes in corporate behaviour. The crux of the problem remains the lack of political and institutional will or mechanisms to share decision-making power with local communities.

Contingency theory is weakened by not paying attention to processes occurring prior to the start of a project. While consultation should occur both prior to, and during the life of a project, it is especially the lateness of consultation in the process that prevents communities from having substantial and meaningful participation in decision-making.

CSR in the context of developing regions

With the increased emphasis on public-private partnerships, and the expansion of CSR to include development objectives, some academic writing has appeared on the implications of increased business involvement, through CSR instruments, in the attainment of development and poverty reduction goals. The most thorough, systemic critiques of the state-business relationship and conceptions of global governance are contained in this literature.

Investment and underdevelopment

Since the late 1990s, many international and national development agencies – including the World Bank, the United Nations, the Inter-American Development Bank, and the Canadian International Development Agency (CIDA) – have taken up CSR as “as a way of reconciling support for private enterprise and a market-based system with their central aim of reducing global poverty” (Jenkins, 2005:530). Moreover, these agencies take a very positive view of the development impacts of CSR:

As the UK’s Department for International Development (DFID) states, ‘by following socially responsible practices, the growth generated by the private sector will be more inclusive, equitable and poverty reducing.’ Antonio Vivos of the Inter-American Development Bank (IDB) goes even further when he writes that “CSR, by its very nature, is development done by the private sector, and it perfectly complements the development efforts of governments and multilateral development institutions” (cited in Jenkins 2005:525, 526).

Some see no option but to turn to the business world. Kofi Annan, Secretary General of the United Nations, said:

It is the absence of broad-based business activity, not its presence, which condemns much of humanity to suffering. Indeed, what is utopian is the notion that poverty can be overcome without the active engagement of business (cited in Davies, 2005).

The business community also holds a positive and generally *hubristic* view of the impact of business involvement in development. Jeff Immelt, Chairman and CEO of The General Electric Company states that “[w]e are going to solve tough customer and global problems and make money doing it” (cited in WBCSD, 2006:15). Julio Moura, Chairman and CEO of GrupoNueva in Brazil, adds that “[b]usinesses such as ours have a direct interest in promoting

development and economic growth. This creates new markets, provides new jobs, and prevents conflicts. *Development is our business as much as that of governments and aid agencies*” (cited in WBCSD, 2006:10, emphasis added).

Major TNCs emphasize that their investments constitute the main impact they have on any society. The level of foreign direct investment (FDI) in developing countries is now about three times that of official development assistance (ODA) (Jenkins, 2005; Blowfield, 2005b). In general, the major potential contribution of foreign direct investment to development is thought to be through its impact on growth. Yet, a review by Jenkins finds that this relationship is ambiguous and “likely to depend on local circumstances” (Jenkins, 2005:535; see also Petras, 2005). He also finds limited direct and indirect FDI effects on employment, especially for the poor, and few benefits in the small number of cases where the poor may constitute a new market for TNCs. Instead, globalization forces national governments to focus on facilitation of FDI and creating a competitive investment policy environment, in turn making it increasingly difficult for governments to secure tax revenues from mobile international capital and reducing national capacities to promote development (Blowfield, 2005b; Jenkins, 2005).

Underdevelopment and CSR

Mainstream CSR literature, especially the management and business ethics literature, tends to be concerned with implementation issues, but to be silent on structural issues and the business-poverty link. Some critical literature from the perspective of development theory has included questions about structural and policy determinants of underdevelopment, inequality and the relationship of TNCs to these factors (see *inter alia* Mukherjee Reed and Reed, 2004; Utting and UNRISD, 2004; UNRISD, 2003).

Questions about CSR in the context of development presuppose “some normative account of what development should be and a social scientific (and in particular, a political economy) account of the relationship between corporate activities and the structural causes of inequality and poverty in the Global South” (Mukherjee Reed and Reed, 2004:2). Very broadly, we can identify two visions of development: modernization and human development. Briefly, the objective of modernization is to establish an industrial economy and expand productive capacity. In the developing world, modernization projects have typically tended to create extreme unevenness, with a modern technologically advanced core corporate economy, co-existing with a vast non-corporate periphery (with the exception of a number of East Asian countries). Human development approaches tend to reject the priorities of modernization and to redefine development from a human-centred perspective. Its core values centre on the reduction of human deprivation, environmental sustainability, creation of human capabilities and to search for processes that enlarge people’s choices (Mukherjee Reed and Reed, 2004).

As far as can be determined from the limited literature on the practice of CSR, most corporate practices follow the modernization paradigm, favouring the role of business investment, industrialization and economic growth, negating insights gained in the development community in the last 40 years. As Bendell writes: “No nation ever developed because of a few voluntary partnerships.” (UNRISD, 2003).

The most significant barrier to CSR’s contribution to development remains the priority of the business case and the incompatibility of corporate objectives with development objectives (Frynas, 2005). As presently constituted, CSR initiatives focus on labour, environmental and human rights issues and do not include poverty reduction as a major objective. Jenkins concludes that there

are a number of reasons for “doubting the claim that adopting CSR will make growth more inclusive and more equitable, and thereby reduce poverty” (2005:539). CSR programs often favour immediate and visible results that can be counted and promoted as proof of corporate responsibilities, becoming a line in the annual CSR report. It remains the case that TNCs operate to further their own growth, not the development of the countries in which they operate.

Theoretical findings from case studies:

Studies of the extractive resource industry and its global operations are part of a large field of research in many disciplines. Community development projects are an important part of TNC approaches to CSR in developing regions. By one estimate “global spending by oil, gas and mining companies on community development programmes in 2001 was over US \$500 million” (Frynas, 2005:581). Of particular interest is Frynas’ research in the Gulf of Guinea region, focusing on local community development projects as part of oil companies’ CSR strategies (2005). Frynas found that, although some benefits may be derived from local community development projects, CSR does not address “crucial questions of governance” and “negative macro-level effects” (p. 598). He argues that the key reason for the failure of CSR to address larger social and environmental problems is the primacy of the ‘business case.’ Frynas concludes that, in developing regions, current CSR strategies may be “inappropriate for addressing social problems” and may “divert attention from broader political, economic and social solutions for such problems” (p. 583).

Particularly pertinent to my own study is a research project resulting from a collaboration between Petro-Ecuador—the Ecuadorian state oil company—and P.U.C.E. (*Pontificia Universidad Catolica del Ecuador*)—the Catholic University of Ecuador. A research team from both institutions carried out case studies of the

socio-environmental behaviour of three oil companies in three Amazon regions (Petroecuador, 2000). Researchers investigated CSR management and actual practices, with a focus on community development activities, types of activities, characteristics and impacts of community development projects (p. 6).

Research findings point to an extractive model that is focused on maximization of benefits and minimization of costs, and excludes from strategic decision-making a consideration of the regeneration of natural systems (p. 373). Furthermore, the inability of the Ecuadorian state to redistribute resources to benefit local development has meant that the oil companies in the Amazon region have assumed the role of the State in the provision of health services, education, construction of basic and vital infrastructure and various other services (p. 374). CSR activities are voluntary in all cases, and “reflect ‘social control’ objectives to make oil projects viable” (p. 374). In general, community development practices are short term responses to emergent conflicts and do not incorporate comprehensive, long-term development planning. When companies encounter conflict, resolution processes reflect criteria and procedures that are centralized and vertical. Decisions are made behind closed doors and without significant participation of the affected communities. Consultation practices are confusing and often understood as a mere interchange of information and opinions. No legal and efficient procedures for consultation exist and there are no mechanisms of accountability (p. 375).

Within the communities there is a sense of entitlement, and oil companies are divided into ‘good’ and ‘bad’, always in relation to the amount of benefits given. Community organizations are prone to disputes over control of resources and decision-making within, combined with conflicts between local communities and higher level Indigenous organizations (p. 376). At times corporations take advantage of these divisions and implement clientelistic practices that privilege

one group over another, contributing to further internal conflict (see, for example, Sawyer, 2004).

The authors conclude with a series of recommendations for the oil companies, the communities, and the state. Of primary importance is the implementation of a sustainable development model in the Amazon region. Oil companies need to elevate environmental, social and cultural values to a level at least equal with economic values; the state must assume its obligations and take a much more active role; and legislation, norms and procedures for consultation must be established (pp. 377-401).

The study does not appear to find any differences in corporate behaviour based on their 'domicile', or home country. Communal strategy and capacity are addressed only in the sense of policies governments and corporations should put in place to allow more communal input and participation in decision-making. An important recommendation advises a complete acceptance of the principle of 'free, prior and informed consent', including the option to reject industrial development in Indigenous regions.

Development impacts of CSR practices are, however, not only a result of the activities of corporations, or the involvement of the state, whether through regulation or by other means. What are some of the strategies that communities themselves undertake to hold corporations accountable, minimize adverse impacts and gain benefits? Garvey and Newell analyzed forty-six cases where communities have attempted to hold corporations accountable (2006). Their study emphasizes the importance of local level strategies and agency, and attempts to identify when and why community-based strategies are effective in promoting corporate accountability to the poor. They suggest that mainstream CSR approaches underestimate the importance of differences in power, assets and capacities between corporations, communities and the state. Furthermore, local

level strategies are highly context-dependent and include issues of access and representation, control and framing, and recognition of alternative knowledges.

The authors of the study identify a number of factors that are key to the effectiveness of community-based strategies for holding corporations accountable. These factors are divided in three groups: state-related; company-related; and community-related. Table 3-1 below summarizes the factors. Garvey and Newell note that these factors are interrelated and as such “do not have a hierarchy of relevance, but work in conjunction with each other” (94). Adoption of certain strategies and their outcomes depend on the particular combination of factors present in each unique context.

Factors influencing effectiveness of community-based strategies for CSR

State-Related	Company-Related	Community-Related
Nature of state-corporation relationship	Multiple levels at which corporate power operates	Community powerlessness on a number of levels
Nature of state-community relationship	Vulnerability of different types of corporations to particular strategies	Diversity of livelihood options
State vulnerability to pressures from international groups	Corporation’s approach to citizen participation	Intra-community dynamic
Availability of information and transparency		Nature of relationship between communities and external actors who claim to represent them
Legal framework and its enforcement and accessibility		

Table 3-1

Adapted from Garvey and Newell, 2006:80-94.

The state-corporate relation changes in the context of globalization and will differ in different parts of the world. State-related factors include fiscal and financial policies the state may use, for example, a range of concessions, such as subsidies

to corporations to attract FDI. Dependence on loans from international institutions and the accompanying demands for export-led development may lead to endorsement of unsustainable natural resource extraction. In some cases, government officials obtain direct benefits from corporate activity. Of further importance are a state's legal framework, its institutions, and its human and financial capacity to enforce regulations, or sanctions.

Relations between the state and particular communities may determine the level of protection the state is willing to provide. A well-established literature on 'environmental racism' demonstrates that undesirable corporate activities are often located in already marginalized communities. The state may also refuse to recognize, or downplay communal rights, for example, the specific rights of Indigenous populations. International pressure may be brought on particular states for their conduct in areas of human rights, the environment, and other social issues.

Company-related factors importantly encompass the financial and political power that corporations may use to counter community resistance. Corporations regularly use the threat of relocation to pit local employment needs against demands for social and environmental protection. Corporations have the financial and human resources available to summon expert knowledge to counter community claims, or deny responsibility. Considerable sums of money may be invested in public relations campaigns, and retaliatory legal action may serve to deter potential plaintiffs from bringing cases against the company.

The vulnerability of a corporation to community strategies will depend on whether a company is privately or publicly-owned; transnational or nationally-based, the specific type of activity the company is engaged in; and its overall place in the supply chain. It is well-known that corporations engaged directly in the production or marketing of branded consumer goods are more vulnerable to

consumer pressure and NGO campaigns than those that are further removed from consumer products. Shareholders and financial backers of publicly-held corporations may exert leverage over corporations through the introduction of shareholder resolutions. Institutionally, placement on or removal of a corporation from responsible investing indexes can be used to pressure companies for more responsible behaviour.

Internal corporate culture and distinct histories will influence how the company views the importance of community relations for its long-term profitability. Responses to community strategies will also depend on how well a community is mobilized.

Possession or lack of financial, literacy, technical and time resources clearly are factors that affect the ability of communities to mobilize and exert pressure on corporations. Politically, marginalized communities are often far removed from decision-making processes and cannot automatically count on the support of their national governments. Whether or not a legal title to land is established is a particularly salient issue for Indigenous peoples.

According to Garvey and Newell, a community-strategy to encourage alternative livelihoods is based on reducing dependency on corporate employment or community-development projects. This is often not a viable or realistic option in developing regions, reducing the bargaining power of communities. However, case studies on Canadian Aboriginal relationships with resource extraction companies point to the emergence of a partnership, strategic alliance or joint-venture model, reflecting a quest for livelihoods linked to the dominant industrial economic activity in Aboriginal regions. According to some, “[n]on-renewable resource development in northern Canada presents Aboriginal communities...with tremendous opportunity” (NRTEE, 2002; see also Anderson and Giberson, 2002; Anderson, 1999). Others caution that the success of such

ventures requires Aboriginal control and participation in management and *prior* land claims settlements (Ferrazi, 2004). On a more critical note, Slowey argues that joint ventures and partnerships do not bring economic independence to First Nations, but are a form of neo-colonialism within the framework of globalization (2001).

Within communities, differing interests and conflicting attitudes towards the benefits of industrial development exist, giving corporations the opportunity to divide and conquer, negotiating with supporters and marginalizing those who oppose the development. Relations of power within community groups often determine who is able to take advantage of spaces of participation and negotiation.

Community power and capability can be extended by building alliances with other actors and movements. NGOs and unions can “perform representational functions, though questions about their own accountability immediately arise” (p. 93). Others conclude that NGO representation is a crucial element to successfully gain benefits from corporations. A case concerning the process of negotiating a Code of Conduct between Occidental Petroleum and the Ecuadorean Secoya Indigenous organization (OISE), led Mario Melo of the *Centro de Derechos Económicos y Sociales (CDES)* in Quito, who assisted the Secoya in the negotiations, to conclude that the participation and campaigns of numerous national and international NGOs was crucial to the success of the negotiations. Regrettably, he reports, the role of the state was limited to assisting the company in difficult situations and the role of “timid spectator” at other times (Melo, Garzón and Acosta, 2000:39). Similarly, Fontaine registers astonishment at the “totally secondary role assumed by the Ecuadorian state” in the Code of Conduct negotiations (Fontaine, 2003a:92). Nevertheless, NGO involvement

presents both benefits and risks to communities, attempting to maintain control over their agenda and objectives.

Summary and Conclusion

In the context of globalization, the turn to include corporations as important development agents through mechanisms of corporate social responsibility leaves under theorized the relations between corporations, home and host countries and developing regions. While I have framed a theoretical position on CSR in the context of globalization with a primary focus on the exercise of power through voluntary CSR initiatives (chapter two), theorizing in existing literature generally lacks a theory of power about on the ground relations between corporations and local populations. Notable exceptions are recent works by Frynas, and Garvey and Newell (Frynas, 2005; Garvey and Newell, 2006).

In the previous section, I have ascertained the importance of conceptualizing corporate-community relations as a political contest over the meaning of development and self-determination. Rather than conceiving of communities affected by corporate activity as passive recipients, the ways in which global capital is rejected, modified, or contested reveals the practice of CSR to be political and embedded in relations of power. Inserted in this relationship and political contest between companies and communities are broader webs of accountability relationships, which involve states, civil society groups and international institutions.

Context of the case study

This section identifies contextual factors possibly important to the range of outcomes resulting from CSR practices. Following Garvey and Newell's schema (Table 3-1, p. 109), contextual factors affecting the outcomes of CSR practices

are divided in three clusters: one, country/region specific factors; two, industry specific factors; and three, community specific factors. Within each cluster contextual factors relate to historical, political-economy, institutional and culture-ideological aspects. Broadening the section on institutional factors, I include a discussion of a key missing parameter of contingency theory: the issue of 'consultation', or 'free, prior and informed consent' and how it is legally and commonly understood in each country. In addition, I briefly ascertain the institutional context of CSR in each country.

In this study, I conceptualize Indigenous territories in northern Alberta and Ecuador as two developing regions. The 1996 Royal Commission on Aboriginal Peoples' report found that

Aboriginal people in Canada suffer the same consequences of colonialism; are struggling for the same outcomes; and have reached the same conclusions about ownership and control of their territories, and the relationship between economic development and self-determination, as their Indigenous counterparts around the world (cited in Anderson, 1999:1).

Country/region-specific factors: Canada/Alberta

Political-economy context

Canada is considered a 'developed' country, although it has pockets of 'underdevelopment', particularly in the North and on Aboriginal reservations. Since World War II, Canada has seen substantial growth of the manufacturing, mining, and service sectors, which has transformed the nation from a largely rural economy into one primarily industrial and urban.

Canadian Gross Domestic Product per capita reached an estimated US \$ 35,600 in 2006. As an affluent, high-tech industrial society, Canada has an

extensive system of social instruments and income supplementation, including numerous programs for its First Nations. Despite being a high income country, Canada still has 11.4% of its population earning less than 50% of median income (UNDP, 2006).

Canada's oil reserves are now officially ranked as second only to Saudi Arabia and as of October 2005, energy became Canada's single largest export. Exploitation of Canadian resources always was, and still is, driven by external demands (Wallace and Shields, 1997). According to Bergevin, Canada is beginning to exhibit some of the symptoms of the 'resource curse', among them a rising resource-led export sector coupled with a struggling manufacturing sector and a rising currency (2006:6). As a result of its reliance on resource exports, "Canada displays the social relations of advanced capitalism...and the economic structure of dependency" (Drache, 1983:26).

Ninety-four percent of Canada's forest lands are designated Crown Lands (government owned). These lands fall under provincial control where decisions regarding mining, oil, gas and logging are made through long-term lease agreements. On First Nations reserve lands, subsurface resources belong to the First Nation and are under their control.

In 2005, the western prairie province of Alberta, composing just 6.6% of Canada's land area, produced 68 per cent of Canada's total crude oil and equivalents and 15.5% of total North American production. Natural resources, especially energy, agriculture and forestry are the cornerstones of Alberta's economy. Development of Alberta's oil and gas deposits began in 1914 and soon came to dominate the Alberta landscape and the economy (Timoney and Lee, 2001).

The province of Alberta is one of the wealthiest provinces within Canada, especially due to its gas and oil riches. The province's nominal GDP rose by 43%

between 2002 and 2005—an annual average increase of 12.7%—and shows no signs of slowing down. Alberta's per capita GDP reached C\$ 66,275 in 2005, 56% above the national average.

In terms of energy, the province produced 1,709,000 barrels of crude oil and equivalents per day in 2005, an increase of 76.2 per cent over 2004. Exports were 1.1 million barrels of oil per day. Conventional crude oil production accounted for about 33 per cent of Alberta's total crude oil production. In the same year, oil and gas wells drilled in Alberta numbered 16,411, 74.6% of all wells drilled in Canada. Most of the crude oil is exported, mainly to the United States. In fiscal 2005/2006, revenues to Alberta from crude oil and natural gas accounted for about one-third, or \$ 14.7 billion of the province's total revenues. In 2004/2005, the industry also paid \$1.1 billion to acquire rights to explore and produce oil and gas (CAPP, 2007).

The northern part of the province is the location for much of Alberta's oil industry. The Northern Alberta Development Council Region (NADC) encompasses 60% of Alberta's landmass and is home to approximately 280,000 people, 9% of the province's population and 51% of Alberta's Aboriginal population. The region's Gross Domestic Product in 2004 was 45 billion dollars (NADC - Northern Alberta Development Council, 2006). Oil wells and facilities are spread throughout the landscape and the Northern Boreal Forest.

Historical context

Richards and Pratt argue that the provincial government itself emerged as an entrepreneurial actor in the 'new mineral staple' period following WWII. To counter foreign ownership, the Alberta Energy Corporation (AEC) was formed in 1973 as a quasi-state enterprise, equally owned by the provincial government and private Alberta investors. The underlying philosophy of 'people's capitalism' was to create a better understanding between citizens and the economic system and

allow public participation in Alberta's oil and gas industry. AEC's function was to mobilize local capital; increase regional participation in the growth sectors of the Alberta economy; and stimulate the creation of an infrastructure independent of oil exploration (1979). Certainly, the provincial government's creation of AEC contributed greatly to the development of expertise and indigenous entrepreneurs capable of competing with foreign capital (Richards and Pratt, 1979). Throughout the process the provincial government itself moved up a learning curve, gaining skills and expertise over time, increasing its bargaining power. Combined with entrepreneurial capacity and access to indigenous capital, the balance of bargaining power shifted away from foreign capital and towards the provincial state. Such domestic entrepreneurship was seen as crucial to create strong linkage effects and promote diversification. Rent extraction has been secondary to the rapid development of oil and gas resources. Alberta's oil revenues now are at a much lower level than would be possible, when compared to Norway and Alaska (Parkland Institute, 2002).

Culture-ideology context

Alberta's current government—the same Progressive Conservative party that has held power for more than thirty-five years—practices a hands-off governing style towards business in the province. The prevailing sentiment is that whatever is good for the oil companies is good for Alberta and the Alberta government and resource-industries “function as a mutually-reinforcing entity” (Timoney and Lee, 2001). Along with this comes a sense of entitlement among Alberta's oil elites, who see themselves as the source of the province's prosperity and therefore claim the right to have a voice in decisions in “*all* realms, business, political and cultural” (Flanagan, 2003:8; emphasis in original). Among the majority of the population the prevailing sentiment accepts that the government is dictated to by the oil companies. High rates of employment, high wages, low

taxes, no provincial sales tax and other benefits of the oil bonanza explain why few Albertans protest the power of the oil companies, or the alteration of their natural environment.

Alberta's culture is composed of two, sometimes opposing, cultures—in rural areas the ranching culture prevails, with values of individualism, personal responsibility and strong family ties. Urban Alberta is permeated by an engineering/oil culture: rugged, independent, risk-taking, entrepreneurial (ready to go on a hunch), and strong reliance on technical prowess (Personal communication, Andrew Nikiforuk. October 2006). According to Dabbs, “Social Darwinism” prevails in Alberta, with a “peculiar brand of social conservatism and corporate advocacy for a society in which business is minimally taxed, self-regulated and otherwise unimpeded by the intervention of the state” (Dabbs, 2003:44). Any government that wishes to stay in power in Alberta should mostly just get out of the way.

Institutional context

Within the Alberta government and its agencies, social and environmental considerations are seldom cause to halt or restrain further oil development. The government's much touted ‘Alberta Advantage’ consists of “abundant hydrocarbon resources...and a stable political environment” (Alberta Government, 2000). A central goal is to “optimize the sustained contribution from Alberta's energy and mineral resources in the interests of Albertans” (<http://www.energy.gov.ab.ca/1292.asp>).

Subsurface mineral rights are granted in the form of either a lease or a license under the Alberta Mines and Mineral Act.¹⁹ The oil and gas industry is required to consult the public before they begin their operations, however, once

¹⁹ For a further explanation of the licensing and approval process, see MacKendrick, Fluet, Davidson, Krogman, Ross, 2001.

extraction has commenced little public participation is required. Ecosystem degradation in Alberta is pervasive: “[a] wealth of ecological data exists that indicates current resource-based economic activities are non-sustainable and destructive of eco-system health, yet these data are not considered within the economic decision making process” (Timoney and Lee, 2001:387). According to Timoney and Lee “there are no meaningful controls placed on oil and gas activities in Alberta” (p. 398).

As far as can be ascertained, the Energy and Utilities Board—a provincial government agency—has withheld approval of a minor project, or part of a resource project, on environmental grounds at most three times and ninety-seven percent of resource development project applications are approved (Personal communication, November, 2006. Interview A-GR-03). As observed by the Environmental Council of Alberta: “The emphasis on haste that the [petroleum] industry has adopted over the years seems to have been accepted by the government. This is not conducive to good planning, which requires time to evaluate a proposed program or development” (cited in Schneider, 2002:53).

Environmental concerns are focused especially on the Northern Boreal Forests, a vast ecosystem encircling the Northern hemisphere (Jardine, N.d.). The boreal forest ecoregion occupies half of Alberta and represents over a tenth of Canada’s boreal forest (Johnson et al, 1995 cited in MacKendrick et al., 2001:23). Oil and gas activity pressures on the forests include over half a million miles of roads, pipelines and seismic corridors crisscrossing the land. Today less than ten percent of the province’s boreal forests exist in swaths larger than a few square miles (Montaigne, 2002). The Canadian boreal forest is being lost at the rate of one percent per year, similar to the loss of tropical forests. “The ecological integrity of the boreal forest region is seriously compromised, and conflicts over land and resource uses are increasing” (MacKendrick et al., 2001:1). Such

conflicts often concern the original inhabitants of the Boreal Forest: Canada's First Nations.

Institutional context of CSR in Canada

Canada shows significant levels of institutional activity related to CSR, with most attention centred on voluntary guidelines and sharing information. Governmental activity on CSR within Canada is centred within the Strategic Policy Branch at Industry Canada, Environment Canada and the Office of Consumer Affairs. Government publications and websites support the business case framework for CSR. For example, in the introduction to its CSR Implementation Guide for Canadian Business, the Strategic Policy Branch at Industry Canada notes that “[i]t is becoming increasingly clear that firms can contribute to their own wealth and to overall societal wealth by considering the effect they have on the world at large when making decisions” (Industry Canada, 2006:1) .

Government's role is limited to sharing information about “best practices” and providing “guidance” (p.3). Consideration was given in 2001 to incorporating changes in the Canadian Business Corporations Act (CBCA) that would expressly recognize the right of corporate directors to take outside interests into account when making corporate decisions. The poor response to a letter of consultation sent by Industry Canada to 1700 Canadian corporations (71 responses) meant that these changes were not incorporated in the November 2001 CBCA revisions, even though a majority of respondents supported the initiative. The next round of revisions to the CBCA is due in 2007.

The proposed CBCA revisions were a response to recommendations contained in the report of the Canadian Democracy and Accountability Commission which held its enquiries in 2001. Following a year-long investigation into the market and political power of Canadian corporations, the Commission

issued its final report *The New Balance Sheet: Corporate Profits and Responsibility in the 21st Century* in January of 2002. The report outlined twenty-four recommendations to significantly broaden the concept of corporate social responsibility. Nationally, the commission recommended that corporate law be amended so that social impact considerations can legally be part of business decisions; the establishment of a set of social responsibility guidelines; restriction of federal government contracts to companies who adhere to basic human rights and environmental standards; a requirement of stock exchanges regarding disclosure of CSR policies; and the prohibition of donations by collective entities – corporations or unions – to political parties and candidates (CDCAC, 2002).

Canadian business organizations have shown a high degree of interest in the promotion of voluntary CSR. Important actors in this area are Canadian Business for Social Responsibility, the Conference Board of Canada's Canadian Centre for Business in the Community, the Canadian Centre for Philanthropy's Imagine Program, the Centre for Innovation and Corporate Responsibility and Interpraxis Consulting. Sectoral business organizations, such as the Canadian Association of Petroleum Producers, the Mining Association of Canada, the Canadian Chemical Producers Association and the Retail Council of Canada are also active in assisting their members to develop codes of conduct and best practices.

While the Conference Board of Canada became active in the CSR field around 1990, promotion of CSR by the Board and others has yielded uneven results. The Board's first (and to date, only) report on CSR, published in 2004, found that "Canadian companies are making progress in CSR, but the progress is slow and it is not universal" (p. i). The report noted that just one-third of Canada's largest corporations publicly disclose their CSR activities.

Many NGOs are specifically concerned with the operations of Canadian firms abroad and express frustration at their inability to hold Canadian-based and/or Canadian-registered companies accountable for their actions outside of Canada (MiningWatch Canada, 2005). Currently (2006/2007) a series of National Roundtables on CSR and the Canadian Extractive Industry in Developing Countries is taking place across the country. The discussion paper for the Roundtables, issued by the Department of Foreign Affairs and International Trade Canada (DFAIT), notes that “there is a general absence of Canadian legal standards governing the social, human rights and environmental performance of Canadian corporations operating abroad” (2006:11). This is due to three factors: the current Canadian legal framework governing corporations generally applies to activities within Canada only; legal instruments that apply extra-territorially target very specific conduct, for example bribery, certain sexual offences and offences addressed by the Canadian Crimes Against Humanity and War Crimes Act; finally, Canadian courts may, in theory, address civil litigation related to extra-territorial activities, but they can refuse to do so if they conclude that the host country is better able to handle such litigation (p.12). As yet, no effort has been made to facilitate such litigation and at present, many hurdles exist “making it extremely difficult to access justice through Canadian courts” (Seck, 2005:12).

The Canadian government’s reluctance to take action on international standards, whether voluntary or binding, was evident also in the government response to the 2005 report of the parliamentary Standing Committee on Foreign Affairs and International Trade (SCFAIT). The report, *Mining in Developing Countries – Corporate Social Responsibility*, strongly urged the Canadian government to move beyond voluntary approaches, to an approach centred on Canada’s international human rights obligations (SCFAIT, 2005). In its response the government rejected this recommendation (Department of Foreign Affairs and

International Trade, 2005). The government presented a number of explanations for refusing to take up the report's recommendations, including: a lack of consensus on a set of CSR standards, and a lack of means for measuring these standards; a lack of clarity on the responsibilities of governments, business and other stakeholders with respect to human rights; that the primary responsibility for enforcing human rights rests with host states; and a lack of Canadian government control over companies incorporated in Canada, but headquartered elsewhere (Canadian Council for International Cooperation and others, 2005:2). The Canadian government continues to rely on voluntary standards to encourage good behaviour by firms operating overseas and lacks the legal policies and tools to enforce human rights and environmental standards.

The National Roundtables referenced above were organized as part of the government's commitment to consult further on the recommendations of the SCFAIT report. It is notable that, at the Montreal roundtable, 86% of submissions came from NGOs, or private citizens, 11% from businesses or business organizations and 3% from ethical investment entities. Reasons for the lack of business participation can only be speculated upon. However, my analysis in the previous chapter showing CSR to be a discourse through which 'global governance' is enacted, would suggest that business participation in rule-making is strongly established at international and national levels, lessening the need for participation in public fora.

CSR activity in Canada over the past fifteen years has resulted in the increased regularization and codification of CSR standards and measuring instruments. Increased numbers of corporations report on CSR in their annual reports and publish a code of conduct, or CSR standards, on their websites. While this increases transparency and public accessibility, it is difficult to measure or evaluate actual CSR practices. Even when CSR activities are disclosed in annual

reports or on corporate websites, the emphasis tends to be on “process, not outcomes” (Conference Board of Canada, 2004:i). Governmental activity in Canada remains limited to a ‘cheerleader’ role, consisting of the production of guides, reports, and toolkits.

Country/region-specific factors: Ecuador/Latin America

Political economy context

Ecuador, a small (less than three percent of the landmass of Canada) country in South-America, with a population of thirteen million, is considered an ‘underdeveloped’, or low-income country. Its 2005 GDP was US\$36.5 billion and its per capita GNI US\$ 2,620 (World Bank, 2006). The country’s leadership considers development of its oil and gas resources as its route to development. Traditionally a small, agrarian nation, the 1967 discovery of oil in the Ecuadorian Amazon region launched the country into the industrial world. Rise in oil exports fueled economic growth and was accompanied by a sharp increase in government spending and employment, which was financed principally by external borrowing and oil revenues.

The Ecuadorian economy is based on petroleum production, manufacturing for the domestic market, and agricultural production for domestic consumption and export. In 2005, oil accounted for 56% of total export earnings and about 24% of the country’s GDP. Ecuador adopted the dollar as its national currency in 2000, following a major banking crisis and recession in 1999. Since 2000, growth has averaged over 5% per year (DFAIT, Country Profiles <http://geo.international.gc.ca/cip-pic/geo/ecuador-fs-en.asp>). The run-away inflation of the 1990s has been brought down, but still remains at about seven percent annually.

The country has a high rate of unemployment—only about 40% of the population has full-time work: “the economy works but the people do not...the rich get richer and the poor become more numerous” (Suter, 2000). Between 1995 and 2002 poverty increased from 34% to 67% of the population (World Bank, 2004). Forty-three percent of the population still lives on less than US\$ 2 per day (UNDP, 2006).

As of 2005, Ecuador was burdened by a US\$ 15.3 billion debt, with interest and repayment consuming 36% of its annual budget (World Bank, 2006). The country consistently faces structural adjustment demands from multilateral institutions. Following the mid 1980s debt crisis, IMF and World Bank structural adjustment policies demanded privatization of government enterprises, removal of consumer subsidies, reduction in government spending and wage freezes. Ecuador’s newly democratic government minimized reforms by opening oil exploration to private investors, increasing exploration activities and exports to generate more oil earnings.

Especially contentious are the provisions of the World Bank’s 2003 Structural Adjustment Program Loan. A key condition of the agreement allowed private companies to build and operate pipelines. Under the loan’s terms Ecuador is required to pay 70% of any revenue increases due to increased capacity from a new pipeline and higher oil prices towards its debt. Another 20% must be set aside for ‘contingencies’ and only 10% can be spent on social services. Ecuador’s government passed the 10% social spending provision despite heavy opposition from the IMF, which wanted 80% to go to debt payments (Finer and Huta, 2005). Previous president Palacio and current president Correa argue that the terms of the loan condemns the country “not to have health, not to have education” and the government is negotiating to restructure the debt (Palast, 2005).

Under new socialist president Rafael Correa—elected in 2006—Ecuador has said it wants to reduce debt and interest payments to 12% of its total budget by 2010. Correa and others see a reappropriation of oil revenues as an optimal way to restructure the country's public debt along nationalistic lines. In late 2005, then Minister of Economy and Finance, Diego Borja, announced that the Hydrocarbons Law would be reformed, allowing the government to recover 50% of the revenues generated by private, mostly foreign-owned oil companies. In May 2006, following public pressure, the government cancelled oil leases with Occidental Petroleum (Hopkins, 2006).

Ecuador, with eight presidents in the last ten years, suffers from chronic political instability. Throughout much of its existence as a republic, power has been transferred between military and civil regimes numerous times (Selverston-Scher, 1993). Political unrest has been characterized by strikes, protests, massive anti- and pro-government marches, and attacks against critics of the government. The Ecuadorean Indigenous movement has played an especially large role and its protests are thought to have been responsible for the removal of three presidents.

With 4.6 billion barrels of proven crude reserves, Ecuador is an important source of oil for the Western Hemisphere and the United States especially. The United States has lost a considerable amount of influence in the region. The elections of populist and leftist governments in Latin America have not just been anti-U.S., but very much opposed to the neoliberal agenda that had been imposed on the region through the IMF and World Bank. While most countries made structural adjustments, the results have been minimal, many of the poor have been left behind and inequality has worsened. The IMF, especially in its role as the 'gatekeeper' for an international creditors' cartel, was the major avenue by which the U.S. influenced economic policy in Latin America. Currently, only about 3% of the IMF's portfolio is outstanding in Latin America, and the region is turning

to alternative lending agents, such as the Inter-American Development Bank. Venezuela has also loaned or committed hundreds of millions of dollars to other Latin American countries (Weisbrot, 2007).

The focus for Latin America now is to integrate as a region, “the political and ideological defeat of neoliberalism”, and to create an alternative economic model. A statement from the 13th Sao Paolo conference named Plan Colombia, the Andean Initiative and other “mechanisms of interference and intervention imposed by North American imperialism as part of its system of continental domination, supported by the doctrine of hemispheric security” as pretexts to militarize the region (Latin American Press, 2007).

Correa campaigned on the promise of “a change of epoch, not an epoch of changes”. His inaugural presidential address “announced a shift in the conception of human relations”, grounded in the political and economic thought of the Indigenous, “as well as the mestizo and marginal population.” Correa advocates a de-linking from globalization and neoliberal doctrines. He has said that “it is possible in peripheral countries to do things without the guidance from industrial states or international financial institutions or the Washington Consensus” (Mignolo, 2007). According to Mignolo, this is a “de-colonial re-ordering”, that claims to vindicate the human dignity taken away by colonialism (2007). It is a vision that emerges from the local histories of peripheral countries.

The shift in ideology in Latin America stands to affect energy policy and practices. At an April 2007 South American energy summit, the discussion centred on giving priority to the regions’ own needs. This would necessitate developing infrastructure and markets to use energy produced in the region and to construct and retain facilities for value-added activities. Brazil is building more refineries, Venezuela is constructing a petrochemical plant, and numerous gas pipelines are planned for the region (Marquez, 2007). Furthermore, Latin

American countries seem intent on capturing more of the revenues from petroleum production. Bolivia has renegotiated its agreements with foreign oil companies and as a result has added about 6.7% of GDP to its annual revenues. Venezuela has also greatly increased its take from oil production and Ecuador stands to do the same with its decision to increase its share of revenues to 50% (Weisbrot, 2007).

Historical context

When oil was first discovered in the Ecuadorian Amazon 30 years ago, it was heralded as the country's salvation. "The first barrels were paraded through the streets and placed on public altars....National TV news programmes ended with gushing oil towers and the ringing phrase: 'Ecuador: Pais Petrolero!' (Ecuador: Oil Nation!)" (Jochnick, 2001). The reality has been different.

The oil industry in general has a history of reckless behaviour and environmental destruction in Ecuador. Several studies in oil-producing regions of Ecuador have found elevated levels of cancers, childhood leukemia and spontaneous abortions. Some of the most common problems in the Amazon are skin rashes, respiratory problems and diarrhea due to the use of contaminated water (Hurtig and San Sebastian, 2004; Hurtig and San Sebastian, 2002; Instituto de Epidemiología y Salud Comunitaria and Amunáriz, 2000).

Similar to Canada, Ecuador was heavily dependent on foreign investment in the early years of oil development, but by 1972 adopted a strong nationalist policy. The military government's negotiations with Texaco in that year left over 80% of earnings from each barrel of oil in government hands (Jermyn, 2002b). In the 1970s the military junta established CEPE as the state owned oil company (later to become PetroEcuador) (Jermyn, 2002a). Since the mid 1980s the terms between Ecuador and private oil companies have changed dramatically, so that

Ecuador, up until 2006, earned from 5% to less than 20% of the value of a barrel of oil.

Over the course of the 1980s neoliberal reforms were implemented by three separate democratically elected governments. As Stolowicz argues, neoliberalism is not just a set of policies, but also the “overwhelming power of capital over work” (2004:5). To accommodate capital, the country opened to foreign investment and trade; deregulated; privatized the public sector; increased exports, especially oil; and reduced the state’s distributive functions. However, in Ecuador, “neoliberal policies have been neither smoothly implemented nor passively received” (Sawyer, 2004:15). Indigenous groups, along with peasants and the poor, staged massive *levantamientos* (uprisings), during the 1990s, illustrating how neoliberalism backfired in the country. According to Sawyer, “[s]truggles over the control of land and oil operations in Ecuador were as much about configuring the nation under neoliberalism...as they were about the material use and extraction of rain forest resources” (2004:16). Otero and Jugenitz concur, writing that “Indian peasant mobilization in Latin America”, including Ecuador, are “ideological and normative challenges to neoliberal globalism”, indicating a mutually constitutive dynamic between neoliberal policies and oppositional movements (Otero and Jugenitz, 2003:503).

Culture/ideology context

Ecuador is a country with “two vastly different worldviews and cultures—that of Indians and that of the descendants of Europeans” (Gerlach, 2003:24). For the past 500 years the country’s Indigenous peoples have had little voice or power in Ecuador. “They are treated as second class citizens, deprived of economic and educational opportunities, with their languages and culture ridiculed. Not long ago newspaper advertisements offered ‘haciendas for sale with Indians included’, as if they were cattle or horses.” (Suter, 2000:25).

The 1998 Ecuadorean Constitution, then the most advanced regime of Indigenous rights, recognized collective rights and declared that Ecuador is a multinational, multiethnic state. What that means in practice remains a contested terrain, fought over in Indigenous demands for a ‘plurinational’ nation. To this date, no enabling laws have been passed to accomplish the implementation of collective rights and plurinationality (Otero and Jugenitz, 2003).

The state’s motto is *El Ecuador ha sido, es y será País Amazónico* (Ecuador has been, is and will be an Amazonian state) (Sawyer, 2004:152). The ‘discovery’ of the Amazon river is glorified in a mosaic in the Presidential Palace in Quito, and part of the mythology of Ecuadorian nationhood. The Amazon was historically classified by the state as *tierras baldías* or *tierras salvajes* (barren or savage wastelands) in need of civilization (Sawyer, 2004:94). Although, historically, the state has marginalized the region socially and politically, with the discovery of oil the Amazon became the nation’s source of wealth and hope for development and modernization. By the end of the twentieth century, the ‘barren and savage wastelands’ of the Amazon had also become the ‘rainforest’, of global ecological concern as the ‘lungs of the earth’ and a vast repository of natural biodiversity treasures.

Institutional context

In Ecuador, all subsoil resources belong to the national government. All major hydrocarbon deposits are found in the Ecuadorian Amazon – home to a million Indigenous and non-Indigenous Ecuadorians. Rights to explore for oil and gas are periodically auctioned off in large ‘blocks’, as much as 200,000 hectares each (Sawyer, 2004:92). Prior to 1993, foreign oil companies entered into production contracts with the Ecuadorian government —known as “risk-service” contracts—rendering their services in return for a profit share of discovered oil. Multinationals engaged in exploration at their own risk and expense and were

reimbursed for their expenses only when they discovered recoverable oil. Consequently, foreign multinationals regularly reported to, and were closely monitored by Petroecuador. In 1993, changes to ‘modernize’ the Hydrocarbon Law—the nation’s petroleum legislation—introduced “production-sharing” contracts. “Contracts were awarded to those companies that committed to invest the most capital, proposed the most elaborate exploration plans, and offered the state the best production-sharing deal” (Sawyer, 2004:96). With these changes, designed to attract foreign investment to exploit the country’s oil resources, the monitoring of multinationals virtually disappeared.

Despite the introduction of a neoliberal regime and attempts at modernizing the country’s institutional context, “in Ecuador...the market is not part of the natural endowment of the country...it is...a set of social institutions and learned behaviours that needs to be built practically from scratch in some cases, developed in others, and put to work more efficiently in a selected few” (Maiguashca and Franklin, 1993:442).

One of the most important challenges relates to corruption. Ecuador ranks 117th out of 163 countries on Transparency International’s Corruption perception Index. “This poor South American state” lacks any robust corporate governance regulations (owing in large part to the absence of a stock exchange). Roughly 55,000 laws, many conflicting, contribute to judicial uncertainty and the attendant bribing of judges (Balch, 2005).

Part of the problem resides in the historic relations between the (mainly Spanish descended) elites and the mestizo and Indigenous populations. In the Ecuadorean context, a significant proportion of the economically important transactions take place among individuals with different status and power, and with different effective rights before the law, which is duly and generally accepted by the parts. Acceptance of this situation caused the weak to act with

servility in the hope of obtaining favourable treatment and leads to arrogance among the powerful who do not feel accountable to anybody (Maiguashca and Franklin, 1993:448). Colonial inequalities continue to suffuse Ecuador's present political-economy landscape and are replicated in relations between foreign oil companies and local populations.

Institutional context of CSR in Ecuador

In the industrialized countries, pressure for CSR comes in part from active consumers and reports of corporate mis-behaviour in the media. In Latin America, ethical consumerism and pressure from ethical investors are barely existing factors in promoting a culture of responsible business practices (Gutiérrez and Jones, 2004). Furthermore, the media have just begun to use the term 'corporate social responsibility' and there is little general business reporting.

Latin America's history of closely-held family business ownership, combined with the region's predominant Catholic religious culture, have been significant drivers of a tradition of philanthropy in the region, usually exercised through corporate foundations as the principal form of community involvement (Gutiérrez and Jones, 2004; Haslam, 2004; Hodges, 2002). The strong influence of the Church in the region, and in some countries, the influence of the military, adds further layers of complexity to the CSR question.

The vast majority of CSR activity, discourse and pressure on corporations to incorporate CSR into their business practices originates and takes place in the rich countries of the world. It is not surprising then, that social responsibility activities are not common in Latin America, or that most of the impetus behind the promotion of CSR comes from outside Latin America (Gutiérrez and Jones, 2004; Haslam, 2003). According to Hodges, these pressures in turn are caused by "global forces for change, [that] ... allow for widespread comparing and sharing of ideas and challenges to the old orders of authority" (2002). Haslam's analysis

finds that the influence of international actors “particularly private foundations, multilateral development agencies, the head offices of multinational enterprises and international NGOs” distinguishes CSR in Latin America from countries such as Canada (Haslam, 2003:6).

International organizations, such as the UNDP, which has been active in signing up Latin American companies to the Global Compact, and the World Bank, through its Business Partners for Development program, actively promote CSR in the region. The Inter-American Development Bank has held conferences on CSR in Latin America since 2002 and has established a multilateral investment fund to promote CSR practices (Global Development Learning Network, 2005).

The involvement of individual companies is relatively weak. Government involvement and promotion can also be classified as weak, and “not integrated into the whole of government policy” (Haslam, 2004:5). Regionally, CSR activity takes place through Forum EMPRESA - *Responsabilidad Social Empresarial de las Américas* – a hemispheric organization formed in 1997 to share information and support learning amongst CSR institutions in the Americas (Hodges, 2002). In Ecuador, CSR is institutionally located in CERES (*Consortio Ecuatoriano para la Responsabilidad Social*), a non-profit network of organizations formed in March 2002 to promote CSR within Ecuador and a member of EMPRESA <http://www.esquel.org.ec/esquel/portal/main.do?sectionCode=81>. Initiated by the Esquel Foundation of Ecuador and the Synergos Institute of the United States, international influence and outside pressure played a role in the formation of CERES, as it did in the formation of EMPRESA.

The two main problems with CSR in Latin America are, first, that the question of the appropriateness of CSR for the Latin American context is rarely considered; and second, that much of the work being done to promote CSR is conducted by industry associations or independent business and professional

associations (B/INGO's). Research by Kolk *et al.* indicates that B/INGO's are generally "not effective partners in ensuring that CSR promotion becomes CSR effects" (cited in Haslam, 2003:5). In addition, "a great weakness in the CSR debate has been the overall failure to contextualize it for the developing countries of the Americas" (Haslam, 2003:6). Generally, the CSR debate assumes a context where effective government institutions already exist. While this is the case in Canada, it is not the case in many countries of Latin America, including Ecuador. In Latin America, the transition from import substitution industrialization policies to neoliberal market policies has not been accompanied by the professionalization of regulatory and oversight functions. Thus, "the pendulum in Latin America has swung from excessive regulation to no regulation at all" (Haslam, 2003:8).

As elsewhere, the economic reforms introduced in Latin America in the 1980s and 1990s were aimed at

enhancing market flexibility and scaling back the State's participation and intervention in the economy the picture that emerges is of a Latin American model of capitalism whose hierarchical organization is based on the predominance of market mechanisms, a low State-profile, and the weakness of non-market institutions (Cimoli, et al., 2003).

Differences in national regulations and standards, rule of law, the general economic and political context and the presence or absence of complementary institutions that support CSR, influence the practice of responsibilities. As in Canada and elsewhere, the reluctance and perhaps incapacity of the state to take a decisive and firm role in establishing corporate responsibilities remains problematic.

Industry-specific factors

The oil and gas sector is considered by some to be somewhat of a “test-case” for the entire CSR movement (Watts, 2005:402). The resource extraction sector has been at the forefront of the promotion of voluntary social and environmental responsibility codes and programs. The energy and mining sectors are amongst the industries that have a particularly “heavy social and environmental footprint” and are subject to “intensely political or regulated environments” (Conference Board of Canada, 2004:i). They are also among the industries that have responded, at least on paper, most strongly to stakeholder demands for CSR activities.

According to Watts, the “oil industry is an arena in which new forms of global regulation and governance are being developed, fought over, and implemented” (2005:375). Issues related to the nature of the extractive industries, the massive infrastructure required and the inherent invasiveness of operations, include: environmental concerns; health impacts; community relations; human rights and security; labour relations; integration of resource development with national and local economic and development priorities; the potential for corruption between the private and public sectors; and Indigenous peoples’ rights (Department of Foreign Affairs and International Trade, 2006:7). In addition, increased investment in lower-income countries present challenges where governments have weak or sometimes non-existent resource governance capacities and where communities lack the capacity and resources to effectively engage with the extractive industry.

Political-economy context of the oil and gas industry

Increased privatization of the oil and gas extraction sector has resulted in highly concentrated economic and political power, operating in a vast complex of global networks. The industry is now dominated by a handful of ten or twelve

giant concerns, including the super majors and the largest state oil companies. Worldwide there are currently approximately 40,000 oil fields and increasingly the search for oil takes the industry to more remote and inhospitable locations, using increasingly complicated and expensive processes to bring the oil to the surface and eventually to the market (O'Rourke and Connolly, 2003). Oil exploration, drilling and extraction are the first phase – known in the industry as the “upstream” phase – in the cycle of oil production. In Canada, as well as Ecuador, the ‘upstream’ petroleum industry is the largest private sector investor in the country (Department of Foreign Affairs and International Trade, 2006).

The extent to which oil supply is increasingly construed as a national security issue, especially on the part of the United States, adds another level of complexity and geostrategic interest. Diversification of oil supplies and multilateral support to open Southern reserves to Northern corporate investment is consistent with an agenda that primarily serves the energy needs of the North. For example, eighty-two percent of oil extractive projects funded by the World Bank Group since 1992 are export-oriented (Kretzmann and Nooruddin, 2005).

Watts identifies a number of complexities that overlay the global resource extraction industry. Military and security forces are increasingly a part of petroleum industry operations. Local and transnational advocacy groups enter into the process, concerned with human rights violations, the environmental and social impacts of the industry, and the accountability of both corporations and the petro-state. Local political forces and social movements are inserted into the oil complex through the struggle over ownership of resources, access, control, and questions regarding the distribution of wealth generated by petroleum production. Finally, multilateral financial and development agencies, such as the IMF and the World Bank, serve as “key brokers” in the expansion of the oil sector into increasingly remote and conflicted areas (2005:380).

Canadian resource extraction companies are amongst the largest foreign investors and operators in the world, investing an estimated \$26.6 billion dollars in foreign countries in 2004 (Department of Foreign Affairs and International Trade, 2006). Depletion of older resource pools, increasing demand, and high prices push the trend towards investment in developing countries and more remote areas of the world. Extractive activities, by definition, take place where the resources are located. By June 2002, there were fifty-eight Canadian oil and gas exploration and production companies that had international land holdings, excluding corporations with holdings solely in the United States. Of the fifty-eight, only nine were not the actual operators of some or all of their international holdings. Of the remaining forty-nine corporations, forty-six operated holdings in developing and conflict-torn countries (Calderbank, 2002).

Historical context

Petroleum is situated at the core of modern industrial economies and hydrocarbon resources remain fundamental to conventional economic growth. The resource is versatile, relatively inexpensive and easier to transport than any of its alternatives. The petroleum industry today is radically different from the 1970s. During the cold war, resource nationalism was crucial to Third World politics. Since the 1980s and progressing rapidly in the 1990s, a strong turn has taken place, in virtually every region of the world, towards the privatization of resources once regarded as critical to economic and physical security. Today, the industry is characterized by open access, dramatically improved technology and a shift from government control to government/industry cooperation (Morse, 1999:1). In fact, access to oil and control over mechanisms of distribution may be more important today than the physical ownership of oil (O'Rourke and Connolly, 2003).

An important body of research has charted a number of structural pathologies related to oil extraction. A number of scholars have identified the so-called 'resource curse' and an important study by Sachs and Warner has demonstrated a strong association between resource dependency, corruption and economic performance (1995). Karl similarly argues that excessive dependence on petro-dollars occurs at the expense of state-building and a "skewed relationship between regulatory, extractive and distributive state institutions, resulting in 'the paradox of plenty'" (1998:31).

In general, while the evidence linking resource dependence with detrimental effects seems to be overwhelmingly clear, the arguments are deterministic and it remains difficult to separate cause and effect. Although many countries suffer from the 'resource curse' and the 'paradox of plenty', many others do not, including, for example, Canada, Australia, Chile and Norway. Numerous other factors influence the direction of development and institution building, for example, a country's position in the global economy and its internal institutions. Watts finds much contradictory evidence that "confuses the effects of oil with incumbent politics and presumes a predation proneness for what is in fact the dynamics of state and corporate enclave politics" (2005:383, 384). On the other hand, as Reed suggests, "nowhere in the developing world is there any clear example of resource extraction industries providing an effective spur to development" (2002:209).

Culture/ideology context

As *The Economist* has observed: "It will surprise nobody to learn that oil and ethics mix about as well as oil and water" (2003, 05-10). According to the Halifax Initiative "Canadian extractive companies have been implicated in human rights abuses and environmental disasters in more than 30 countries" (2006). This

presents a range of social, environmental and moral challenges to Canadian companies.

Similar to the sentiment expressed by organizations such as the World Business Council for Sustainable Development and Business for Social Responsibility that business expects a return on its social investment, the oil and gas industry also does not invest without expectations of a return. According to CAPP, “cost savings are a major driver in the development of approaches to reduce the (environmental) footprint of oil and gas activities” (2007). Reduction of development and exploration costs and minimizing risks count heavily in determining the economic viability of projects and their attendant CSR costs, confirming the ‘business case’ framework.

Institutional context

The oil industry has developed numerous codes, guidelines and benchmarks that tend to be, in the majority of cases, internally generated and administered. In Canada, majors are more likely than junior companies to have a CSR policy or Code of International Business Conduct (Canadian Council for International Cooperation, 2005). As discussed above, the Canadian government position on CSR standards for Canadian corporations operating abroad is unclear and relies on voluntary initiatives. The Canadian Association of Petroleum Producers has had a Stewardship initiative in place since 1999, initially with voluntary reporting requirements, but mandatory for CAPP members since 2003. ‘Stewardship’ signifies an “ongoing commitment to continuous improvement in environmental, health, safety and social performance” (CAPP, 2005:1). In 2004, 111 of 115 eligible CAPP members reported Stewardship data. At the moment CAPP acts only at the national level and does not yet apply its stewardship initiatives to international activities.

In general, Canadian oil and gas companies oppose calls for mandatory regulation of corporate international business conduct (Personal Communication, Jeff Flood, Nexen Corporation. 2005). While CAPP's mandatory reporting initiative may have improved stewardship reporting, the Canadian Business for Social Responsibility organization, found that "compliance with voluntary codes is unacceptably low for the industry as a whole" (2002:17).

Upstream oil and gas companies do not face the same reputation and image issues as the downstream sector. "Consumer awareness of where specific natural resource products originate is virtually nil and the information is difficult to find or unavailable" (Grayson, 2006:486). Thus, consumer pressure is a negligible factor for the upstream industry.

Community-specific factors

In the search for resources, oil and gas companies are encroaching increasingly onto the traditional lands and territories of Indigenous peoples. The inevitable alteration of the land, threats to traditional livelihoods, health, ecosystems, culture, and Indigenous rights tend to have devastating effects. As a result, "the majority of complaints submitted by Indigenous peoples to intergovernmental human rights bodies involve rights violations in connection with natural resource development" (International Network for Economic, Social and Cultural Rights, 2005:18). Studies have shown that current oil extraction practices have a disproportionate impact on Indigenous peoples. Kretzman and Wright, for example, report that Indigenous groups on six continents and in thirty-nine countries face an immediate to medium-term threat from new oil and gas exploration (1998). The so-called 'paradox of plenty' is particularly salient to Indigenous peoples, where the extraction of mineral wealth is accompanied by high levels of marginalization and poverty.

In a 2004 survey, the Conference Board of Canada found that forty-nine percent of Canadian extractive industries have a formal Aboriginal relations policy (2004). In many codes of business conduct, Indigenous peoples receive special attention and are considered to be a special class of ‘stakeholders’. Codes of conduct tend to include duties to consult with Indigenous peoples, inclusion of traditional knowledge in environmental impact assessments, impact and benefits agreements, training and employment, and a commitment to community development. In some countries many of these duties are legally required.

Transparency remains an issue in relation to community programs. Indigenous host communities struggle to achieve clarity on claims over access to and control of land, as well as a share of the wealth gained from resource extraction. “In most oil states, community development has been minimal ... employment opportunities have been few and development projects minimal and typically incomplete” (Watts, 2005:391). According to one consultancy report, community programs are driven from the top down and rest on “three corporate assumptions: Community conflict is always external, communities only want money and gifts, and communities do not know what is best for them,” indicating a paternalistic approach to community development (Watts, 2005:400).

Canada/Alberta First Nations

Political-economy context

The impact of Canada’s settlement by non-Aboriginals has not been benign to its original inhabitants. Most Aboriginals live at or below the poverty line and “economic progress is seen at the developmental stage among many First Nations” (Assembly of First Nations, 2007:3). Social development issues are critical, including poverty, family violence, substance abuse and chronic dependence on income assistance (p.22). Basic literacy skills and educational

attainment levels remain below national averages (Voyageur and Calliou, 2007; NRTEE, 2002).

The comparison in table 4-1 shows a consistent difference between First Nations and other Canadian communities in the Community Well-Being Index, measuring education, income, housing and labour force participation (O'Sullivan and McCarthy, 2004:8).

Average Community Well-Being Score for First Nations and Other Canadian Communities in Canada, 2001

Census Year	Average CWB Score		
	First Nations	Other Canadian Communities	Difference
1991	0.58	0.77	0.19
1996	0.62	0.77	0.15
2001	0.65	0.80	0.15

Table 3-2

By another measure, if Canada's Aboriginal population is measured separately on the United Nations Human Development Index, it takes 78th place, as compared to Canada's top five placing as a whole (Assembly of First Nations, 2007:30).

Today, northern Canada's First Nations exist in a dual-economy, relying on both a traditional hunting, fishing and trapping economy, existing alongside technologically advanced extractive, processing and administrative activities in the wage economy (Frideres and DiSanto, 1990).

Historical context

Archaeological evidence demonstrates that Aboriginal peoples have lived in Canada for at least 12,000 years (Voyageur, 2007). More than 600 Aboriginal communities – called First Nations in Canada – rely on the boreal forest for food, shelter, cultural identity, spirituality and economic survival. Canada is home to approximately 1.3 million Aboriginal people

<http://www40.statcan.ca/101/cst01/demo38a.htm?sdi=aboriginal>. In 2001, 199,015 people in Alberta identified as having some Aboriginal ancestry – 6.7% of the total population. The Aboriginal population is significantly younger than the non-Aboriginal Alberta population: approximately 43% are under the age of 19. Business is especially interested, as this group will be entering the labour force during the next 10 years – at a time when Canada expects a skilled labour force shortage (ACR, 2006).

First Nations claim title to lands, resources and benefits on the basis of treaties. Alberta is covered in its entirety by numbered Treaties Six, Seven and Eight. Treaty Eight, signed in 1899, covers the entire northern part of the province and includes part of north-eastern British Columbia, the north-western corner of Saskatchewan and part of the Northwest Territories. A critical clause in the treaties was the written promise made to the Indian signatories that they would retain their rights to hunt, trap and fish on their traditional lands (Passelac-Ross, 2005a). While many land claims have been settled, many others remain under negotiation or before the courts.

Industry has been involved in northern Canada for nearly a century. Investments in the north— mainly from southern Canadian and foreign sources— are made primarily in the non-renewable resource sectors: oil and gas development, forestry, and more recently, diamond mining. This has led to an increasing interdependence between northern and southern Canada, reduced the isolation of the north and increased its vulnerability to global forces (Frideres and DiSanto, 1990).

Past projects and resource booms have left a legacy of environmental damage and social dislocation in Aboriginal communities. National regulation requires demonstrable benefits from resource extraction activities to accrue to Aboriginal populations (Anderson, 1999; Royal Commission on Aboriginal

Peoples, 1996; NRTEE, 2002). However, a 2002 report by the National Roundtable on the Environment and the Economy states that, “all too often, the benefits flowed south, while the long-term costs remained behind in the North.”

Today, many of Canada’s First Nations have moved from resistance to resource development in northern regions to a pragmatic acceptance of such development. Resistance was especially strong in the 1970s, exemplified in the Berger inquiry into the building of the Mackenzie Valley oil pipeline. In the years since the Berger inquiry many land claims were settled, while the inquiry process itself and the process of land claims negotiations, has led to a political evolution, nurturing Aboriginal institutions and leaders. According to the NRTEE, the establishment of a basis for Aboriginal political self-determination is the main reason why resistance to non-renewable resource development has now disappeared (2002).

Culture-Ideology Context

Aboriginal peoples have close physical and spiritual ties to the land, stressing the importance of “living with, rather than controlling nature, and sharing rather than owning land” (Voyageur and Calliou, 2007:137). Some Aboriginal cultures hold that decisions must be considered in terms of potential impacts seven generations into the future, a sentiment captured in the Brundtland definition of sustainable development. Liberal notions of land as a commodity, private ownership of property, human control over nature, and individualism often conflict with Aboriginal worldviews that stress collectivism, sharing and oneness with nature.

Changes being pursued by First Nations are focused on self-determination and self-government, politically, culturally and economic. Control over natural resource development on reserves and traditional lands are part of a strategy of self-determination and economic development. Canada’s Aboriginal people now

want to participate, but on their terms: “We want our diamonds and natural gas – but we want our caribou too” (cited in NRTEE, 2002:9). Indeed, in 1991, a provincial Task Force appointed by the Alberta government reported that “the whole area of Aboriginal rights respecting hunting, trapping and fishing remains of intense spiritual and cultural concern to Aboriginal peoples” (cited in Passelac-Ross, 2005b:7). Thus, First Nations are faced with opportunities that present potential economic benefits, including mainstream self-sufficiency, but also risk threatening their traditional way of life.

Institutional context

Section 35 of the 1982 Constitution Act identifies Aboriginal peoples as the “Indian, Inuit and Metis peoples of Canada.” Under the Constitution of Canada, the federal government has the primary responsibility to address the needs of the Aboriginal people of Canada. According to Voyageur and Calliou, Canadian institutional structures have had a profound impact on Aboriginal peoples. “[T]he Canadian state’s institutionalized and oppressive economic and legal structures have played a key role in Aboriginal community underdevelopment, which has resulted in the increasing dependency of some Aboriginal peoples on the state” (Voyageur and Calliou, 2007:136).

Canadian provinces own mineral rights in all treaty areas, except mineral rights on reserves which are under federal jurisdiction (Personal communication, January 23, 2006, M-R). In 1987, Indian Oil and Gas Canada (IOGC) was established as a dedicated branch within the Department of Indian and Northern Affairs Canada (INAC), to manage oil and gas development. Negotiations furthering First Nations initiatives to take control over the management and exploitation of their resources led to passage of Bill C-54 in the Canadian Parliament on November 25, 2005. The bill enables First Nations to assume control over management and regulation of resources located on reserve lands.

First Nations can also apply to receive and/or manage resource revenues currently held and managed by IOGC (Indian Oil and Gas Canada, 2006).

Ownership has given First Nations a powerful incentive to develop resources, both for the royalty revenues, and for the employment and training opportunities. Federal cutbacks in transfer payments during the 1990s provided an added stimulus. “First Nations accept that federal and provincial decision-making and economic development in Alberta will affect them in both positive and negative ways. They do not seek immunity, but to be full participants in decisions that affect them” (Confederacy of Treaty Six First Nations and the Treaty 7 Tribal Council, 2006). First Nations stress that capacity building is an essential element to participate:

In Alberta it is clear that the opportunities are abundant and one of the essential elements required is the capacity to complete and execute the necessary strategic planning to move opportunity to success (Treaty 8 First Nations of Alberta, 2006).

An essential element of capacity-building and participation in decision-making is to be consulted prior to possible infringement on the rights and livelihoods of First Nations.

Consultation

Control over and management of non-renewable resource development begins with the decision whether or not a project should go ahead. In Canada, the legal foundation for consultation is the Crown’s fiduciary duty to Aboriginal peoples. Supreme Court decisions have clearly stated that the Crown owes a duty to consult, prior to decisions being taken that may have the effect of interfering with aboriginal or treaty rights, or affect the right to traditional livelihoods.²⁰

²⁰ For an explanation of the legal context see Banks, 2003; Ross, 2001.

Significantly, the Court also said that consultation is not only required on “operational matters” (where a decision will affect the exercise of rights on the ground), but is also required much earlier, such as where the government is going to replace licenses, and may even be required when government issues tenures. First Nations argue that this should include “all Crown activity relating to the granting, renewal or transfer of tenures, rights, interests, leases, licences or permits by the Crown” (Confederacy of Treaty Six First Nations and the Treaty 7 Tribal Council, 2006). The Court made it clear that First Nations do not have a veto over government decisions (B-F, November 24, 2004).

Industry also has a legal duty to consult on non-renewable resource development on reserve and traditional lands. In the past “it was common practice...for firms just to send a token letter to the people whose livelihoods were affected, and then, response or not, move in with seismic crews and drilling rigs” (Lorenz, 1998). The NRTEE has identified four principal obstacles to effective consultation: first, consultation often occurs too late in the process and is too rushed; second, Aboriginal communities often lack the human and financial resources to participate effectively; third, the roles and responsibilities of government, industry and Aboriginal organizations are often ill-defined; and fourth, Aboriginal culture and language are sometimes given insufficient respect (2002:79, 80).

Indigenous peoples assert they are not just another stakeholder to be consulted; they are rights holders whose identity, autonomy and cultural survival are inextricably linked to their relationship with the land. Canada’s Aboriginal peoples insist that the consultation process must be “First Nation-specific...First Nations are legally entitled to, and will insist upon, a distinct process directed to their own issues, interests, and concerns, and separate from any existing public processes” (Confederacy of Treaty Six First Nations and the Treaty 7 Tribal

Council, 2006). First Nations consultations would thus be separate from, and in addition to, the stakeholder consultations and hearings normally held, prior to the start of large projects.

Although the duty to consult legally rests with the Crown, and not with industry, First Nations maintain that “where a third party is acting under Crown authority, the duties are owed both by the third party carrying out the activity, and by the Crown in its ongoing supervisory role” (Confederacy of Treaty Six First Nations and the Treaty 7 Tribal Council, 2006). First Nations argue that government and industry duties to consult run parallel to each other, but that the Crown’s duties cannot be delegated.

Ecuador: Indigenous Peoples

Political-economy context

In an already poor country, 90% of oil is located in areas with the lowest standard of living. Most of Ecuador’s oil is located in the Amazon region, also known as the *Oriente*, which encompasses nearly half of Ecuador’s land area. The tropical rain forest was inhabited almost solely by Indigenous groups until the advent of oil drilling in 1967. Indigenous peoples still constitute the majority of the Amazon population, living in dispersed communities or practising isolated nomadic lifestyles (Selverston-Scher, 1993). Estimates of Ecuador’s Indigenous population vary. Government sources place the number at twenty-five percent of the population, other sources say that the percentage is closer to forty-five (Sawyer, 2004; Selverston-Scher, 1993; Gerlach, 2003).

According to a 2004 World Bank Report, “rural Indigenous and Afro-Ecuadorian communities are the largest social groups suffering from structural poverty” (World Bank Group, 2004:1). Out of every 100 Indigenous persons, 86 are impoverished and 92.7% are without access to basic services. While the

country's illiteracy rate is 10.8%, among Indigenous and Afro-Ecuadorian groups 42.5% are illiterate, with the rate among women at 53.2%. Nation-wide the population averages 7.6 years of schooling, but only 2.4 years for Indigenous people and barely 1.7 years for Indigenous women (World Bank Group, 2004).

In Sucumbíos—the province of the case study—Ecuador's fourth poorest province, 72% of the population lives below the poverty line (Drost and Stewart, 2006). Much of the early oil exploitation took place in the provinces of Sucumbíos, Napo and Orellana in the north eastern part of Ecuador. Sucumbíos borders on Colombia to the north, and its major oil town, Lago Agrio—established by Texaco in the mid 1960s as its base of operations—is only 20 kilometres south of the border.

Historical context

The 1967 discovery of oil in Ecuador's Amazon region was a major factor in the formation and politicization of a broad Indigenous movement (Gerlach, 2003). In 1972, Texaco started pumping oil from the northern *Oriente* with devastating impacts on the environment and human populations. To develop the oil fields and build a pipeline, thousands of kilometres of roads were cut into the jungle, opening the way to an influx of settlers (over 250,000), mostly landless highland peasants, often surpassing and overwhelming the Indigenous populations of the *Oriente* (Sawyer, 2004).

The Amazon region, with a surface area of 130,035 square kilometres (over 13 million hectares), was quickly converted into a landscape of oil 'blocks', or concessions, and Indigenous nations like the Cofan, Secoya, Siona and Huaorani, once numbering in the tens of thousands, were reduced to a few hundred each. The Tetete people disappeared completely (Jochnick, 2001).

Environmental destruction and the devastating impacts of oil development on Indigenous populations were first brought to the attention of the international

community by Judith Kimerling, an American environmental lawyer, with her book *Crudo Amazónico* (Amazon Crude), published in 1993. It described how oil companies, specifically Texaco, had left dead rivers, road-scarred forests, polluted air and daily discharges of millions of gallons of toxic waste in their wake, affecting communities to this day (Kimerling, 1993; Kimerling, 2001).

Indigenous groups fought back by forming federations to advance their interests and “prevent their traditional lands from being converted to wastelands the way Texaco destroyed the northern Amazon” (Eduardo Naranjo, Director of Institutional Relations of PetroEcuador, cited in Jermyn, 2002b). Indigenous organizations have demonstrated impressive abilities to organize massive protests, with the 1990 *levantamiento* (uprising) standing as the event that put Indigenous concerns on the national agenda (Selverston-Scher, 1993). Demands included the communal titling of ancestral lands and political, cultural and economic control over them. Proposals also called for constitutional reform to establish Indigenous rights and new guidelines for resource exploitation and military intervention in Indian territory (Sawyer, 2004:46).

Negative experiences with early oil development have caused Ecuador’s Indigenous peoples to oppose many oil development projects, or demand moratoria on oil development, in some cases completely prohibiting oil projects in their territory.²¹ Meanwhile, indigenous opposition in some cases has also led to the prolonged enforcement of ‘force majeure’, which effectively prevents the commencement of exploration activities.

²¹ This happened for example in 1997, when the Achuar Nation unanimously decided to prohibit oil exploration in their territory in the Southern Amazon. Their reasons were the destruction and pollution of the northern Amazon, adverse health effects and evidence of corporate promises that were not kept in other regions. The Huaorani in the southeastern Amazon are currently trying to stave off oil exploration.

Today, Ecuador's Indigenous movement is becoming one of the most powerful and influential in Latin America, helping to bring down three governments in 1997, 2000 and 2005. The national organization CONAIE (Confederation of Indigenous Nationalities of Ecuador), was formed in 1986— in the words of Luis Macas: “to recoup our lands and to rescue our language and culture” (Multinational Monitor, 1994). In the Amazon, the Confederation of the Nationalities Indigenous to the Amazon of Ecuador (CONFENAIE), works to “preserve our ancient cultures and our mother earth” (<http://www.unii.net/confenaie/english/>).

The movements' fights are both with their successive governments and with the oil companies. According to Moreno Maldonado Indigenous peoples, especially those in the Amazon, have felt themselves

under attack by the government and its efforts to exploit Ecuador's national resources The various laws governing the exploitation and use of natural resources ... are adequate – the problem is that they are not respected” (1998:45).

Melo, Ortíz and López note a serious contrast between the country imagined in the Constitution and instruments in international law, and the real country (2002).

Culture/ideology context

Indigenous culture, spirituality and social relations rest on several crucial institutions. The *ayllu* (family), *ayllu llakta* (community), *minka* (collective work), *rimanakuy* (the practice of dialogue), *yuyarinakuy* (agreements), and *pacha mama* (nature, or mother earth). All are “vital sources of strength” and embedded in Indigenous ways of life, forms of government and organization (Macas, 2001:xi).

In the Amazon, geographic isolation ensured cultural cohesion until at least the early 1970s. The Amazon region remained isolated from the centers of the country and consequently is much less integrated into the nation. Many Indigenes speak their original languages—overwhelmingly Quichua—and do not speak Spanish.

According to Macas, Indigenous people “acquired their views and strategies based on their experiential understanding of social and political phenomena” (2001:xii). Macas writes of a “class struggle for identity within contemporary society” and says that the idea of “*dignity*” was behind “the struggle for land and territories and behind the quest to strengthen national identity” (2001:xiii). Ethnicity in Ecuador is usually defined in social and cultural, not in biological terms. Selverston-Scher notes a shift from class-based to identity-based politics within the Indigenous movement, but notes that the struggle was “never divorced from the struggle for land” (1993:82). Miguel Ángel, a leader of the movement noted that

[t]here were two visions: the Indigenous cultural vision, focused on bilingual education, and the class vision, focused on land conflicts. The two merged when we realized that we could not have our culture without land (cited in Selverston-Scher, 1993:82).

Land remains an integral aspect of cultural reproduction, as well as an economic necessity.

Institutional context

The Ecuadorean state is the owner of all subsoil resources. Melo argues that this is a “jurisdictional fiction” since, naturally, soil and subsoil form an indivisible unit (Melo, Ortíz and López, 2002). Constitutionally, the state is required to exploit resources in the “national interest”, often delegating this

activity to private actors (p.13). In effect, this regimen increases state control over those who claim ownership of the land.

Although traditional Indigenous territories have been recognized in some instances, one of the main objectives of Indigenous federations remains the legal titling of, and control over, Indigenous territories and the recognition of Ecuador as a “plurinational” nation. Indian struggles include demands for “land and self-government, which include collective forms of property...these demands go directly against the neoliberal drive toward privatization and individualization of social life” (Otero and Jugenitz, 2003:504).

Constitutionally, Indigenous communities have the right to use, administer and protect renewable resources on their lands. In rural areas, Indigenous communities have their own legal political unit, called *comunas*, officially recognized agricultural communities. *Comunas* are still the fundamental organizational unit for Indigenous communities. Many have also formed production associations, and in the 1980s most joined Indigenous federations (Selverston-Scher, 1993). In the 1990s, the Indigenous movement gained legal status to several Indigenous territories in the Amazon and the coast, as well as the resolution of hundreds of land disputes in the country. The 1998 constitution provides for Indigenous rights to ancestral communal lands (Melo, Ortíz and López , 2002). These victories also engendered opposition to the presence of transnational corporations engaged in resource extraction in these territories (Macas, 2001. However, title deeds included a clause that “defined any activity by Indigenous peoples that might obstruct oil operations as illegal,” introducing the possibility of loss of title in the case of opposition to the oil industry (Sawyer, 2004:54).

In their struggles to hold both their government and foreign oil companies accountable, Amazonian Indigenes have made crucial alliances with international

environmental and human rights organizations and international development agencies. Increasingly, Indigenous peoples have usurped Western rhetoric concerned with tropical conservation and are using it for their own purposes (Sawyer, 2004). Providing, money, volunteers, advice and advocacy, these alliances have created a political force that constrains the scope of action for the Ecuadorian government and for the oil companies.

Virtually all foreign oil company installations and compounds in developing countries are secured by some combination of state and private security forces. Almost always, the security arrangements between governments and private corporations are secret and closed to outside scrutiny (Watts, 2005). Conflicts between Indigenous peoples and oil companies (for example, the U'wa in Colombia, the Huaorani in Ecuador and the Ogoni in Nigeria) have often resulted in tense standoffs, requiring intervention by military and/or security forces (Watts, 2005). Dr. Luis Macas, president of CONAIE, said that:

Until now, the military has said that the Indigenous struggle is against the law of national security, so Indigenous peoples have remained under constant threat. The military has worked to guarantee the security of the companies and they watch over and guard the companies' operations. They say they care about national security, but obviously, the moment that they allow a company to fence off an extensive territory, they are handing over our sovereignty to foreign interests. When we protest this, the military says it is we who are threatening national security (Multinational Monitor, 1994).

Indeed, following protests in 2003, Rene Ortiz, the president of the Association of Oil Companies in Ecuador, accused Indigenous leaders of being "outlaws", and called for increased military and police presence in the protest regions (Earthrights International, 2003).

Increased militarization of oil producing zones is of growing concern to Indigenous peoples. Although the government and oil companies often refer to the dangers of operating close to the Colombian border, more often the military and police are used against Ecuadorean citizens protesting the disruption of their lands and livelihoods.

Consultation

Under the 1998 constitution Indigenous peoples gained rights to the use and administration of renewable resources on their lands. They were granted three special rights in relation to non-renewable resource extraction. First, the right to be consulted about activities that could affect their environment or culture; second, the right to participate in benefits of the activity, if possible; and third, the right to compensation for social and environmental damages (Melo, Ortíz and López, 2002).

The Ecuadorian constitution and international treaties, such as International Labour Organisation Convention 169 (enshrined in the 1998 Ecuadorian Constitution), establish the right of Indigenous people to be consulted over the development of their homelands. Convention 169 specifically refers to the rights of Indigenous peoples to ‘Free, Prior and Informed Consent’ regarding industrial activity in their territories. The constitutional right to be consulted is granted to “the community” and to “Indigenous populations” (Albán, 2003; Melo, Ortíz and López , 2002). Melo argues that the question of who can speak for these groups and who the terms apply to needs to be defined. There are also no provisions to define what happens when the consulted group or groups refuse development in their territory. So far, Melo argues, the process has consisted of informing communities and to “learn of their suggestions and critiques” (p.14). He is of the opinion that the government has not respected the right to

consultation and that a body of legislation needs to be developed to implement consultative rights (E-01:7).

The World Bank has provided funding to the Ecuadorean Ministry of Mines and Energy to elaborate consultation guidelines. The Ministry hired Price Waterhouse Coopers (PWC) to present recommendations, but so far no documents have been released. Melo notes that PWC has come under severe criticism by academics, environmentalists, human rights activists and Indigenous groups.

Amazon Indigenes have so far refused to participate in the process to establish consultation guidelines (p.15). They argue that their views on the use and exploitation of renewable and non-renewable resources are very different from those of governments and private enterprises. They do not share an extractivist vision on natural resources, nor do they share policies on intellectual property, biodiversity and traditional knowledge (Albán, 2003). They see these policies on the one hand as paternalistic protection and on the other hand as a form of dispossession.

Summary and conclusion

This review of contextual factors has shown striking similarities between the social, cultural and environmental contexts encountered in north-western Alberta and in north-eastern Ecuador. Contextual differences, however, are of particular interest, and are theorized to contribute to differences in the practice and outcomes of CSR activities by EnCana Corporation. Following, I briefly summarize first, the main similarities and second, the main differences between the two contexts. I then briefly summarize the institutional context of CSR in Canada and Ecuador.

Contextual similarities and differences

The boreal forests of northern Alberta and the tropical rainforests of the Oriente in Ecuador are both considered the 'lungs of the world', highly important in the regulation of global climate. Impacts of oil and gas development on the environment in these locations affect not only the local population, but are important to global climate issues.

Indigenous peoples in both locations have claims to lands, livelihoods and traditional ways of existence and knowledge. Populations in both regions still engage, to varying degrees, in traditional subsistence activities, while making the transition to wage-based economies, with all the social and cultural displacement this entails. Culturally, Indigenes in both locations have strong spiritual ties to the land, are collectively organized and historically do not subscribe to concepts of private ownership.

Governments in Canada and in Ecuador claim the rights to subsoil resources, except resources below Canadian First Nations' reserve lands that belong to the First Nations. Oil extraction in both locations has left a legacy of social and cultural dislocation and environmental devastation. Benefits to local populations have been few and extractive activities have been imposed by their national governments. Traditional subsistence activities remain part of daily life, side by side with activities in the wage economy.

Both governments have been forced to acknowledge the special rights of Indigenous peoples in their territories. In Canada this has taken place mainly through legal challenges, reaching up to the Supreme Court. In Ecuador, a national Indigenous movement has arisen, gaining recognition through massive demonstrations and civil activities, such as blockades and, to a lesser extent, participation in the political process.

Canadian First Nations base their claims on their traditional and historical treaty rights. Supreme Court rulings have established the government's 'fiduciary duty to consult' when extractive activities are planned on Aboriginal reserve and traditional lands. The Court also ruled that First Nations do not have the right to veto government decisions. Ecuadorean Indigenous nations base their claims on international instruments, specifically the International Labour Organization's (ILO) Convention 169. The Ecuadorean government included collective ownership to lands, and Indigenous rights to 'free, prior and informed consent' in the 1998 Constitution, following prolonged political and civil action.

Canada is considered a 'developed' country, although it has pockets of 'underdevelopment', particularly in the North and on Aboriginal reservations. The province of Alberta is one of the wealthier provinces within Canada, especially due to its gas and oil riches. Canada has an extensive system of social instruments and income supplementation. Ecuador is an 'underdeveloped' and poor country in the Southern hemisphere, burdened by debt and structural adjustment demands of multilateral institutions.

CSR institutions

Canada shows high levels of institutional CSR activity, focused on voluntarism, promoted by business and civil society organizations. The Canadian government supports the 'business case', takes a 'cheerleader' role and focuses on producing guidelines, showcasing 'best practices' and facilitation. Despite the fact that Canadian resource extractive corporations are amongst the largest investors in foreign countries, the government has formulated few legal standards to hold corporations accountable for their social and environmental practices abroad.

In Ecuador, the impetus for CSR comes from outside the country. There is little institutional activity on CSR, and the concept is not widely used. State regulatory and oversight functions are weak, and Ecuador suffers from

widespread corruption. The Amazon oil region is increasingly militarized. Political developments in Ecuador, especially since Rafael Correa's election, promise a move away from neoliberal policies and practices, a search for alternative development and a turn towards regional integration.

Chapter 4 will discuss the methodology used in the case study. Chapters five, six and seven will present the findings of the case study.

CHAPTER 4

METHODOLOGY

The difference between amateur and professional research, I'm going to tell you, is a willingness to get your hands dirty. Also your shoes.

Barbara Kingsolver, 2009.²²

And to peel lots of potatoes.

Ineke Lock.

Peeling lots of potatoes. Two fifty pound bags, as a matter of fact. That's what it took to gain a measure of trust among women of the Dene Tha' First Nation in Northern Alberta. While doing my fieldwork for the case study described in this dissertation, I attended a summer gathering in Meander River. The women were busy cooking the communal meal and rather short of hands to get everything done in time. I offered to help and was pointed to two large bags of potatoes and handed a paring knife. In the academic language of research methods this is called "gaining entrance into the field". "The field" of course, referring to the setting or place where research takes place (Silverman, 2005:378).

This chapter discusses methodology and methods – the story of my research. The purpose of this chapter is threefold. First, to identify the methodological underpinnings of this research and to provide a justification of this particular methodological approach. Secondly, to provide details about the specific tools and methods used to collect and interpret the data which form the basis of this research and dissertation. The final section of this chapter is a short

²² <http://www.faber.co.uk/article/2009/11/barbara-kingsolver-on-lacuna/>

reflection on some issues encountered in fieldwork, methodology and research. Following Morrow and Brown, I distinguish between methodology and methods. Methods refer to individual techniques of data collection and interpretation, whereas methodology refers to the “presuppositions of methods, as well as their link to theory and implications for society” (Morrow and Brown, 1994:36).

The Case Study: Description, Selection and Rational

In November 1999, activists at the protests against the World Trade Organization made it clear that corporate-led globalization was unacceptable to large numbers of people. The protests became known as the Battle of Seattle, but they were not the first of such protests, nor would they be the last. It became clear that many questioned the model of capitalism that drives the world economy and its undemocratic nature. Even more so, many questions were directed at the way corporations profited from this particular model, to the detriment of the environment and societal interests. Demands for corporate regulation also were a reflection of a number of high profile corporate scandals in the 1990s. People on the streets of Seattle demonstrated in favour of a system that would protect and restore the environment and foster social justice.

The idea of sustainable development has been used since the 1980s to describe a way of thinking and acting that would bring economic systems in line with social and ecological imperatives. An important aspect of the business reaction to the Battle of Seattle and other worldwide protests and campaigns, was to present business as a contributor to the solution of social and ecological problems. This was to be done through the practice of corporate social responsibility, equated in much business literature with sustainable development.

I approached this research project with the conviction that our current system of production and consumption is unsustainable in terms of ecological

limits and because of the increasing inequality and marginalization it generates. I also became more and more interested in the role of business in global policy processes and ideological conceptualizations of sustainability problems and solutions. Corporate social responsibility presented itself as the vehicle through which a more informed understanding of these issues would be possible.

The initial phase of the research project focused on the investigation of the concept of CSR, through academic literature reviews, news articles, internet searches and attendance at several CSR forums. From this I developed a systemic conceptualization of CSR from a critical sociological perspective, informed by political economy, found in chapter two of this dissertation.

In order to understand the ‘on-the-ground’ practice of CSR, I also conducted a case study emphasizing the perspectives and experiences of those who are supposed to benefit from CSR activities. As noted in the introduction, dominant CSR accounts lack an articulation of the perspectives of the intended beneficiaries of CSR activities (Idemudia, 2008; Blowfield, 2007; Prieto-Carrón et al., 2006). While initially I intended to include an assessment of EnCana’s corporate environmental practices in both locations of the case study, it quickly became clear that this was too broad, considering time and resources available. I narrowed down the topic to EnCana’s CSR practices as they related to community development initiatives and relations with Indigenous peoples.

The case study used a qualitative or intensive research design to emphasize local accounts of community interactions with corporate interests. This study analyzed the practice, implementation and outcomes of corporate social responsibility activities, specifically those activities related to Indigenous peoples and community development. The research sought to understand contextual factors that affect the practice of CSR in developing region contexts.

The case study is unique in that it compares CSR activities in a developed country setting with activities by the same corporation in a developing country setting.

Methodology: Conceptual Framework of the Case-Study

I approached this study from a critical theoretical perspective. At its core, critical theory is normative: it is concerned with uncovering and critiquing “structural settings of relations of power and control” (Morrow and Brown, 1994:24). In contrast to traditional theory oriented only to understanding or explaining an issue, critical research is invested in confronting and changing unjust social systems, either directly (as for example in participant action research), or indirectly through the generation of theory.

The model for critical theory is C.Wright Mills’ sociological imagination. Mills argued that any sociological study needs to understand the totality of situations as they exist within a specific historical period.

Neither the life of an individual nor the history of a society can be understood without understanding both. Yet men do not usually define the troubles they endure in terms of historical change and institutional contradiction. ... The first fruit of this imagination--and the first lesson of the social science that embodies it--is the idea that the individual can understand his own experience and gauge his own fate only by locating himself within this period, that he can know his own chances in life only by becoming aware of those of all individuals in his circumstances (1959:5).

Wright Mills reminds me why sociology holds a unique and appealing perspective on the world. Mills reasoned that “the sociologist should make the powerful responsible for the consequences of their actions and show the public how their personal worries are connected with the public issues that the powerful create”

(Bauman and Tester, 2001:26). The model also owes much to Gramsci's insight that the world is something constructed by social agents through their actions, within the constraints of hegemonic power (1971). Gramsci's work emphasized that it is possible to analyze and understand reality as a field of action and not simply inescapable actuality.

As a theoretical framework, critical theory embodies a variety of approaches, from early Frankfurt critical theory, to postmodernism, feminism and interpretive structuralism (Morrow and Brown, 1994). The methodological approach of interpretive structuralism holds several central principles:

that social relations and social analysis always have an interpretive dimension; that meaning and language...are the basis of reality construction that both reveal and conceal the experiences of subjects; that structures may be species-specific or historically constituted and sometimes consciously transformed even if they have a kind of objective facticity that appears independent of immediate actors; that social and cultural structures constrain human action as does a grammar language...; and that meaning and structures constantly are reproduced (statically) and produced (dynamically) across space and time (1994:24).

There are several guiding principles that follow from this approach. First, it affirms that social relations must be interpreted; second, dynamically produced structures constrain and enable human actions, and therefore, social change is possible; third, while meaning, language and interpretations are socially constructed, forces of oppression are real in their consequences (Schofield Clark, no date). The latter principle places interpretive structuralism at some distance from postmodernism and its tendency towards complete relativism and the "exclusion of an analysis of external socioeconomic structures and causality" (Morrow and Brown, 1994:59).

By taking an interpretive stance, critical theory stands opposed to positivist attempts to imitate the natural sciences and to treat social phenomena as immutable ‘facts’ detached from practice and experience. Instead, social reality and our knowledge of it is historically constituted and contingently situated. A critical theory orientation acknowledges the importance of norms and values (Kellner, no date; Morrow and Brown, 1994: 206).

One of the charges against critical theory is its tendency towards elitism (Schofield-Clark, no date). It is said that the tendency to focus analyses on persons and institutions in positions of power and authority would preclude paying attention to those who struggle against power and authority. My research attempts to address these concerns with its emphasis on understanding the ways in which power emanates in the context of complex “lived” lives. In the words of Foucault:

My goal was not to analyze power at the level of intentions or decisions, not to try to approach it from inside, and not to ask the question: [...] So, who has power? What is going on in his head? And what is he trying to do, this man who has power? The goal was, on the contrary, to study power at the point where his intentions – if, that is, any intention is involved – are completely invested in real and effective practices; to study power by looking, as it were, at its external face, at the point where it relates directly and immediately to what we might, very provisionally, call its object, its target, its field of application, or, in other words, the places where it implants itself and it produces its real effects (2003:79).

My study was thus concerned with understanding power as it emanates in specific contexts and the ways in which its real effects are experienced and resisted by excluded groups.

A critical theory orientation precludes the idea of a disinterested, value-free researcher and analysis cannot be 'objective' in the sense usually meant by logical positivists. Morrow remarks, "[i]t is clear that value questions have always been central at various stages of research practice" (1994:50). To imagine that we can leave our selves at the gate before we enter the field is delusional. The researcher does not stand outside the process, she is included in it. Furthermore, critical theorists argue that "[w]ertfreiheit (value-freedom) is – as human sciences are concerned – not just a pipe-dream, but also an utterly inhuman delusion" (Bauman and Tester, 2001:13). All knowledge is power, and knowledge can be used to support or challenge specific existing power structures. Critical theorists make an explicit commitment to knowledge as praxis, intended to redress structural inequalities.

A distinction must then be drawn between, on the one hand, a researcher having a particular point of view, and, on the other hand, this point of view having a negative impact on the research process. Social science, by its very nature must stand in a "critical as well as an explanatory and interpretive relationship" to its subject matter (Sayer, 1992:41). In a research context, one's point of view serves to devise questions and strategies for exploring forms of social life.

Qualitative inquiry is thought to be especially prone to subjectivity, not least because, as is often said, 'the researcher is the research instrument' (Hammersley and Gomm, 1997). As a researcher, I had to be conscious of my point of view and how it influenced my interpretation of the data. I strove to be attentive to fair representation of different points of view and adhered to standard principles of social science research and ethical conduct. It is the task of the skilled researcher to make judgments about the plausibility and credibility of evidence. It is the task of the reader to evaluate whether the writer has selected the best available data relevant to the questions of the study.

Critical theory's emphasis on knowledge in the service of human emancipation requires a rethinking of the notion of validity in social scientific research. Validity in the case of critical research is directly related to its stated purpose of inquiry. "To understand," Bauman says, "is to know how to go on" (1990:228). Sayer makes the same point when he writes that knowledge is not so much a representation of the world, as it is a means for doing things in it (1984:48). Steinar Kvale argues that knowledge is justified by its application (1995:31). Knowledge and practice are intertwined from the start. Research is considered valid to the extent that it "provides insight into the systems of oppression and domination that limit human freedoms, and on a secondary level, in its usefulness in countering such systems" (Schofield Clark, no date). The more important question then becomes to what end we produce social knowledge.

Being part of a research community also means that a piece of work is never the end of the story. In the words of Samir Amin:

I regard writing as a significant social act. Unlike many academics, I do not try to produce a definitive work, but rather a piece of writing that is one step in an endless development process carried on by a collective of oneself and others (cited in Glasbeek, 2002:5).

The finished research report is a "contextualized reproduction and interpretation of the stories told" (Vidich and Lyman, 1994:42).

This study is located within the field of globalization and in chapter two makes a contribution to the analysis of globalization processes, in particular the role of transnational business in global governance. Globalization has emerged as an overarching structure that has become central to critical theory. "[S]ystemic analysis informed by political economy remains a key aspect of critical social research" (Morrow and Brown, 1994:282). The case study specifically addresses

questions of globalization's effects on marginalized communities. The research encountered multiple perspectives that places social action in wider contexts.

Contextually situated research pays attention to power relations, structures and patterns that reveal human actions as elements of wider figurations. Good qualitative research is always in a constant dialogue with theory and "interpretive structural explanations are the basis of theorizing in critical theory" (Morrow and Brown, 1994:242; Ragan, Nagel and White, 2004). Linking the theoretical construction of corporate social responsibility in chapter two and the case study illustrates the ultimate purpose of this research: to comprehend the underlying orders of social life that constrain human action by paying attention to power, structures and ideology (Morrow and Brown, 1994:211).

Methods: Research Design, Data Collection and Interpretation

Intensive (quantitative) research design

Designing research appears very similar to the processes of the silversmith's craft, an activity I practice in my spare time. In order to produce a quality product, the silversmith needs to: first, have a mental picture of the finished creation. While it may not become exactly what the craftsman set out to create in the beginning, and changes will be made during the process, there must be at least an idea of what one wants to accomplish. Secondly, the silversmith must be familiar with the required and appropriate tools for the task. Third, one needs knowledge of the proper methods to create the particular piece. Finally, the artisan needs to possess craftsmanship, a fairly intangible quality that involves a wide range of creative capacities and an ability to respond to problems as they present themselves.

The qualitative researcher similarly needs to have a clear idea of what is to be accomplished; a set of appropriate tools, or sociological concepts; methods

such as interviewing and observation; and finally the craftsmanship to creatively respond to, analyze, interpret and reflect on the data.

To solve a research problem, a key component of study design is to use the correct research tool(s). Qualitative methods are appropriate if the goal of the research is to explore or describe a phenomenon and gain an in-depth understanding of that phenomenon. According to Robert Yin "case studies are the preferred strategy when 'how' or 'why' questions are to be answered, when the investigator has little control over events and when the focus is on a contemporary phenomenon within some real-life context" (1993:1). This description fit closely with the research problem of this study. The study asked 'how' and 'why' EnCana Corporation employs CSR and community development practices; it sought to understand 'why' and 'if' practices differed across different contexts; and it examined 'how' communities themselves viewed the practice and outcomes of CSR. The researcher had no control over events; rather she sought to understand the events as they occurred. The research was *intensive*, or in-depth, in that it sought to comprehend the rich complex of factors that defined the case at hand and to uncover underlying sociocultural and structural relations (Morrow, and Brown, 1994; Sayer, 1992). Finally, CSR is a uniquely contemporary phenomenon, related to macro-level changes in social organization that impact the real-life context of lives lived in the remotest corners of the world.

A key difference between qualitative and quantitative research is in the role of 'context'. Quantitative research attempts to mitigate or control the effects of contextual variables on the study. In contrast, qualitative research is conducted in a naturalistic setting and includes contextual variables. Critics of qualitative research, mostly emanating from those working within a logical positivist framework, often point to this contextualization as a negative aspect of this type of research. However, in social science research an exploration of how the context

is structured and how the key agents under study fit into it, interact with it, constitute it and are either empowered or constrained by it, is vital for explanation and understanding (Sayer, 1992).

This study took context as its subject of inquiry and examined whether corporate practices differed according to the context in which action took place. Examination of similar phenomena focused on the specificity of each situation, thus allowing the researcher to identify contextual continuities and discontinuities.

The case study employed the methods appropriate to a qualitative single-case study, conducted in two locations. Research problems can be organized according to different characteristics, e.g. historic versus contemporary, single-issue versus multiple issues, micro-, meso-, and macro-level problems. The case study was contemporary, complex and combined problems at the three levels of research, although it focused on the micro-level context of two different locations. Nevertheless, the study necessarily involved making connections to the meso-level - the nation-state and intermediate institutions, and the macro-level - the international institutional and legal environment and relations between national jurisdictions.

Qualitative critical research cannot be simply observation, or taking things at face value. It seeks to understand how local processes are shaped by external forces and structures. The study was thus broadened following the precepts of the extended case method (Burawoy, 1998; Vidich & Lyman, 1994). This method expands the analysis to include social, cultural, political, economic and ideological structures and mechanisms. Procedures are inductive and aim

not to abstract the minimum number of essential features in one case that can be generalized to other cases, but, rather, to situate the individual case in as much richness of detail as possible within the wider social

fields that structure the processes unfolding within that case (Burawoy, 2002:257).

This inclusion of the “widest relevant social field” resulted in uncovering issues of domination and resistance, satisfying the critical theory goal of revealing hidden interests (Burawoy, 2002:257).

Drawing on Foucault’s idea of studying power by looking at its “external face...[at] the places where...it produces its real effects” enabled me to think through how contextual factors shaped place-specific processes. To take the analysis further, I used what I had learned from the systemic analysis of CSR in chapter two to understand what the case study could tell us about the exercise of corporate power in the context of globalization and how particular external forces and structures shaped interactions.

Limitations of the case study method

There are two commonly noted critiques of case study research (Yin, 1993). The first is that case studies lack rigour or maintain a biased point of view, a problem I have addressed in my discussion of critical theory methodology. The second oft-heard criticism is that case studies provide little basis for scientific generalization. Yin challenges this directly by drawing a comparison with experimental research. “The short answer is that case studies, like experiments, are generalizable to theoretical propositions and not to populations or universes” (Yin, 1993:10). Fielding and Fielding present a similar defence, reminding researchers that generalizability is not the purpose of qualitative research, but rather it is to “elicit meaning in a given situation and to develop reality-based theory” (1986:122). Sayer adds to the argument by stating that, providing there is no pretence that the whole population (e.g. every multinational enterprise in every

possible location) is represented, there is no reason for an intensive study to be less objective about its subject matter than an extensive study (1992).

In contrast, critical theory and the extended case method specifically seek to analyze a case within multiple layers of social context and to find out how the particular case fits in the relevant larger whole, rather than to generalize to other cases (Burawoy, 2002:258). The phenomenon of the multinational enterprise, itself a globalizing institution, and the continuities and discontinuities that occur where it meets varied local conditions may generate knowledge about how contingently situated processes structure social action.

Study Conduct

The strength of a case study lies in its breadth and depth, often a range of evidence extracted from multiple data sources. For qualitative research Yin identifies three types of tools that form the basis for data generation: interviewing, observation, and document analysis (1993). All three sources of data were used in the study.

A key difficulty of the study was the refusal of EnCana Corporation to participate in the study. While the initial reaction was encouraging, the company decided to not cooperate after the research proposal had been defended and accepted. Despite the lack of immediate access to corporate officials and inside documentation, I felt there was enough material publicly available to construct a CSR profile of the company. This included EnCana's website, corporate social responsibility reports, corporate annual reports and newspaper and magazine articles on the company. To analyze the internal culture of EnCana with respect to the ideological grounding of its CSR practices, I analyzed eight speeches given by Gwyn Morgan, the company's president.

EnCana eventually did offer some cooperation in Ecuador, granting interviews with John Keplinger, its general manager, and Fernando Benalcazar, vice-president for Environment, Health & Safety, and Community Affairs. I also was given a guided tour of EnCanEcuador's community development projects in Tarapoa and Aguas Negras and its charitable arm, Ñanpaz Foundation. During this day-long tour I was introduced to community leaders and members. EnCana personnel was present at all sites and during interviews with community members. The meetings were scheduled and coordinated by EnCana employees and company personnel often traveled ahead of us to prepare the interviewees.

Research activities carried out

Fieldwork for the case study took place from October to December 2003 in Ecuador, and during 2004-2005 in Alberta. I traveled to Ecuador in October 2003 and spent eight weeks in the country. I interviewed numerous sources in the capital Quito. From Quito I undertook two week-long trips to the northeastern Amazon region and EnCana's Tarapoa block of operations. During these trips I visited several Indigenous and colonist villages and conducted face-to-face interviews. EnCana's guided tour also took place during one of these journeys. I had the help of a graduate student from the Universidad Andina Simón Bolívar in Quito, who acted as my translator.

Between April 2004 and May 2005 I undertook one field research trip to the northwestern region of Alberta around the town of High Level. I conducted interviews with members of the Dene Tha' First Nation from all three towns on the reserve. Access to community members and elders was facilitated by the hiring of a community member, who acted as my guide and introduced me to sources. In addition, I interviewed several participants in Edmonton, Calgary and Canmore.

I conducted a total of thirty open-ended interviews in Alberta and thirty-three in Ecuador. In addition, during a guided tour of EnCana projects in Ecuador I spoke to approximately twenty-two other community members. Interviews were conducted with community leaders, community members, Indigenous leaders and consultants, EnCana personnel and former employees, academics, members of non-governmental organizations, government representatives and business representatives.

Sample selection in qualitative research focuses on small samples, selected to provide significant information relevant to the case study. The research participants for this study were identified through the process of snowball, or chain sampling. Prior to travel to Ecuador I had contacted a Canadian activist and documentary maker who was filming the controversy surrounding EnCana's construction of the Oleoducto de Crudos Pesados (OCP) pipeline. She put me in touch with Dr. Liisa North at York University, an academic with long-standing research experience in Latin America. She referred me to academics at the Universidad Andina Simón Bolívar in Quito, who in turn referred me to other sources of information. In addition, I was put in contact with activists at Acción Ecológica in Quito, who also provided me with contacts. To gain entrance into the Dene Tha' community, I utilized a contact in an Edmonton-based First Nations' service agency. On the basis of his recommendation I was able to conduct interviews with numerous employees at the band offices. One of the officers recommended that I hire a guide to introduce me to community members and elders. I was also contacted by a few leaders who were willing to participate and be interviewed.

Where available, I collected documentation important to the study and supportive of interview information. This consisted of letters, minutes of meetings, press releases, reports, policy statements, memos, court documents and

documentation submitted to government agencies. A list of documents is contained in Appendix A, the document register. Documents are coded with D- to indicate a document, A- for Alberta and E- for Ecuador. In addition, coding of DT indicates a document obtained from the Dene Tha' First Nation; coding of ECA indicates a document obtained from EnCana Corporation.

Interviews lasted from thirty to ninety minutes and were conducted at a site of the respondents choosing. Most often this site was the person's place of residence, or work. Where consent was obtained I taped interviews. This allowed me to focus on what people had to say, rather than on writing down what was said verbatim. In addition, I took notes of what I considered important information. All interviewees agreed to the taping of the interview, with the exception of EnCana's general manager and the vice-president of Environment, Health, Safety & Corporate Accountability (EHS &CA) in Ecuador. The interview was conducted in English, and in this case I took extensive notes during the interview. The accuracy of the notes was later checked and confirmed by my translator, who was present at the interview. All tapes were transcribed. In Ecuador I had the help of a graduate university student who translated and transcribed all interviews held in Spanish. Due to my limited knowledge of the Spanish language, she also translated during interviews and helped set up appointments.

For all participants I obtained written consent through the use of informed consent forms. In Ecuador these forms were translated into Spanish. The consent form contained information outlining the research project, the purpose of the research, the participants' rights to withdraw at any time, the right to anonymity and the researcher's commitment to confidentiality. Participants were asked to fill out and sign the form, prior to the interview. The exception to this procedure occurred during the guided tour with EnCana personnel. In these instances, verbal information was provided and verbal consent obtained.

Strict confidentiality of interview tapes and transcripts was maintained during and after the interviews. All materials pertaining to interviews and other confidential sources were kept under lock and key. Identification of participants was kept separate from interview tapes and transcripts.

Due to requests for researcher confidentiality and perceptions of danger or disadvantage to interview participants, I have not used names of interviewees in the case study report, except where these are a matter of public record. All tapes and transcripts were coded, to facilitate retrieval. I have coded interviews with A- for those conducted in Alberta and E- for those conducted in Ecuador, followed by a number indicating my personal tracking system and, where appropriate, a page number indicating where the quote can be found in my files. Appendix B contains the list of interviews, organized by code, with a general description of the interviewee's position.

Interpretation of Data

The case study used transcripts from interviews and field notes as the main sources of data, supplemented by documentation collected during the study, public records and media reports. Direct observation assisted understanding, but was not done in a purposeful manner. Although all sources were used iteratively, the analysis of interview transcripts forms the backbone of the study.

Field notes consisted of interview summaries, including practical details about the time and place, participants, and duration of the interview. The interview summaries also comprised preliminary analytical notes on important emerging themes and issues.

Data analysis was an ongoing process, taking place throughout the data collection process. Because data collection and analytical processes in qualitative research tend to be concurrent, "it is important to recognize that qualitative data analysis processes are not entirely distinguishable from the actual data" (Thorne,

2000:68). Analysis during the data collection process uncovered two themes that were more important than I had initially thought: consultation and sustainable livelihoods. The emergence of these themes caused me to refine the focus of the interviews.

The primary mode of analysis was thematic: developing themes from the raw data into a framework that identified key themes and processes. This type of analysis is inductive, as the themes are not imposed beforehand by the researcher. The analysis was iterative, moving backwards and forwards between transcripts, notes, documentation and the research literature. Additional background reading was part of the analysis to help explain emerging themes. Another interpretive mechanism I used in my analysis of CSR practice in different contexts was to look at differences and similarities between the two locations.

To produce credible and trustworthy results, I interviewed people who could provide different perspectives. Information was gained from community members and Indigenous peoples at both case study sites; from EnCana personnel and former employees; from academic sources; from government sources; and from activists.

A key attribute of the qualitative case study method is that it uses tools to understand and describe the lived experience of social actors, by way of the experiences, accounts, and perspectives of the actors themselves. The case study took the critical theory goal of “[r]eliance on the *natural language accounts* of actors concerning their actions or the actions of others within their social field” (Morrow and Brown, 1994:206; emphasis in original). The study not only examined EnCana’s corporate perspective on CSR, but included the accounts of those intended to benefit from CSR programs, a perspective missing from most other studies on the practice of CSR.

Presentation of the case study results in this dissertation intends to show that the interpretation and theory derived from the data represents the understanding of the research participants. A good way to do so is to allow the voices of participants to be heard. The main focus in qualitative research is the data itself, in all its richness, breadth, and depth. Katz remarks that

it is much easier to select confirming cases and ignore disconfirming evidence if cases are referred to in the author's analytical language, as opposed to presented in the text in their original form and context of expression. If it is obvious that bias can enter the author's selection of data, it should be obvious that it is much easier for bias to get into the text if the author need not quote subjects at all (2004:84).

In order to provide independent access to subjects, representative quotations are presented throughout the case study in the contextualized and specific voices of interview subjects. Quotations are juxtaposed with my descriptions, explanations, analyses and commentary, although I chose to emphasize the stories of the people interviewed.

Reflections on Fieldwork, Methodology and Research

Kipling tells the story of the centipede who walked effortlessly on all her one hundred legs until a courtier began to praise her exquisite memory, which allowed her to never put down the forty-second leg before the fourteenth, or the eighty-fifth before the twenty-seventh. Made self-conscious, lifted out of the taken for granted, the poor centipede was unable to walk anymore ... The effect of following debates in methodology in the social sciences could have the same result. There are no "follow these steps, in this order" rules and you will end up with a correct, factual account of your research. Like the self-conscious centipede,

the 'reflexive' sociologist must think about every step of the way. But will she still be able to move?

'Reflexivity', according to some commentators, has become a key element in the production of high quality, qualitative research (Yardley, 2000; Seale, 1999; Wasserfall, 1993). Research, especially critical research, involves a number of techniques that go beyond research techniques "narrowly understood as merely a process of matching concepts and data" (Morrow and Brown, 1994:232). Reflexive methods in this sense refer to metatheoretical argumentation, self-reflexivity and normative argumentation. Rather than attempting to exclude the researcher through positivist "acts of depersonalization and decontextualization," knowledge of the context and conditions under which research is produced should be made apparent (Morrow and Brown, 1994:234).

What does it mean to be 'reflexive', and who should be reflexive and when? A reading of the literature does not provide a lot of clarity in this regard. Reflexivity, in the sense discussed by Giddens, is often used as an individualistic approach to the self-understanding of social agents (D'Cruz, Gillingham and Melendez, 2007). A second variation defines reflexivity as "a critical approach to professional practice that questions how knowledge is generated, and, further, how relations of power influence the processes of knowledge generation" (p. 198). Reflexivity, understood in the second way, questions the myth of the disinterested, neutral observer and draws attention to the factors that influence knowledge creation.

Does this mean that I should now begin, in the term used by Seale, the "confessional tale" of my research and wallow in self-referential methodological angst (1999)? I could talk about the ethics of a white, middle-aged woman from an advanced industrialized country researching the experiences of marginalized Indigenous peoples. Indeed, I asked myself those questions about the ethics of it

all, especially considering some of the literature on research with Indigenes and the ‘othering’ of research subjects (see, for example, Denzin, Lincoln and Smith, 2008). Yet, it seemed to be a form of self-indulgence to become the centre of the research experience. At what point does this exercise become a reinforcement of academic authority, rather than a challenge to it? All of this still consists of *my* perceptions, *my* understandings, *my* sense of what is and what is not important.

[Confessional tales]...have, eventually, the quality of persuading the reader that the researcher has indeed ‘been there’ ... Treated in this way, the ‘confession’ is a strategy for gaining authority, rather than giving it away, and involves no departure from realist assumptions. Indeed, it constitutes a claim to authenticity (Seale, 1999:160, 161).

It seems to me that reflexivity, in the sense of a critical approach to knowledge generation, once again, after the self-examination, attempts to present the researcher as objective and disinterested, because, after all, we have now laid bare our positionality and taken it into account.

What I have come to understand is that research is better when it is conducted ‘with’, rather than ‘on’ people. I approached participants with an attitude of wanting to learn from them. People, no matter who they are, have stories to tell. I asked them to tell me their stories. They did and I listened. I took what they had to say very seriously. During interviews I tried to follow the avenues people themselves opened up and to understand their interests and emphases. My interviews became much closer to conversations than interviews, at least, this was my approach. I did not ‘talk down’ to people, I tried not to assume too much, not to jump to conclusions. I did my best to maintain the integrity of

their stories in the reporting process by privileging the authentic voices of the participants.²³

While I understand the debate and questions about representation, power, others, marginalized peoples and the production of knowledge, I reject the logical conclusion of this debate that autobiographical research is the only possible research that can be assumed to be valid. Simply speaking of someone different from yourself as “other” sets up divisions that I find problematic. I prefer to celebrate humanity in all its manifestations, while understanding that many aspects of the human experience are common to us all; only the context is different.

Critical research then should focus on its goal of contextual understanding; to recognize that the forms and possibilities of action will differ for people placed in different contexts and to uncover knowledge that can be used to create better options.

²³ The previous paragraph owes much to a discussion by Pamela Cawthorne, 2001, who makes many of the same points.

CHAPTER 5

ENCANA CORPORATION: CSR PROFILE AND INTERNAL CORPORATE CULTURE

Introduction

Chapters five, six and seven contain the major findings of the case study analyzing the Canadian oil and gas company EnCana Corporation and its CSR practices with Indigenous peoples in two developing regions: north-western Alberta, Canada and north-eastern Ecuador. In north-western Alberta EnCana Corporation (EnCana) operates on lands traditionally occupied by the Dene Tha' First Nation, and in north-eastern Ecuador on lands traditionally occupied by the Siona/Secoya Indigenes, complemented by a population of agricultural settlers (*colonos*) in the Amazon forests. My focus is on relations between EnCana and the Indigenous peoples living in Canadian and Ecuadorian oil resource extraction regions where EnCana Corporation manages a dominant part of economic activity. In Ecuador I also studied EnCana's CSR relations with settler communities in the direct area of EnCana's operations.

The case study analyzes the practice, implementation and outcomes of corporate social responsibility activities, specifically those activities related to community development. The research seeks to understand contextual factors that affect the practice of CSR in developing region contexts.

This study was selected for a number of reasons. First, EnCana Corporation is the largest independent oil and gas producer in Canada and had embarked on an aggressive strategy of expansion, operating in several national jurisdictions. 'Independent' in this sense does not relate to a company that is not publicly traded. According to an EnCana spokesperson, in the oil industry the term 'independent' means that the corporation is solely involved in 'upstream' activities (exploration and production) and not in 'downstream' (retail) aspects of

the oil and gas business.²⁴ The corporation exemplifies the Canadian multinational enterprise and related questions of accountability across national jurisdictions. EnCana's ethical philosophy pledged to honour the highest standards in Canada and to extend Canadian standards to all jurisdictions where it operates. The company has a business code of conduct, an Aboriginal relations policy and a corporate constitution which are published on its website. Since 2004, EnCana has published an annual CSR report and the company reports annually to the Global Reporting Initiative (GRI). Second, in the regions chosen for the study, EnCana operates in traditional Indigenous territory and manages a dominant part of the economic activity in these regions. Third, as I have shown in chapter three, there are striking similarities, but also important differences between the social, economic, political and environmental issues encountered in northern Alberta and in Ecuador. Table 5-1 below summarizes the case study particulars.

Case Study Particulars

<i>Country</i>	<i>Region</i>	<i>Community</i>	<i>Environment</i>	<i>Economic</i>
Canada	North-West, Prov. of Alberta	Dene Tha' First Nation	Boreal Forest	Developing region in high-income country
Ecuador	North-East, Prov. of Sucumbíos	Siona- Secoya Nation & colonist settlements	Rain forest	Poorest province in low- income country

Table 5-1

²⁴ Personal communication, April 10, 2003.

Fieldwork for the case study took place from October to December 2003 in Ecuador, and during 2004-2005 in Alberta. In Ecuador, I focused on the Tarapoa area in north-eastern Ecuador, and EnCana's seismic activity in Cuyabeno Faunistic Reserve and the company's relations with the Siona/Secoya Indigenous nation, as well as the settlers in the towns of Aguas Negras and Tarapoa. EnCana sold its interests in Ecuador in December 2005; information presented here refers to the time when the field work was done, prior to this sale.

In Canada, I focused on the north-western Alberta region around the town of High Level and EnCana's relations with the Dene Tha' First Nation. I conducted a total of thirty interviews in Alberta and thirty-three in Ecuador. In addition, during a guided tour of EnCana projects I spoke to approximately twenty-two other community members.

Due to requests for researcher confidentiality and perceptions of danger or disadvantage to interview participants, I do not use names of interviewees, except where these are a matter of public record. I have coded interviews with A- for those conducted in Alberta and E- for those conducted in Ecuador, followed by a number indicating my personal tracking system and, where appropriate, a page number indicating where the quote can be found in my files.²⁵ Similarly, documents are coded with D- to indicate a document, A- for Alberta and E- for Ecuador. In addition, coding of DT indicates a document obtained from the Dene Tha' First Nation; coding of ECA indicates a document obtained from EnCana Corporation. A list of documents may be found in Appendix A; a list of interviews in Appendix B.

The case study provides rich insights into current and controversial debates around the practice and outcomes of CSR in developing regions and the

²⁵ See also chapter four on methodology for a further explanation.

issue of free, prior and informed consent of Indigenous peoples. Evaluation of the activities of one corporation in two countries, one a high-income country and the other a low-income country, will add to the understanding of the importance of local context and the influence of place, time and circumstance. The research also paid close attention to the framing of issues, or the underlying discourse, revealing the ideational foundations of CSR, and fundamental differences between corporate and Indigenous understandings of development and self-determination.

The case study will be presented as follows: chapter five presents a general and CSR profile of EnCana Corporation and an analysis of its internal corporate ideology. Chapter six presents the findings of the study on EnCana's CSR practices in north-western Alberta and chapter seven on north-eastern Ecuador. Both chapters begin with profiles of the Indigenous in the area, and in Ecuador the settler communities in the immediate area of the company's operations.

The findings of the study are presented in a narrative form that emphasizes the multiple perspectives present in the field and the multiple storylines found in the data. Selected quotes from the research interviews serve to support the findings of the study presented in the following chapters.

EnCana Corporation Profile

In the Canadian province of Alberta, major oil resources were discovered in 1946 at the town of Leduc. Dominated initially by foreign corporations, the province of Alberta eventually generated its own entrepreneurial class and indigenous capital. The formation of EnCana Corporation resulted from the "brilliant cloak-and-dagger" 2002 merger of Alberta Energy Company Ltd. (AEC) and PanCanadian Energy Corporation (Haskayne, Dick with Paul Grescoe,

2007:198). PanCanadian, which had been spun-off from its parent company as an independent company in 2002, originated as a subsidiary of Canadian Pacific Ltd. AEC was formed in 1973 as a quasi-state enterprise, equally owned by the provincial government and private Alberta investors. At the time of its formation, AEC was a response to a “demonstrated need for an energy investment company whose control will always remain in the hands of Albertans” (Alberta Federal and Intergovernmental Affairs 1974:1). However, after gradually reducing its level of ownership, the provincial government sold the remainder of its shares in AEC at the end of 1993, making the company wholly publicly owned. EnCana currently trades on both the Toronto Stock Exchange (TSX) and the New York Stock Exchange (NYSE) under the symbol ECA.

While the company portrays the creation of EnCana as a “merger-of-equals”, Verburg notes that the merger had to reconcile two very different corporate cultures: AEC’s corporate culture was markedly “aggressive and entrepreneurial”, while Pan-Canadian was much more “laid-back and conservative” (2002). According to Haskayne and Grescoe, AEC’s “well-defined culture” became the “EnCana culture” (2007:210). Following the merger, AEC’s president Gwyn Morgan became president and chief executive officer of EnCana, and David O’Brien, formerly PanCanadian’s chairman became chairman of EnCana’s board of directors.

Between 1995 and 2001 AEC expanded internationally into the U.S. and Ecuador (http://www.EnCana.com/who_we_are/our_history.shtml). EnCana’s Ecuador holdings were part of AEC’s 1999 billion dollar purchase of PacAlta Resources Ltd. and included 180 million barrels of oil reserves in that country (Westell 2000).

Today, EnCana is the largest North American independent oil and gas company and ranks near the top globally with an enterprise value at year-end

2006 of over US\$ 45 billion (EnCana Annual Report 2006). In December 2005 its rising stock price briefly made it Canada's largest company, when EnCana surpassed the market capitalization value of the Royal Bank on the Toronto Stock Exchange. The company employs about 6,500 people.

Table 5-2 shows EnCana's financial performance since its inception in 2002 to the end of 2006. All figures are in U.S. dollars and taken from the company's annual reports. Since 2002, revenues have increased by 261% and net earnings after taxes by 663%. Over the past three years, total shareholder return was 115 percent for shares traded on the TSX and 138 percent for shares traded on the New York Stock Exchange – higher due to the appreciation of the Canadian dollar (EnCana Annual Report 2006).

EnCana Financial Performance 2002-2006

Year	Revenues, Net of Royalties²⁶	Net Earnings before Taxes	Net Earnings after Taxes
2002	\$ 6,276,000,000	\$ 1,101,000,000	\$ 833,000,000
2003	\$ 8,521,000,000	\$ 2,612,000,000	\$ 2,360,000,000
2004	\$ 10,259,000,000	\$ 3,513,000,000	\$ 2,725,000,000
2005	\$ 14,266,000,000	\$ 4,089,000,000	\$ 3,426,000,000
2006	\$ 16,399,000,000	\$ 6,943,000,000	\$ 5,652,000,000

Table 5-2

Executive compensation followed the pattern of similar companies in North America. In 2003, for example, EnCana's president earned a total of US\$4,789,025 in base salary, performance bonus, and other compensation. Compensation for the five highest paid executive officers (including the

²⁶ Revenues, Net of Royalties is an international petroleum accounting term. Under this approach, the producer excludes the royalty from its own revenue. Accordingly, the royalty owner's share of production does not appear on the income statement of the producer.

president) for 2003 was over US\$11 million, not including exercised stock options (Information Circular, General Proxy Information. EnCana Corporation, February 2004).

EnCana with its head offices in Calgary, Alberta, is one of Canada's largest nationally headquartered enterprises. Its name is a contraction of Energy and Canada, with the final 'a' representing Alberta. Gwyn Morgan, "a diehard nationalist, determined to build companies that are controlled by Canadians and reflect our values," coined the name (Haskayne and Grescoe 2007:199). Morgan said: "[T]he reason I'm prepared to go through all this pain of putting these companies together – is because we're creating a Canadian flagship company. So it's got to have a name that reflects this" (pp. 208, 209). Dick Haskayne, one of Canada's "three most influential quiet men in the Canadian oilpatch", and an EnCana director until 2005, lists EnCana as one of Canada's "Northern Tigers," in its sheer size, as the largest independent oil and gas producer in North America and "with all its major strategizing and decision-making done in Canada" (Haskayne and Grescoe 2007:backflap and p. 215).

EnCana has changed its strategy from production of conventional oil and gas resources, both nationally and internationally, to a strategy focused on North American unconventional natural gas and in-situ oilsands development, or "resource plays," in EnCana's terminology. Its year-end 2006 asset base included 24 million net acres in North America, about 40,000 well locations and 19.2 Tcfe (trillion cubic feet equivalent) of proved reserves. In Alberta, EnCana lays claim to vast landholdings, in part as a result of its legacy as a fifty percent government-held company, and in part as a result of its origins in a subsidiary of Canadian Pacific Ltd. (CP). AEC grew out of the huge Suffield and Cold Lake military bases. Canadian Pacific's core oil and gas production came from southern Alberta lands, initially received as partial payment for building Canada's east-west

railroad. These legacy lands provide a huge, low-cost cash generator for EnCana. The company also owns 4,875 square kilometres of oilsands deposits, estimated to contain 10 billion barrels of oil. Re-focusing on North America has meant the divestiture of international operations, including the sale of EnCana's Ecuador assets, completed in April 2006.

In Ecuador, EnCana Corporation was the country's largest foreign investor. Its holdings resulted from the 1999 purchase of PacAlta Resources Ltd. and its Ecuadorean subsidiary City Investing Ltd. The company considered Ecuador one of its two "international growth platforms for...crude oil production" (<http://www.encana.com/operations/upstream/ecuador.html>). "The bulk of the operations is in the Cantón (Municipality) of Cuyabeno" (E-09:56), primarily in Block 27 and the Tarapoa Block in the Northern *Oriente* Basin in Sucumbíos province, an area rich in biodiversity, cultural and natural resources and at the upper basin of the Amazon rivers and jungle, east of the Andes mountains. This area includes the settler towns of Tarapoa, where EnCana's regional compound is located, and the town of Aguas Negras. The Municipality of Cuyabeno is one of the poorest regions in Ecuador. Malnutrition affects 42.5% of the population, 37.3% suffer from a housing deficit and the infant mortality rate is 59.6 per 1,000 live births (E-40:184).

EnCana held a 100 percent working interest in the Block 27 and Tarapoa concessions, which were operated by a wholly owned subsidiary of EnCana—EnCanEcuador—under a participation contract with the Ecuadorean government which had a primary term through to August 1, 2015 (EnCana, Annual Information Form 2005).²⁷ The company also held interests in oil concession blocks 14, 15, 17 and Shiripuno in the southern Amazon region—some producing

²⁷ EnCana sold its Block 27 concessions in 2003.

and some under development. Parts of blocks 14 and 17 overlap with the boundaries of a Unesco World Biosphere Reserve as well as a zone deemed ‘untouchable’ by the Ecuadorean government to protect the rich biodiversity and Indigenes inhabiting the area. One hundred and thirty EnCana wells in Ecuador produced an average of 51,000 barrels per day in 2003, increasing to over 78,000 barrels per day by June 2004.

EnCana Oil Concession Holdings in Ecuador

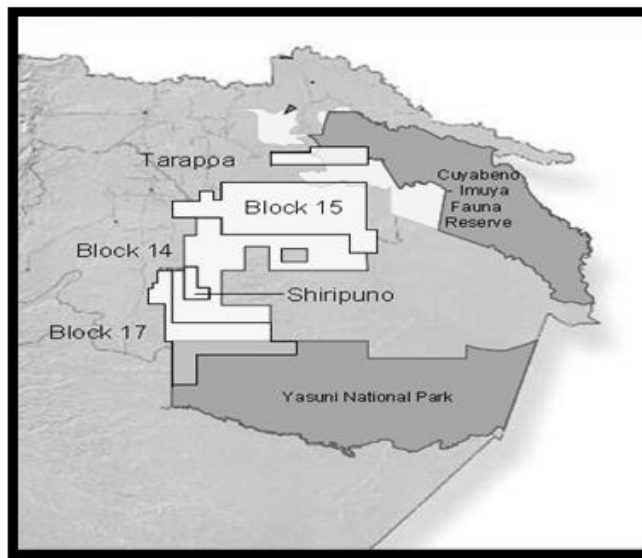
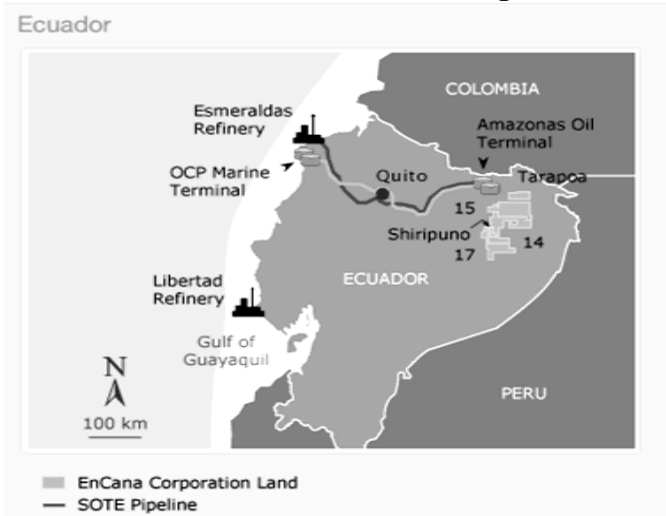


Figure 5-1

EnCana was the majority shareholder (initially 31.4%, later increased to 36.3%) in a joint international consortium to build Ecuador's second 500 kilometre long major pipeline, “the largest development in the country’s history”—shown on the map (Figure 5-1) in white—running from the Amazonas Oil Terminal to the OCP Marine Terminal on Ecuador’s west coast (EnCana Annual Report 2003:26). Ecuador did not have the national capacity, skill or resources to construct this major, US\$1.4 billion pipeline. The route and construction of the pipeline were strongly contested by Indigenous groups, colonists and national and international environmental groups.

The new pipeline has a carrying capacity of 450,000 barrels per day (bpd), necessitating a doubling of oil production in the Amazon to fill the pipeline, including the exploration of untapped areas in the southern Amazon, such as Yasuni National Park, where EnCana also held oil concession blocks. This study focused on EnCana’s exploration and production activities in its oilfields in the Tarapoa Block in the northern Amazon region, also known in Ecuador as the *Oriente*.

EnCana’s holdings in North America stretch from the far north of Alberta and British Columbia to the Gulf of Mexico. Holdings in Alberta include the Greater Sierra and Cutbank Ridge fields in north-eastern Alberta and north-western British Columbia, part of the Western Sedimentary Basin; oilsands projects at Pelican Lake, Christina Lake and Foster Creek; and shallow gas and coalbed methane gas projects on a wide expanse of the plains region of southern Alberta including the former Suffield military base and the Palisser block. Much of the Greater Sierra field overlaps with the traditional territory of the Dene Tha’ First Nation.

Within western Canada, EnCana holds a land position of approximately 23.8 million acres, of which approximately 12.1 million acres are undeveloped. In

2003, the company drilled 3,254 wells in North America. In 2004, drilling in western Canada accounted for 3,007 new wells.

EnCana's North American Holdings

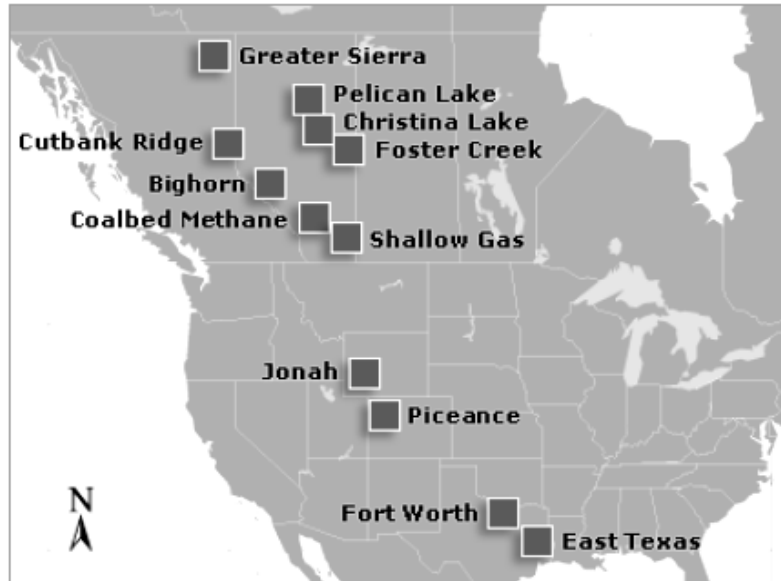


Figure 5-2

EnCana Corporation: Corporate Social Responsibility Profile

EnCana's CSR profile was constructed from publicly available documents, information published on EnCana's website, annual reports, CSR reports, and newspaper and magazine articles. Despite an initially positive reaction from Dick Wilson, EnCana's vice-president of public affairs—later EnCana's senior advisor to the president—the company eventually refused to cooperate with my research. In September 2004 Frank McShane, EnCana's new group lead on Corporate Responsibility and International Community Relations, informed me that the company did not “see any value-added benefits to participating in my research at the time” (A-63:249).

EnCana did offer some cooperation in Ecuador, granting interviews with John Keplinger, its general manager, and Fernando Benalcazar, vice-president for Environment, Health & Safety, and Community Affairs. I also was given a guided

tour of EnCanEcuador's community development projects and Ñanpaz Foundation in Tarapoa and Aguas Negras (see also chapter 4, Methodology).

While corporate co-operation would have been helpful, I submit that the company's refusal to co-operate indicates a lack of transparency and reluctance to have its CSR practices submitted to outside scrutiny and verification.

Corporate Constitution and Corporate Code of Conduct

EnCana's culture includes terminology referring to its employees as 'EnCanans', the communities where the company operates as 'EnCana's communities' and its worldwide holdings as 'EnCana's world.' On July 16, 2003 EnCana's Board of Directors approved EnCana's Corporate Constitution, a document created almost single-handedly by its president and CEO, Gwyn Morgan. The constitution was heralded as the "foundation upon which we build a high performance, principled corporation" (D-ECA-01). In the words of Gerry Protti, vice-president of corporate relations: "The Corporate Constitution has four foundational principles for what we call a high-performance, principled corporation. The four principles are: Strong Character. Ethical Behaviour. High Performance. Great Expectations" (Speech, May 31, 2006).

The company is presented as a "Constitutional Meritocracy," evoking the sentiment that "EnCana is a place where performers prosper" (D-ECA-01, p. 9). All employees sign on to an annual 'high performance contract', which outlines an employee's career objectives and goals for the year. According to Gwyn Morgan, then-president of EnCana: "Our employees are expected to focus on shareholder value" (Speech, June 4, 2002). Rewards, including bonuses and stock options, are based on merit as measured by the contract, making every employee a shareholder of the company. Control becomes internalized in each employee and externalized in the pressures of competition.

The constitution resolutely states that the company's mission is 'Energy for People'—a position repeated and stressed in interviews I had with executives—and its vision is to be the 'world's high performance benchmark independent oil and gas company.' While countries routinely create constitutions expressing basic values, rights and responsibilities, EnCana may be the only corporation with its own constitution.

About a year after introducing the Constitution, EnCana "rolled out our Corporate Responsibility Policy - first internally. The policy has eight focus areas - leadership commitment, sustainable value creation, governance and business practice, human rights, labour practices, environment, health & safety, stakeholder engagement, socio-economic and community development" (Gerry Protti. Speech May 31, 2006). Accountability for implementation of the policy at the operational level is in EnCana's business units. Oversight ultimately rests with the Corporate Responsibility, Environment, Health and Safety Committee of EnCana's Board of Directors (EnCana. Annual Information Form, February 2003).

EnCana clearly subscribes to the business case frame of social responsibility (described in chapter two). Its Corporate Responsibility Policy begins with the statement:

EnCana believes our reputation is critical to the creation of long-term value for our shareholders. We also recognize that success on the bottom line is reinforced by our behaviour beyond the bottom line. Protecting and enhancing our reputation and social license to operate is a significant element of financial success and requires us to define and commit to Corporate Responsibility as an organization-wide standard (D-ECA-02).

As discussed in chapter two, the business case frame reveals an instrumental rationality that ties 'doing good' to an improved financial bottom

line. The notion of CSR rests on rational calculations that connect social responsibility to long-term enlightened self-interest. Ultimately, the purpose of responsible corporate behaviour is increased financial success and maximization of value for the company's shareholders. Statements throughout EnCana's constitution and CSR policy reinforce the business case, for example: "Our success is measured through both our behaviour and our bottom line" (D-ECA-01, p. 8, 9). Statements such as "at the end of the day, the most important thing is our reputation" indicate that the primary principle driving EnCana's values and CSR policy is the reputation of the company above all else (D-ECA-01, p. 21). Furthermore, the company considers the principles in the constitution a "self-imposed aspect to our license to operate," emphasizing the voluntary approach to CSR (Gwyn Morgan. Speech, April 28, 2004).

Evident throughout the corporate constitution and CSR policy is a dual, conflicting narrative, attempting to balance a moralistic rhetoric of broad principles and ethics with a narrative of competitive capitalism. The main shared principles identified in the constitution are "strong character, ethical behaviour, high performance and great expectations." While ethical behaviour is defined as: "having a special pride in what we are trying to accomplish and in the reputation of the company," high performance includes concepts such as "focus, competitive advantage, professional realism, strategic asset management and execution excellence" (D-ECA-01, p. 8, 9 and p. 26, 27). Within this group of concepts, competitive advantage is described as: "We target large resources where we can apply our size, strength and superior competencies to continuously add reserves, grow production and lower costs", echoing the 'extractive model' focused on maximization of benefits and minimization of costs, identified by Ortíz, et al. and described in chapter three. The drive to add reserves, increase production and continuously lower costs may not fit well with host community objectives. In

accordance with the business case frame the corporate responsibility policy states that EnCana commits to conducting its business legally, ethically and “in a manner that is fiscally, environmentally and socially responsible, *while delivering sustainable value and strong financial performance* (D-ECA-02; emphasis added). The likelihood that these principles may and often will conflict is not acknowledged, and (as discussed in chapter two) the statement rests on the assumption that ‘triple bottom line’ goals are compatible and mutually reinforcing.

EnCana subscribes to the Caring Company Program of Imagine Canada, committing the company to give a minimum of one percent of pre-tax profits to charitable and non-profit organizations. Table 5-4 summarizes EnCana’s ‘Community Investment Budget’ from 2002 to 2006, the community development portion of the budget and the company’s net earnings in each year.

EnCana’s Community Investment Budget 2002-2006

Year	Total Community Investment Budget (US \$)	Community Development		Corporate Net Income before Taxes (US \$)
		(%)	Amount	
2002	\$ 8.3 million	34%	\$ 2.82 million	\$ 1.101 billion
2003	\$ 10 million	30%	\$ 3 million	\$ 2.612 billion
2004	\$ 11.7 million	22%	\$ 2.57 million	\$ 2.725 billion
2005	\$ 17.1 million	28%	\$ 4.78 million	\$ 4.089 billion
2006	\$ 20.2 million	30%	\$ 6.06 million	\$ 6.943 billion

Table 5-3

All figures were taken from EnCana’s annual reports. Total profits from 2002 to 2006 were \$ 17.470 billion dollars. One percent of this amount equals \$ 174.7 million dollars. The total for community investment amounted to \$ 67.3 million dollars, giving a five-year average of less than 0.4 % of pre-tax profits. Other

categories of community investment were: youth and education; health & wellness; environment; EnCana Cares Foundation and other. Attempts to confirm these calculations with EnCana representatives and the incongruity between the company's one percent pledge and actual figures solicited no response.

EnCana's corporate constitution is not a rulebook, or a document that specifies in detail what the company will or will not do. The closest it comes is the statement:

We function on the basis of trust, integrity, and respect. We are committed to benchmark practices in safety and environmental stewardship, ethical business conduct, and community responsibility (D-ECA-01, p. 18).

References throughout the constitution and CSR policy to "benchmark" practices, point to the abstract and aspirational nature of the documents. Benchmarks, like guidelines and norms, but unlike standards, function as general aims, without prescribing or operationalizing specific behaviours. The constitution and CSR policy documents do not directly reference any of the major corporate codes of conduct, such as the OECD's Guidelines for Multinational Corporations, or broad multilateral frameworks such as the UN Declaration of Human Rights and the ILO Core Labour Conventions. As is the case with many CSR codes, EnCana's code is weakest in the most important areas: monitoring, enforcement and disclosure.

Developing specific and measurable targets and metrics for performance on CSR issues is clearly a prime challenge. Prior to 2005, corporate responsibility policies and actions were reported as part of the annual report to shareholders and on the company website. With the issue of its first stand-alone CSR report in 2005, EnCana selected a number of performance indicators from the Global Reporting Initiative (GRI) Sustainability Reporting Guidelines and has taken

guidance for other ‘benchmarks’ from the CAPP (Canadian Association of Petroleum Producers) Stewardship Initiative and from staff and investors (EnCana CSR Report, 2005:38). It is clear that environmental standards are much easier to quantify than social standards. EnCana’s 2006 CSR report includes thirteen Environmental Performance Indicators, from energy use to biodiversity impacts, greenhouse gas emissions, spills, and operations in sensitive areas. In contrast, Social Performance Indicators are limited to 3 indicators for labour practices, one indicator for human rights (non-retaliation policy and confidential employee grievance system), and two society indicators: “programs to manage impacts on communities,” and “awards received relevant to social, ethical and environmental performance” (2006. EnCana CSR Report, page 42). The limited GRI metrics reported in the company’s CSR reports are verified for accuracy by Price Waterhouse Coopers. Developing appropriate metrics for the measurement of outputs – especially to operationalize and quantify EnCana’s commitment to leave communities and countries where it operates “better off”—may well be beyond quantitative approaches and require a qualitative approach, as I have done with the case study.

Despite research evidence that turning CSR intentions into real effects is a function of the ‘specificity’ or details of codes of conduct, coupled with a working compliance system (see chapter two), as it is, the constitution and CSR policy of EnCana stand as a *value-based* approach that puts strong emphasis on personal responsibility and autonomy for exercising judgement in a manner that is consistent with broadly stated normative core values.

External evaluations of EnCana’s CSR position

Since the rise of the sixth generation of CSR (see chapter two), numerous organizations and institutions at regular intervals attempt to rank corporations in a

hierarchical representation of responsible behaviour. This is important to the company's reputation, but more important to the attractiveness of its shares in the market. Social Investment Funds exclude or include corporate shares on the basis of their CSR rankings. In Canada, for example, the Michael Jantzi Index is an important and well-known measure of corporate behaviour.

EnCana was excluded from the Jantzi Index for a number of years, mainly on the basis of questions raised by its involvement in the building of Ecuador's second pipeline (the OCP line). A second strike against EnCana was its high number of environmental violations, convictions and fines, both internationally and in North America. Following the sale of EnCana's Ecuador assets, the company was included in the Jantzi Index and the Dow Jones Sustainability Index.

The issue of CSR rankings is complex and there is no standard method of evaluating corporate behaviour. For this reason I have not included numerous external evaluations of EnCana. At one point I spent fifty dollars to obtain a report from an agency, which resulted in information I could have gained in a five minute internet search. The report noted that EnCana had a published Code of Conduct, publicly accessible; issued an annual CSR report; and reported its emissions to the government.

All ranking agencies rely on self-reporting by corporations and publicly available information, resulting in skewed views of actual practice.²⁸ For this reason, I have omitted external evaluations from this profile.

²⁸ I do not argue that all ratings are useless. Despite my personal experience, some agencies are much more thorough. The Jantzi Index, for example, is highly regarded and engages in thorough and independent research. The size and complexity of actual behaviour, however, prevents the incorporation of on-the-ground assessments of corporate behaviour.

Internal Culture and the Doctrine of Domicile

The practice and outcomes of CSR policies, theoretically, may or may not differ based on the internal culture of a corporation, specifically the values and ideologies held by its employees. According to the doctrine of domicile these values and ideologies are closely tied to the corporation's home country value-system. In addition, virtually all studies of CSR uptake conclude that the commitment of corporate leaders is the key variable to the conduct of corporate entities. A second theoretical possibility is that practice and outcomes may or may not differ based on the location of economic activity. This proposition will be tested in the second section of this chapter, with the case studies in Ecuador and north-western Alberta.

In this section I will test the first theoretical proposition by analyzing the internal culture of EnCana and its values and ideologies, leadership commitment, and the home country base as key variables exerting influence on the policies and practices chosen by the company. With minimal direct access to EnCana personnel and internal documents, I have chosen to base my analysis on public documents about and published speeches by EnCana's president and CEO, Gwyn Morgan. Commentators agree that, first AEC and then EnCana, were moulded and driven by the personality of Morgan, a mechanical engineer, and an ambitious, competitive man with "laser-like intensity" and a reputation for "shrewd deal making" (Haskayne and Grescoe, 2007:203). Morgan, who became president of AEC in 1994, is said to have transformed AEC into a "lean, mean, corporate machine"...and "EnCana has almost entirely absorbed the aggressive, decentralized corporate structure championed by Morgan at AEC" (Bergman 2003:32). David O'Brien, chairman of EnCana's Board said that Gwyn Morgan "not only *made* EnCana, he *re-made* it" (EnCana, 2005. Video produced to mark the award of 'Canadian CEO of the Year' to Gwyn Morgan).

EnCana's constitution was written and promoted primarily by Morgan, the youngest of "four farmer's kids, who grew up on a 'godforsaken homestead' near Carstairs," north of Calgary, Alberta (Haskayne and Grescoe, 2007:201).

According to Dick Wilson, then-senior advisor to Gwyn Morgan, EnCana's CEO made a "conscious decision at the time of the merger, to not simply take what was done in the past, but to establish an 'EnCana approach,'" to responsible and ethical business practices (A-28:199). Morgan himself said that

when people ask me what it is about my career in which I take the most pride, my answer is two-fold: the building of a flagship Canadian company that competes and ranks with the world's best, and the development of its moral compass--EnCana's corporate constitution (Morgan, Gwyn. November 24, 2005. Remarks on the occasion of receiving the award as 'Canada's Outstanding CEO of the Year').

Others were not quite as complimentary about EnCana's constitution. The *Globe and Mail's Report on Business* wrote of "EnCana's touchy-feely constitution," by which Morgan has "instilled New Age vibes in Calgary" (November 2005:66).

From his rural Alberta roots, grounded in hard work, personal responsibility and individualism, to his life-long career in the Alberta oil industry, where values of risk-taking, entrepreneurialism, and rugged self-reliance prevail, Morgan was the ultimate synthesis of neo-conservative Alberta values. In the words of former Alberta premier Peter Lougheed, he is "an Albertan through-and-through" (EnCana, 2005. Video produced to mark the award of 'Canadian CEO of the Year' to Gwyn Morgan). Under his leadership at AEC and EnCana, and in accordance with CSR guidelines that allow the company to contribute to political parties "where allowed by law," the companies contributed to the ultra-conservative Reform Party, and, following mergers of Canadian political parties, to the Canadian Alliance and the Conservative Party.

As past vice-chairman of the Canadian Council of Chief Executives and a trustee of the Fraser Institute, Morgan has commanded attention on the Canadian national stage for his outspoken and often controversial opinions on many issues. Bergman, writing for MacLean's Magazine commented that "he has done it his way, with a high moral tone more often heard in chapel than in the corridors of commerce" (Bergman 2003:30). Morgan was the lead business voice arguing against Canada's participation in what he described as the "fatally flawed" Kyoto Protocol, and argued in his letter to then-Prime Minister Jean Chretien, that carbon dioxide, "a substance which is the breath of life for all plants on earth, has been vilified as a noxious pollutant." Carbon credits (or "hot-air allowances" in Morgan's words) would export Canadian wealth to countries like Russia and damage Canadian competitiveness (September 4, 2002). In his letter and other speeches, Morgan also attacked policy-making on the basis of "sound-bite junk science" and public opinion, downplaying the consensus of scientific opinion on greenhouse gases and significantly overstating the costs and economic doom of dealing with climate change (Speech, March 29, 2004). In a (not so rare) display of the 'culture of smartness', described by Le Trent-Jones (cited in Child and Rodrigues, 2003:237; see chapter 3), Morgan argued that, while Canadian public opinion supports action on climate change, the Canadian public "[has] no idea of the impact Kyoto would have on their lives" (Letter, September 4, 2002). Despite this highly vocal opposition, Gerry Protti, EnCana's vice-president of corporate relations, was invited to co-chair an Environment Canada panel that would propose energy policies related to the Kyoto Accord (Globe and Mail, August 22, 2005:A4).

Morgan subscribed to a libertarian ideology, in which markets enhance freedom and free enterprise benefits all. In Canada, this ideology is strongly advanced by the neo-conservative, corporate-funded Fraser Institute, and the

Canadian Council of Chief Executives, both founded in the early 1970s to spread the ideological message of neoliberal free markets and counter the power of labour. Morgan is firmly embedded within this ideology and has stated:

I have found the Fraser Institute's work over the years to be a voice of reason that resonated positively within my own value system, which is based upon personal responsibility and accountability (The Fraser Institute 2000:7).

While I have described Morgan's value system as an ideology, he would disagree:

Socialism is an ideological based system. But capitalism is *not* a system nor an ideology. It is simply economic freedom, and that's why the term "free enterprise" describes it best. It is doing what has come naturally to human beings since recorded time. From the first transaction when people traded a stone axe for a pair of leather moccasins, the natural forces of economic freedom have been unleashed. People are natural traders and almost every ideological attempt to interfere with economic freedom is *unnatural* – and destructive (Speech to Fraser Institute, December 2005; emphasis in original).

CSR, in this sense, is purely an instrumental extension of the market, serving the ultimate goal of maximizing shareholder value. Within this ideology, markets justify private gain, while giving assurances that private and social goals converge, consistent with the 'property-rights frame' identified in chapter two. Morgan takes this doctrine to its logical conclusion, exemplified in the following quote, and a recurring theme in his speeches:

I believe that private sector business is the world's greatest force for advancing human progress...Almost all the great technological progress which has transformed the way we live has been created or harnessed, and made available to people by private business. And private business

drives social progress by providing essentially *all of* the funding for government services – both directly and indirectly through the employment of tax-paying individuals (Morgan, Gwyn. November 24, 2005. Remarks on the occasion of receiving the award as ‘Canada’s Outstanding CEO of the Year’; emphasis added).

In his speeches, Morgan often emphasized health care and education ‘funded’ by private enterprise for Canadians, and the loss of these public services, should governments not provide a ‘competitive’ environment for business. In the same vein, Morgan considered the payment of royalties, bonus payments and income taxes

a transfer of wealth [supporting] a number of federal and provincial initiatives and programs that Canadians take for granted. Like our health care. Our educational system. Our nation’s infrastructure and security (Morgan, Gwyn. March 23, 2003. Speech to Vancouver Board of Trade; emphasis added).

Consistent with the property-rights frame, corporations are essentially and primarily institutions that facilitate economic growth and wealth and jobs, and the existence of any business is justified by simply doing what it does best. Corporate taxation is revealed as a non-negotiable item not taken up as a corporate responsibility (as discussed in chapter two), discounting the fact that Canada’s total corporate tax regime was the lowest of the OECD countries.

Second to a ‘competitive tax regime,’ Morgan identified “access to land” as a critical condition for continued success as a Canadian resource company. “We must...[ensure] that taxation and land access policies are in place to allow our Canadian-based players to win the race” (Morgan, Gwyn. Speech to the Canadian Club of Calgary, May 15, 2001). In his speech, Morgan addressed the fact that exploration for new resources will take place in increasingly remote and

difficult to access areas, requiring more complex science and engineering. Disturbing, to Morgan, was the “movement to blanket closures of huge tracts of land”, and “land preservation creep.” Morgan acknowledged that national parks are environmental preserves and off limits to all resource development, but objected to lobbying for “buffer zones around parks,” followed by demands for “buffer zones around buffer zones...[restricting] operations in the very places we must get to in order to find new oil and gas” (May 15, 2001). As discussed in chapter two, CSR contributes to the commodification of the commons and collectively held traditional lands, in order to renew capital accumulation and justifies capital eating away at the boundaries of the commons by drawing upon a globalist rhetoric that legitimizes the property rights of capital and the expropriation of environmental and livelihood space on a global scale. Hegemonic normalization of western notions of property and access rights has become central to continued capital accumulation, not subjected to modification as part of corporate responsibilities.

Exit threats are persistently connected to demands for low taxation and broad access rights. As Morgan declared in the same speech: “One thing that we all know about investment capital is that it’s scarce and it’s mobile. If Canada doesn’t seize this great opportunity for growth and development, the investment dollars will flow to places on the globe where better exploration opportunities exist.” Despite EnCana’s origins—through AEC and Canadian Pacific—in entities created by governments with public inputs and ongoing endowments, Morgan freely and often used the threat of capital exit (e.g. Speech to Vancouver Board of Trade, March 26, 2003; Letter to Prime Minister Jean Chretien, September 4, 2002; Speech to Canadian Club of Calgary, May 15, 2001).

Morgan’s most controversial moment came just prior to his retirement at the end of 2005, in a speech to the Fraser Institute. He spoke on “what politicians

are afraid to say”, a wide-ranging speech that touched on many subjects relevant to Canadian life—the relationship between economic competitiveness and unionization, universal child care, the Canadian health care system, gun control, Quebec separatism, Canada’s system of equalization payments, and immigration. As Morgan said in his speech: “But, as Air Force Officer Pat Boyle knows – if you’re not taking flack, you’re not over the target!” Indeed, Mr. Morgan took a lot of flack after his speech, especially for his remarks blaming violence in Canadian society on immigrants from particular countries and refugee claimants. Though Morgan repeatedly claimed that his remarks were taken out of context, in May of 2005 these remarks caused a parliamentary committee to reject Morgan for an appointment as chair of a committee to set new rules for government appointments (*Edmonton Journal*, May 17, 2006:A6).

Rejection of Mr. Morgan for this appointment and the general reaction to his Fraser Institute speech reveal the elitist conception of the doctrine of domicile, which refers to ‘collective understandings’ within a country, assuming that the understandings of government and corporate elites reflect the values of the population at large. An editorial in the *Edmonton Journal* took Mr. Morgan to task for his remarks, specifically reproaching him for his portrayal of Canada “as a land of lazy, selfish louts who take advantage of hard-working rich people....a depressingly negative view of the country” (December 18, 2005:A14). The author, Sheila Pratt, concluded by saying that “Corporate Alberta has many faces....Maybe Morgan is the last of the old guard in the oilpatch. Maybe not. But his worldview doesn’t represent the outward-looking, sophisticated views of most Albertans.” The evidence, however, is that Morgan’s ideology, for the most part, was reflected and continued to reverberate in EnCana’s internal culture, its constitution and its corporate responsibility documents.

There was some difference of opinion, however. Gerry Protti, vice-president of corporate relations has said that “even within our company there are often a range of views, and this is healthy. The art is in the balance” (Speech, May 31, 2006). David O’Brien, chairman of EnCana, described Morgan as

a very, focused, smart, hard-working, disciplined and driven guy. He and I have very different philosophies. I tend to be more of a middle-of-the-roader, and he tends to be more of a right-winger. And it’s partly a product of where you grow up. I grew up in Montreal—you don’t think everything’s possible when you grow up in a big city. You realize all the inherent social problems and the shades and difficulties. If you grow up in a small town and make your way out and become very successful, it appears that anyone who’s *not* doing it should be—and if they don’t, it’s their own fault. But having said that, Gwyn is knowledgeable on a range of subjects, and he’s a bright guy (cited in Haskayne and Grescoe, 2007:207, 208; emphasis in original).

Notwithstanding O’Brien’s acknowledgement of Morgan’s worldview, EnCana’s corporate social responsibility practice evolves around the concept of ‘capacity building’, and a philosophy of providing a ‘hand-up’, not a ‘hand-out’. EnCana’s vice president of aboriginal affairs, Andy Popko, echoed this philosophy when he said: “If you help people help themselves, you are capacity building and you are creating a legacy. It’s a hand up, not a handout. It’s not charity; it’s business” (Nickle’s Energy Group, 2002). ‘Capacity building’ in this sense is rooted in a modernization paradigm that understands development as participation in the capitalist economy and CSR as astute business practice.

Following Morgan’s retirement, some softening of the company’s position occurred. For example, in the 2006 CSR report, current president and CEO Randy Eresman, wrote that: “we acknowledge global warming has been occurring and

that CO2 emissions are greenhouse gases (GHGs) which are linked to global warming” (D-ECA-07, p. 01). However, the business case remained supreme: “We are a Canadian headquartered company. We feel responsible to all the stakeholders in all the areas where we operate. We try to be consistent. But in the end we are owned by our shareholders” (*Edmonton Journal*, April 27, 2007:E3). In the 2006 CSR report, Barb Zach, vice-president of Corporate Responsibility and Environment, Health and Safety (CR and EH&S), defined CSR in the following manner:

For EnCana, corporate responsibility is about identifying, managing and mitigating risk and capitalizing on opportunities. We manage our risks and leverage opportunities in order to address the concerns of our stakeholders and help build better internal processes, performance, reputation, trust and, ultimately, long-term shareholder value.

The ultimate goal of CSR was shareholder value, managing risk and protecting the company’s reputation.

The evidence in the proceeding section identifies the business case frame as EnCana’s justification for engaging in CSR. Contrary to the unproblematic notion of the ‘doctrine of domicile’, which assumes a homogeneous culture, the evidence reveals that EnCana’s ‘home country value system’ was rooted in an elite neo-conservative Albertan framework, a libertarian free-market ideology most forcefully expressed by its former president and CEO, Gwyn Morgan. This ideology cannot be considered Canadian; rather it is a worldview present in specific strata of Canadian business elites and in national and global institutions representing business interests.

Community development objectives were modeled on the modernization paradigm, favouring the role of business investment, industrialization and economic growth. Presumably, within this ideology, place-based, contextual

factors are of limited importance to the practice of CSR in different locations. In this case study, I focus on Indigenous communities in proximity to EnCana operations. EnCana's policies towards Aboriginal peoples were of special interest as contextual factors.

Aboriginal Relations

Specific 'EnCana values' guiding day-to-day relations with Aboriginal communities were identified as "open communication, integrity, mutual respect, trust and making a positive difference through community capacity building" (EnCana's Aboriginal Guideline, www.encana.com). Four specific areas were addressed in the Canadian guidelines: community relations; employment opportunities; education; and business opportunities. In Ecuador, the company's guiding document was the "Environmental, Health, Safety (EHS) and Community Affairs (CA) Policy" (D-ECA-04). It did not specifically mention employment or business opportunities. Instead, it referred to promoting "sustainable development activities of communities in and around our areas of operations," implicitly recognizing the different context.

In Canada, the realization that Aboriginals are a valuable future source of labour, had led EnCana—along with other extractive industries—to recognize the value and "potential benefit of hiring local employees and services". In the area of education in Canada, EnCana provided educational bursaries, work experience and skill development through its Education Support Program, including financial assistance to attend institutions and programs related to the oil and gas industry. Youth and education averaged about one-third of EnCana's total community investment budgets in the years 2002-2005. Contractors to EnCana were encouraged to draw upon the local labour force.

EnCana also pledged to ensure that Aboriginal communities, businesses and labour were given “fair opportunity for contracts and services.” In the same vein, EnCana committed to work with Aboriginal communities to “develop their capacities to participate and benefit from business opportunities associated with EnCana’s operations.” In both cases—labour and business opportunities—the prospect to participate and benefit was subject to “competitiveness” and “ability to meet EnCana’s standards” (All quotes from EnCana’s Aboriginal Guideline). There did not appear to be a preference for, or prioritization of awarding work to Aboriginal businesses or individuals. In comparison, Suncor Energy’s Aboriginal business development policy was quite specific in its targets and includes the clause that “notwithstanding the lowest or any contract prices tendered, Suncor may give preference to a tender offering demonstrated local and Aboriginal content” (http://www.acr-aboriginalproject.org/PDF%20Files/Program_Templates/Individual_Program_Templates/3.1.1.pdf). Without that prioritization Aboriginals are subject to the same criteria as any other individual or group competing for work, making EnCana’s Aboriginal guideline redundant.

Certainly, it was not the position of the Dene Tha’ First Nation (DTFN) that their businesses should have priority access to contracts. During negotiations on a Cooperation Protocol between DTFN and EnCana, both parties agreed that in any business dealings, contractors “above all must be competitive, reliable and provide their services on the basis of quality, safety and other industry criteria,” a point of pride for the DTFN (D-DT-16). In a situation where generally accepted market rules determine awarding of contracts, the purposes of EnCana’s Aboriginal Guidelines and its Corporate Responsibility reporting on Aboriginal procurement were not clear and appeared as claims-making to CSR accomplishments that were nothing more than normal business dealings.

Reported figures for 2004-2006 showed that EnCana's procurement from Aboriginal suppliers—covering all operations in Canada, the United States and elsewhere—amounted to US \$90 million in 2004, US \$120 million in 2005, and US \$135 million in 2006. Calculated as a percentage of operating and capital expenses, this worked out to 1.5% in 2004, 1.4% in 2005 and 1.6% in 2006. By contrast, Suncor Energy reports Aboriginal procurement of 3.1% in 2003 and 2.8% in 2004. Similarly, the Government of Canada reports that, in fiscal year 2005-2006, it awarded 3% of procurement and purchasing contracts to Aboriginal businesses (http://www.ainc-inac.gc.ca/pr/est/dpr05-06/eco1_e.html). EnCana's procurement from Aboriginal suppliers dropped to US\$91.5 million, or 0.8% in 2007, due to “significantly reduced seismic programs, completion of rig contracts and reduced construction activity” (EnCana. CSR Report 2007, p. 9).

Notwithstanding, in 2006 the Aboriginal Times recognized EnCana as one of Canada's ten most Aboriginal-friendly corporations, and noted that EnCana has been a leader in Aboriginal relations within the oil and gas industry” (<http://www.aboriginalhr.ca/en/resources/promising/197>). EnCana received many awards over the years, both for its corporate responsibility programs and its Aboriginal relations.

Consultation and participation

Of particular interest to the case study are the issues of consultation and participation of Indigenous peoples. EnCana's 'Stakeholder Engagement Guide' is an internal document which was not made available for examination. Analysis therefore was based on publicly available resources. For EnCana's North American operations, the Aboriginal Guideline of the company provided guidance on community relations. In Ecuador, EnCana's EHS and CA policy was the basis of its approach to Indigenes (D-ECA-03; D-ECA-04).

EnCana's Aboriginal Guideline stated that its "community relations program will build, enhance and maintain positive relations in the Aboriginal community." It would do so by "maintaining dialogue," "ensuring timely discussions," "ensuring that potentially affected communities were provided with the necessary information required for open collaborative dialogue," and seeking "Aboriginal input on proposed developments and business plans." The company further pledged to "respect cultural and individual differences," to take "pride in our contributions to communities and in our care for the environment," and finally, to consider "support of Aboriginal events and programs," in areas where EnCana conducts its business.

The soft language used in EnCana's Aboriginal Guideline did not constitute consultation in the sense that First Nations should be full participants in decisions that affect them. Neither was it specific to Aboriginal standing, not as stakeholders, but as rights holders whose identity, autonomy and cultural survival is inextricably linked to their relationship with the land. EnCana did, however, have certain formal engagement and consultation programs specific to Aboriginal or Indigenous communities. For example, there is a Consultation Protocol Agreement in the north-eastern Alberta oilsands area between 14 oil companies, including EnCana and certain First Nations. EnCana also had several other protocol agreements and economic accords with various Metis and First Nation communities across Western Canada, although details were not publicly available.

According to its 2004 CSR report, "EnCana's philosophy and approach draw from Canadian Association of Petroleum Producers and industry practices, and from the Canadian provincial consultation guidelines" (p.31). It must be noted that, in Alberta at least, provincial guidelines to consultation with First Nations were not released until May, 2005. Prior to this date, the province had not yet developed a consultation process and considered First Nations generic

stakeholders whose concerns should be addressed by industry under a ‘good neighbour’ approach, based on “respect, open communication and cooperation” (Alberta Government, 2000).

Decisions of the Canadian Supreme Court have established the Crown’s ‘fiduciary duty to consult’ with First Nations on resource development in their territories (as discussed in chapter three). Until now, the roles and responsibilities of government, industry and Aboriginal organizations were ill-defined, but a new framework is slowly emerging. This is reflected on the industry level by EnCana’s Gerry Protti, who in a 2006 speech acknowledged the specific status of Aboriginal communities.

Who are our stakeholders? Basically anyone or any group that is impacted by our operations. I often think of it as ever expanding concentric circles from each of our wellheads - from the landowner, residents in close proximity to the development, the nearest municipalities, to the general public with many parts of our civil society in between. The only group that we do not define as stakeholders are Aboriginal communities. Our interaction with them is governed by their constitutional position as First Nations and today we are proud to say that we interact with 60 of them on a daily basis. Many of our most unique partnerships and joint ventures involve Aboriginal communities. (Gerry Protti, Speech, May 31, 2006).

This new and recent acknowledgement of the special constitutional position of First Nations in Canada is not yet reflected in EnCana’s publicly available Aboriginal Guidelines.²⁹

²⁹ No changes had been made as of July, 2009.

EnCanEcuador's EHS and CA policy did not specifically address Indigenes, although it pledged to "recognize" the concerns of "community members through consultation, provide them with relevant information and discuss with them related company policies and practices" (D-ECA-04). The language, as in the Canadian Aboriginal Guideline, appeared to be a linear, one-way approach limited to providing clarification and information regarding the company's position.

In a recognition of place-specific differences, EnCanEcuador's policy contained a clause (#10), stating that the company would "[b]uild and strengthen relationships, in cooperation with Government institutions, Non-Governmental Organizations (NGOs) and with the communities who inhabit our areas of operations." As I will discuss below, NGOs were important intervenors in EnCana's relations with Indigenes and colonists in Ecuador.

Section Summary

EnCana's CSR profile as compiled from its corporate constitution and corporate responsibility policy depicts a model of responsibility voluntarily taken on and strongly grounded in the business case. Analysis reveals a dual and conflicting narrative, attempting to reconcile competitive capitalism with broad moralistic principles and ethics. The documents are internal, voluntary, value-based principles, non-specific, and do not reference any of the major CSR codes. The non-specific, aspirational nature of the documents did not facilitate turning CSR into real effects. While accounting firm Price Waterhouse Coopers verified reported GRI metrics for their numerical accuracy, EnCana did not submit to independent verification of actual CSR outcomes, and its code of conduct lacked mechanisms of enforcement, transparency and monitoring.

EnCana's internal culture confirmed to the doctrine of domicile in a limited manner. Elite, neoliberal conceptions of free enterprise as an unquestioned force for good and facilitator of development were grounded in national and global business ideologies. Within the oil and gas industry, this resulted in an extractive model focused on the maximization of benefits and minimization of costs.

Corporate responsibility, in the views expressed by EnCana's president and CEO Gwyn Morgan and reflected in EnCana's corporate culture, addressed limited aspects of the business-society relationship. This worldview accepted unquestioningly the rights of business to the lowest possible taxation, rights of access, property rights, and rights of capital exit.

In a 2006 speech, EnCana's Gerry Protti recognized the specific constitutional status of Aboriginal peoples in Canada. Analysis of the company's policy documents addressing community relations, and specifically relations with Indigenous, revealed a linear, top-down approach that aimed to provide information and clarify the company's position and policies. Clearly, EnCana engaged Indigenous from a position of power, allowing the company to choose and create the rules of engagement. While there was also a pledge to 'seek input' from Aboriginal communities, and to consultation through 'dialogue', this was not followed by a commitment to act on this input, prioritization, or clarification of policies to be followed.

Outcomes of EnCana's CSR community development initiatives - definition

In the context of this analysis, I define 'outcomes' as the results of particular corporate actions, specifically, community development activities and interactions with Indigenous and colonist populations. Given the multiplicity of forces at work in any community, region, or country, it may be argued that it is

difficult, or even impossible, to attribute discrete outcomes to specific CSR activities. It is also difficult to measure results against EnCana's stated objective of leaving communities "better off" through the company's efforts.

As yet, there are no clear and agreed criteria for the assessment of oil company contributions to community development. Nevertheless, corporations themselves regularly report on their contributions in annual reports, although these tend to be in the form of outputs, for example, money spent, number of buildings or infrastructure projects built, etc. Local communities attribute discrete outcomes to corporate activities in their region. 'Outcomes' therefore will be reported both as corporate claims and as community assessments.

Interviews and background studies of the two cases revealed a deep disconnect between corporate and community perspectives and different perspectives within the communities themselves, reflecting the deeply polarizing nature of the business-society debate, and the tendency of CSR activities and negotiations to divide communities.³⁰ Contrasting cultures, specifically modern western and Indigenous cultures, presented other areas of conflict. In addition, corporations—including EnCana—tend to measure and report outputs, rather than positive and negative changes in people's lives and emphasize corporate appraisals of value-added corresponding to the business case.

Throughout the case study I will present contradictory narratives between corporate and local community narratives, while emphasizing peoples own priorities and their own logic of material reproduction. Indigenes and local communities, while not necessarily opposed to resource extraction on their land,

³⁰ This phenomenon was also reported by Toby Heaps in *Corporate Knights Magazine*, in an article about EnCana's role in building Ecuador's second pipeline. Heaps writes that "EnCanans are from Mars and Ecuadoreans are from Venus" and comments on the "simultaneously polarized versions of reality held by both EnCana and the people of Ecuador along the OCP pipeline" (2003:34). Drost and Stewart comment along the same line (2006).

evaluate corporate community development efforts by long-term measures of human development and social and cultural protection. A high priority is self-determination: Indigenous and community abilities to have control over their own futures and freely pursue their economic, social and cultural development. In the words of a former chief of the Dene Tha' First Nation: "It's always better to have the opportunity to look after your own interests" (A-20:105). In this context, contingency theory points to the importance of the degree to which local populations have the ability to control or influence external forces.

In the next chapter I turn to findings from the case study of EnCana's relations with the Dene Tha' in north-western Alberta, followed in chapter seven by the case study of the Siona-Secoya peoples and colonists in north-eastern Ecuador.

CHAPTER 6

ENCANA AND THE DENE THA' FIRST NATION

EnCana's Greater Sierra exploration area stretches from north-western British Columbia, east into Alberta. Much of the area overlaps with traditional territory claimed by the Dene Tha'. EnCana is just one of the oil companies working in the area, along with timber and other resource interests. In this "tight gas play" area, EnCana's 2005 CSR Report noted that its "Key Corporate Responsibility Issues" were: Aboriginal Relations; Wildlife Habitat Fragmentation; and Drilling Waste Management (D-ECA-06:12).

Dene Tha' First Nation profile

The Dene Tha' are a Canadian First Nation of about 2,500 whose

Dene Tha' Settlements



Figure 6-1

traditional territory in the boreal forests spreads across north-western Alberta, north-eastern British Columbia, and the southern part of the Northwest Territories. About 1,800, or 72 percent, live on reserves, mainly in the three communities of Chateh (formerly known as Assumption), Meander River, and Bushe located just east of High Level, Alberta (Figure 6-1).

The Dene Tha' (sometimes referred to as the Slavey) are considered part of the Athapaskan peoples. They speak Dene and are related to and culturally affiliated with other Dene people of the Northwest Territories. The Alberta band started teaching the Dene language in the schools in 1992. As a result, Dene is spoken by almost all community members. Certain aspects of the Dene Tha's unique worldview and culture remain an important part of Dene life. The Dene Tha' believe that all knowledge of genuine worth is direct and personal, that is, experienced. Dreams, or 'journeys of the soul' are an important source of knowledge and dreamers, or prophets, receive life lessons through vision and song and are said to predict the future (Goulet, 1998). First Nations' thinking traditionally is cyclical in nature, and everything is viewed in terms of its relationship to the whole of life.

The Dene Tha's way of life, culture and economy are still strongly tied to the land. About 275 members of the community still run traplines and actively trap small furbearing animals (A-12:67). According to a consultant for the Dene Tha': "In the Dene Tha' area, it's an extremely traditional community. I've never seen a community where there is such reliance on trapping, and really, people still living on the land" (A-19:87). Subsistence activities still provide a crucial part of the resources of most homes. The Dene Tha' claim rights to trap, fish and hunt on traditional territory covering about 83,000 square kilometres (32,000 square miles) of woods, lakes and muskeg. Treaty rights and Aboriginal rights and titles are based in Treaty 8, signed by the Dene Tha' in 1900, which guarantees them

hunting, fishing, trapping and other livelihood rights. Land claims by the band are still under review and before the courts (A-20:105).

Until 1778, when French traders began trading in the vicinity of Lake Athabasca, the Dene Tha' did not trade directly with Europeans. The Dene Tha' continued to live in small, nomadic groups until the 1950s, living off the land in small encampments for most of the year. Their lifestyle was based on seasonal hunting and harvesting, and maintaining a relationship to the land played an integral part in their culture and spirituality (Horvath et al., 2001). The band's early isolation stemmed from the fact that the Dene territory lacked any suitable water routes to accommodate the fur trade.

A Traditional Land Use and Occupancy Study (TLUOS), was conducted in partnership with the Arctic Institute of North America, between 1995 and 1997 and the results were published in a 1997 book, titled *Dene Tha': Traditional Land Use and Occupancy Study*. The goals of the study included maintaining culture by passing on traditional knowledge to future generations, enhancing traditional land uses, and locating and identifying traditional sites. The information was mapped using Global Positioning System (GPS) and Geographic Information System (GIS) technologies and is still in use to, among other things, help identify traplines and negotiate compensation for trappers. There is some evidence that the TLUOS has been useful in protecting important historical sites from resource development (Horvath et al. 2001).

The petroleum industry has been active in Dene Tha' territory for almost fifty years. "[S]ince nineteen-sixties actually, that's when the first stories of the elders say that's when the industry first started to survey the area" (A-18:81). The Hay-Zama-Rainbow area, in the heart of traditional Dene Tha' territory, is one of the most active petroleum fields in the Western Canadian Sedimentary Basin. The economic development officer for the Dene Tha' noted that "the High Level area

is the second busiest area in Alberta, after Fort McMurray” (A-18:81). The area experiences the highest densities of seismic lines, roads, wellsites, gas processing plants and pipelines in Alberta (Horvath et al. 2001:6). In 2004 approximately 2,500 oil and gas projects were approved in Dene Tha’ traditional territory. The government of Alberta also doubled harvesting levels for area forest licence holders. Understandably, the Dene Tha’ community is highly concerned about the cumulative impacts of industry on their rights and way of life (May 16, 2005. Dene Tha’ Press Release). Dene Tha’ band members observe that birds have shifted their migratory routes and a lot of the waterways have been polluted (A-20:104). There are fewer moose and people who used to make a good living trapping now struggle because, as Dene Tha’ residents expressed it, “even trapping now is no good...some of the furs...there’s hardly anything...and hunting too, our hunting rights have been slowly reduced.” (A-14:141; A-12:67; A-13:69; A-13:126; A-23:155).

By some accounts the Dene Tha’ First Nation is one of the richest bands in Canada (McLean 2001). The band owns numerous producing oil wells

Community Well-Being Index, 2001 Census

Highest Alberta Community Score	96
Alberta Non-First Nations Average Score	84
Dene Tha’	57
Alberta First Nations Average Score	60
Lowest Alberta Community Score	41

Table 6-1

and receives royalties on many more wells operated on their reserves. Yet, according to Indian and Northern Affairs Canada’s Community Well-Being Index (table 6-1), the Dene Tha’s quality of life is very low.

According to a consultant for the Dene Tha', First Nations in the North American hemisphere are "just left behind and forgotten and they're always on welfare, you know?...they're in a Third World situation really, yet they're surrounded [by high levels of industry activity]" (A-19:87). News reports from the early 1990s give accounts of a band plagued by high levels of alcoholism, unemployment and large numbers of children in foster care. According to Plischke, "alcohol didn't invade the reserve until the 1960s when the oil and gas and logging industries opened up [this] corner of the province." The article quotes a source saying that prior to the 1960s the people were "friendly and loose and there was no alcohol. It was a delightful place to go. We all saw that beautiful community going from being integrated and together to being a social casualty" (Plischke, 1992). An elder related that the Dene Tha' people were very isolated and had good lives prior to the oil and gas boom in their area. Increased access, roads and alcohol destroyed the old lifestyle, with nothing to take its place. "Alcohol is our number one problem, because we don't have anything to do," he said (A-47:198).

Despite major resource activity taking place in Dene Tha' territory, benefits to the Dene Tha' First Nation have been a fraction of the wealth extracted. According to a former chief, "half a century of oil and gas activity in the region has done little for our people....our experience shows a marked impact, most of it negative." (A-20:106). Unemployment among the Dene Tha' remains at about 90 percent, even though Dene Tha' land is a resource-rich industry hot spot that generates about 1,000 drilling and development applications to the Alberta Energy and Utilities Board (AEUB) every month (*Intelligence Press*, July 7, 2006).

Dene Tha': Joint venture and entry into the resource extraction economy

The prevalent view in non-renewable resource extraction zones is that the distribution of wealth generated by extraction activities is unjust. Most of the wealth generated flows to companies, national and provincial governments, while little stays behind in the area where extraction takes place. The economic development officer for the Dene Tha' related that, while the oil industry has been in the region since the 1960s, now "it's zero-four and about forty odd years. They've been taking huge monies, billions of dollars from our backyard" (A-18:81). Today, Dene Tha' reserves experience widespread poverty, marginalization and social problems.

Since the 1970s and the Berger Inquiry into the MacKenzie Valley pipeline which uncovered high levels of Aboriginal resistance to oil and gas development, resistance has been replaced with a realization that "today...we have to get in on the action with everybody else, learn about how to do things just like everybody else, and try to take an active part in it" (A-20:104). Aboriginal leaders recognized that a return to the old ways is impossible:

A lot of the waterways have been polluted...population growth, infrastructure build-up...whatever direction you go, there is something...When you listen to the elders, it is still their hope that, you know, maybe perhaps one day we can tap back into living off the land or whatever; but like I said that kind of life is pretty well gone (A-20:104).

It was also clear that participation in the extraction economy was not an autonomous choice:

Whether...some people like it or not...at the end, we have to make a lot of compromises, in the sense that, we don't want this, all these things to be happening on the land; but it's gonna come in anyway, so we have to join in and do as much as we can to address issues so that when projects

do begin, then they are done in the manner in which it has the least impact on the land (A-20:107, 108).

Canada's First Nations have also gained political and negotiating experience, and the younger generation of Aboriginals is more open to entering the dominant economy:

...learning more about education, building businesses, that kinda stuff, those opportunities are becoming more viable....we can't forego any economic development opportunity....one of the things that always kinda stuck in my mind, ever since I was a teenager, was the fact that we miss out on so much opportunity....because of the lack of capacity that we had...we still struggle with it. We miss out quite a bit (A-20:105, 106).

With major oil, gas and timber resources located both on Dene Tha' reserves and traditional lands, economic development swirls around the First Nation, but has tended to exclude them from the benefits.

In the spring of 2000, Robert Nault, then Minister of Indian and Northern Affairs Canada, announced the federal Major Business Projects Program (MBPP) to provide financial assistance to First Nation and Inuit businesses in order to pursue major industrial, commercial or resource-based opportunities. The MBPP was designed to handle larger projects and would contribute from \$500,000 up to \$3 million in equity-gap financing. Then Dene Tha' chief James Ahnassay was present at the announcement and noted that he viewed the program as a "good opportunity for us to maybe seek partnership with some companies" (A-20:106). Ahnassay approached contacts in the oil and gas industry and eventually worked out an agreement with Western Lakota Energy Services for a partnership in two oil drilling rigs. By late summer of 2001 Ahnassay had left office and the newly elected chief, Stephen Didzena, finalized the \$14.9 million project by April 2002. The federal government, under its MBP program, provided \$1.96 million toward

the Dene Tha' \$7.5 million investment, "to assist the Dene Tha' to get into the oil business" (A-20:108). Didzena said at the time: "I really believe this is the only way aboriginal communities can move forward" (*Edmonton Journal*, September 19, 2002:H1). Under the contract, Western Lakota commissioned rig construction and, upon completion, sold fifty percent of the rig ownership to the Dene Tha'. The parties then transferred their shares into a company owned equally by Western Lakota and the Dene Tha'. Western Lakota arranged drilling contracts and acted as manager and operator for which it received a fee, reportedly in the range of \$250,000 annually per rig (A-19:97).

EnCana, which holds rights to oil and gas in the area, entered into the rig joint venture negotiations by contracting with the partnership to guarantee 760 drilling days for each of the two rigs over four years. In this case, priority was given to procurement of drilling services from the joint venture, but the guarantee did *not* specifically apply to First Nation employees. Andy Popko, EnCana's vice-president for Aboriginal relations stated that

[e]nabling the purchase of two rigs is a clear illustration of our concept of capacity building with communities where we have an operating interest. Not only is it a business opportunity on its own, but the purchase also signals the Dene Tha' First Nation's intent to develop on-reserve skills that can be applied throughout the oilpatch. EnCana fully recognizes the potential that Aboriginal communities have toward developing the required manpower skills so needed by our growing industry (2002. EnCana Press Release. September 19).

EnCana's press release further declared that thirty-two new jobs would be created by the project, as well as an additional 100 indirect jobs. Indian and Northern Affairs Canada reported that forty-five Dene Tha' had already been trained at the

Petroleum Industry Training Service in anticipation of the project (*Indian Country Today*, September 27, 2002).

Despite EnCana's claim of "enabling the purchase of two rigs" and "capacity building," the company's role was fairly limited. The initial impetus for the joint venture was provided by the federal government's MBPP initiative, after which Chief James Ahnassay followed through with Western Lakota. Funding for the joint venture was provided by the Dene Tha' themselves and the federal government. According to a source close to the Dene Tha'

they (EnCana) don't put in a penny, it doesn't cost them a penny...the Band puts in its own money....they sent a letter of support....actually what they do is they fill up the market, because this way then the price goes down because there currently is a shortage of drilling rigs...and the company gets guaranteed rights, they get exclusive rights to those rigs, at market cost (A-19:92, 93).

According to the CEO of Western Lakota, the rigs were of a design that allowed them to drill forty percent faster than older rigs, so the oil companies contracting them were "saving money on drilling wells" (*Wind Speaker*, July 1, 2003).

Did the joint venture deliver on its promise for Aboriginal jobs within the Dene Tha' community? Several sources confirm that it had not. "Not one band member works there on the rig" (A-19:92). "The rigs turned out to be a better source of investment income than employment" (Chief James Ahnassay, cited in *Intelligence Press*, July 7, 2006). According to Ahnassay, subtle forms of discrimination still made it difficult for Aboriginals to secure employment in the resource industry. Some of the difficulties may be attributable to internal social circumstances. A young Dene Tha' woman employed by EnCana as an administrative assistant in the High Level office recounted that there were regular training workshops, usually in High Level, but also in Chateh, but "I don't see

faces of band members there” (A-16:76). She noted that people complain about the lack of work, but suggested that is just an excuse.

Part of the problem is how applications were handled. The economic development officer for the Dene Tha’ said that applications were kept on file for a short period only, and “I keep sending applications on a weekly basis for the (busy) two months during the spring time...we are having difficulties in getting the Nations hired on them” (A-18:78).

Another problem was with logistics and pre-existing and continuing social problems. The rigs were contracted by EnCana to work on its Jean Marie Project in the Sierra area of north-eastern B.C. “People are trained to work on the rigs...the problem is accessing the work sites, it’s quite a ways away” (A-13:68). Whereas workers from Edmonton or other cities would get a flight out to the rigs, people from the Dene Tha’ reserve had to arrange for their own transportation to the rigs, about a seven hour drive away. The difficulties were not necessarily a result of company policies.

[I]t’s a requirement for the workers to have a driver’s license, so most of the gentlemen that work on the rigs, they don’t have their driver’s...that’s a big part of the community right now...lots of work, but not a lot of people who have their driver’s...and some social stuff is hurting them too, drugs and other things they can do without...I asked them, do they really need the driver’s...it’s working on the rig, not driving the rig. (A-18:78).

The First Nation also paid the cost of transporting band members, “time and resources that are lost and no recovering costs [from] Lakota” (A-18:82). An employee of Western Lakota confirmed that the logistics of transporting people to and from the rig location “in such a remote region” is difficult. Western Lakota has joint ventures with a number of First Nations and could not comment on the

number of Aboriginal employees with particular partnerships (A-41:193). The information was considered confidential, but the total Lakota workforce in 2005 consisted of twenty-five percent Aboriginals. A relatively low number considering that the majority of rigs are owned fifty percent by First Nations.

A third difficulty was the lack of willingness on the part of Aboriginals to travel away from reserve lands for work. A consultant for the Dene Tha' related that the large drilling companies in Alberta didn't invest in rig ownership ventures with First Nations, "because your people don't want to travel with them," and advised the Dene Tha' not to get involved:

[G]uys, don't get sold on this bullshit, because you people would never want to travel, you know, middle of winter to all different locations...it could mean the Mexican Gulf, it could mean Alaska, it could mean anywhere (A-19:97).

Over the years, the Dene Tha' First Nation had expanded its rig ownership to five drilling rigs, not all on contract with EnCana.³¹ One of the rigs was contracted by a different company and working in the Zama Lake area, in Dene Tha' territory. This rig had an all-Aboriginal crew.

Evaluation of the joint venture

Who has benefitted from the rig joint ventures and in which ways? Under the banner of CSR, and confirming to the business case framework, companies want to develop community investment programs that fit with business goals and objectives. Indeed, EnCana's Aboriginal Guideline spoke of "mutually beneficial" relationships (D-ECA-03).

³¹ Western Lakota was bought by Savanna Energy Services Ltd. of Calgary in 2005. According to the Savanna Energy website, the Dene Tha' currently (July 16, 2008) are in partnership on only two rigs. The only Aboriginal to sit on Savanna's board of directors is Victor Buffalo, former chief of the Samson Cree First Nation of northern Alberta.

The drilling rig joint venture benefited EnCana in several ways. First, without spending any of their own money, there was an increase in the supply of drilling rigs for hire, at a time when there was a shortage of rigs. Furthermore, the rigs were on contract to EnCana for four years, giving them privileged access. Second, because of the advanced design of the rigs, efficiency increased and savings were realized on the costs of drilling. According to Western Lakota the rigs have to perform for the oil company. That's really where the rubber hits the road. The companies are all trying to keep their developing and exploration costs down. The only way they can do that is to be very efficient in their operations (*The National Post*, June 11, 2007).

Third, EnCana reported the venture as an example of capacity building with First Nations, and claimed to have enabled the purchase of two rigs. According to the CEO of Western Lakota:

[T]hey're also improving their community relations by these partnerships. When they go out there, they've got something to talk about and they can talk about the benefits that are flowing back into the community. So that really works for the oil company (*Wind Speaker*, 7/1/2003).

EnCana's vice-president of Aboriginal Relations stated that "every drilling rig partnership with native groups has been successful" (*Edmonton Journal*, October 27, 2006:E3). EnCana thus gained a way to position itself as socially responsible in relation to Canada's Aboriginal populations.

It is curious to note that EnCana's Aboriginal procurement dropped by half—from 1.6% in 2006 to 0.8% in 2007—due to, among other reasons, the "completion of rig contracts" (EnCana. 2007 CSR Report, p.9). The guaranteed contract with the jointly owned Dene Tha' rigs ran from 2002 to 2006. EnCana's

procurement business objective was to achieve best value in goods and services acquired, and without prioritization of procurement from Aboriginal suppliers, it appears that corporate economic objectives overrode social objectives.

Western Lakota was a highly profitable company and a large percentage of its drilling rigs were jointly owned with a number of First Nations. The company started up in 2001 and completed its first Aboriginal joint ventures with the Dene Tha' and Métis Nation of Alberta. According to the company "Aboriginal partnerships provide Western Lakota with unique operational and financial leverage" (D-A-10:3.2.1 p.2). The company gained a business edge by acquiring guaranteed contracts along with the First Nations. Its rig utilization numbers were higher than the industry average and the company gained an inside relation with First Nations that control much of potential prospecting lands. First Nations already control a large pool of financial, natural and human resources and this is expected to grow substantially in the future. Furthermore, as manager and operator of the rigs, the company retained full control of the operations. While the stated goal was to transfer full ownership and management to First Nations in the future, this, to my knowledge, has only happened in the case of one rig fully owned by the Métis Nation of Alberta, and two rigs bought out by the Samson Cree First Nation.

For the Dene Tha' the venture was of mixed benefit. Because the First Nation has oil and gas on the reserve and receives royalties, it had the financial means to invest in the drilling rig partnerships. A realization that these non-renewable resources would not last forever set in motion the idea of "finding ways...to let our money make more money" (A-20:112; D-DT-09:5). While the short-term goal was to seek improvement in the socio-economic circumstances of Dene Tha' members, the long-term vision was for full ownership and management of the rigs.

[A]t some point....like maybe ten, twenty years down the road....our people will be...the one[s] that are running the operations....not only get trained for labourers, but to get into other degrees, petroleum, engineering....if we had people that were trained in different areas we would have a lot of participation in different ways....we still very much lack that, although we're a lot more ahead than we were say thirty years age. We still have a long ways to go in terms of development capacity....(but) there's a whole vision behind getting into a joint venture (A-20:112, 113).

Several other Dene Tha' band employees emphasized the need for education in order to be able to negotiate from a position of strength. "We probably need a whole bunch of lawyers, we're gonna need a whole bunch of engineers, a whole bunch of people who would understand industry and government issues for us to be on the same playing field" (A-12:183). Others confirmed that "we need training to meet the capacity to negotiate" (A-24:146; A-12:184). Another important goal for First Nations was to "reduce reliance on government programs for revenues" (A-19:86). Economic self-reliance was seen as a necessary foundation for self-government.

Lack of capacity and insufficient knowledge of the oil and gas business probably contributed to internal controversy over the rig joint venture. Several sources related community conflict over the deal.

I don't think (the deal) was clearly thought through...we're paying for it now....we got blinded by all the monies that would be generated....we didn't see the whole organization structure that was to oversee the rigs....it's a guarantee for work, but it doesn't detail...who will work on it...we didn't read the fine print (A-18:80).

This had generated a certain reluctance to get into joint ventures and other partnerships: “[w]e’re not jumpin’ the gun no more” (A-18:79). A realization that Canada’s Aboriginal peoples are “slowly the major players in the oil and gas” industry and a determination to benefit from activities on their territory had meant a reassessment of all costs and benefits of joint ventures, social and cultural, as well as economic (A-19:83).

The joint venture agreement created expectations in the community that were not met. Aboriginal reluctance to travel away from homelands for employment and lack of training and transportation requirements limited opportunities for participation in the oil and gas economy. A band member suggested that a better cultural fit would be to invest in service rigs. “Every oil well needs a service rig and it could be in your backyard....they could service all the wells in your neighbourhood” (A-57:214). Service rigs cost less than one million dollars, instead of the seven to ten million dollar cost of a drilling rig, although each service rig would provide only five to six jobs. The jobs would, however, require less training and have “safer working conditions and you stay home, you know?” (A-57-214).

The case study clearly points to inequitable control over the joint venture, while allowing oil companies greater range to exploit Aboriginal lands. As a development strategy, the drilling rig joint venture exhibited the same problems found with mega projects touted to be development accelerators in low income countries. The capital intensive and highly technical nature of these projects increases demand for highly skilled labour that is not yet locally available and does little to absorb the surplus of unskilled labour. Such projects, as with the drilling rigs, also do not build on local knowledges, capacities and skills, but depend on technologies that are foreign to the community. The Dene Tha’ have invested millions in drilling rigs, investments that have contributed returns to

band coffers, but little beyond that. Control remained with outsiders, with no Dene Tha' input into any of the decision-making or management of the rigs.

Measured by long-term goals of self-determination, generation of sustainable livelihoods and the protection of traditional cultural norms and values, engagement in the dominant resource economy displays a heavy irony. Ultimately First Nations are forced to choose between no economic development at all, or they must attempt to enter into the very activities that threaten long-standing territorial claims and undermine the foundations of native cultural, spiritual and economic life.³² Failure to understand that economic development must make sense to the community itself, tap into local capabilities, and resonate with Aboriginal values and culture means that such projects are not likely to be supported or sustainable.

Impacts of resource extraction activities on territorial claims and cultural and spiritual values are illustrated by the struggles of Dene Tha' trappers to maintain a livelihood activity that relies on Indigenous knowledge and skills.

Dene Tha': the struggle for livelihood rights³³

Corporations tend to exclude themselves as causes of structural changes in people's livelihood strategies and orientations. One of the contradictions in CSR

32 This point is also made by Stevenson and Perrault, cited in (Passelac-Ross 2008):28.

33 The English-language word "livelihood" can be translated into the Cree-language word "*pimâcihowan*". The following is a broad, culturally-specific understanding of the relationship between the English-language word "livelihood" and the Cree word "*pimâcihowan*..." First Nations Elders and leaders identify "*pimâcihowan*" as a central concept of Treaty No 8. Its English translation corresponds in part to "livelihood", or earning a living, but also includes broader cultural meanings related to "way of life", including all of the holistic practices and beliefs associated with Aboriginal identity and culture, the relationships of the Aboriginal peoples to the lands, the resources of the land, and the relationships of the Aboriginal peoples to the "others" with whom they agreed to share use of the lands and its resources (p. 18) Treaty 8 Consultation Framework, 2006.

practice relates to how resource extraction engenders certain forms of poverty related to changes in livelihood provision, while attempting to ameliorate marginalization and disempowerment by introducing technical and managerial top-down solutions. The degree of control and power communities have in their negotiations with corporations depends to a large extent on whether or not members of a community have access to livelihoods independent of dominant corporate activities.

Within the Dene Tha' community traditional ways of livelihood provision, particularly in the form of trapping, hunting, fishing and gathering, existed in constant tension with the oil, gas and forestry industry operating on reserve and traditional lands. Industrial employment, often seasonal and short term, was only one facet of a mixed economy and understood as a temporary phenomenon. "They (the oil companies) will be gone once these resources are gone. So who's gonna be left behind?...Dene Tha' have always lived on this land" (A-12:182).

The economic contribution of traditional harvesting activities is often poorly captured in official statistics and not protected officially by policy (Standing Senate Committee on Aboriginal Peoples 2007). Beyond economic value, however, the importance of the land and traditional activities as sources of cultural, social and spiritual identity was striking. A Dene Tha' artist residing on the reserve related that "I'm gonna do some healing of my inner self, go out on the land...and the river...that's my healing area" (A-23:162). Another noted that we "respect the animals, because that's where we get our medicines, that's where we get our powers from, through animals" (A-24:168). Dene Tha' identity was strongly connected to the natural environment. "While we need the land to survive, it also important for us to be on the land - it is who we are" (A-58:218). An elder said that

the water, animals and the Dene Tha' are connected and that is how things should be. We need to keep it that way and allow the animals to live their way of life and the Dene Tha' to live their way of life (A-58:218).

Not only did many prefer the taste of foods from the land, but “store-bought food is very expensive and they have such little income” (A-59:219). It had become harder to live this way given that animals were disappearing from around the Hay-Zama/Rainbow area close to Dene Tha’ reserves. The elders said that (the caribou) were “scared of the sound of steel” (A-58:216). High levels of resource extractive development on the Dene Tha’ traditional lands made a complete return to the old subsistence economy unlikely, a fact acknowledged by many, but also a source of conflict within the community.

Contradictory visions of the future for the Dene Tha’ First Nation were especially evident between the elders, to whom the old traditional ways and “living with the land” were still important, and the “younger generations. They are more about developing an economic base, more involved with companies....(for them) making money is a necessity” (A-12:71). The Dene Tha’ cultural understanding of the land as their identity and the participation of the majority of its members, young and old, in hunting and trapping activities, likely contributed to the reluctance of its people to leave the reserve for work. For many Aboriginals, economic opportunities must fit into their cultural framework to be acceptable.

Dene Tha: government-community interaction

Corporate CSR practices often are inserted into pre-existing Indigenous struggles for self-determination and justice. Recognition of Aboriginal rights by governments, appropriate legislation and support to aid a community’s

development efforts plays an important part in the attainment of desirable outcomes. The federal government's support enabled the Dene Tha' to enter into the drilling business. The fact that the venture did not generate employment was the result of a complex set of factors, as discussed above, but also a misreading of social context. Corporations do not appear to be attuned to pre-existing cultural, spiritual, social and economic contexts and tend to follow a modernization paradigm in CSR activities. Canada's governments also seem to rely on modernization principles to incorporate First Nations into the dominant Canadian capitalist economy. Within this paradigm, traditional livelihoods are not recognized and considered unimportant as part of an existing mixed economy.

Claims of First Nations in most of Canada to territorial and livelihood rights are based on Treaty Rights. The Dene Tha' are signatories to Treaty Eight in Alberta. The meaning of the Treaties is still a matter of contention and reveals different cultural understandings of ownership and property rights. "You'll hear from pretty well any treaty group, our intent for the Treaty was never to give up any land, but rather to share the land...in our minds the land question will never be settled," a cultural understanding that does not sit well with modern notions of property and access rights (A-20:105).

A late 20th century development in Canadian state relations with First Nations is the introduction of the notion of 'livelihood rights,' which were cornerstones of 1980s and 1990s Aboriginal treaties in the Northwest Territories and Nunavut. Treaties, including Treaty Eight, promise First Nations protection of the 'vocations of hunting, trapping and fishing.' With resource development continuously eroding land-based rights and traditional livelihoods, First Nations argue that promised 'livelihood rights' should be interpreted in a modern context and not only apply to traditional ways (Passelac-Ross, 2005a).

Alberta's provincial government does not recognize the existence of First Nations' treaty rights to trap (Passelac-Ross 2005b:61). Most of the band members living on the reserve hunt and fish regularly, gather herbs and medicines, and pick berries—an essential part of most households' resources. Two hundred and seventy-five Dene Tha' work on thirty to forty registered traplines that stretch across traditional territory. Alberta's regulatory oil and gas framework did not mention Aboriginal trapper's interests at any stage in the process. "It seems that it is always the Dene trapper who has to move out, leave, or go somewhere else, to make way for the oil and gas companies" (A-59:220). The only concessions made to trappers' interests were contained in policy documents such as guides or information letters.

Trappers were entitled to receive notification of upcoming seismic activities at least ten days before the start of the process, and general notification of pipeline lease agreements, surface leases, licenses of occupation, or applications for energy development (Passelac-Ross, 2005a). According to a consultant

during seismic testing, a person's trapline is gonna be absolutely ripped apart by that...(and) all the trapper is entitled to, because he's a trapper, because he holds a license, doesn't matter if he's native or white, he gets what's called a notification letter, not consultation, not asking for his input, just 'please note that we've applied to the Utilities Board for this'...that's 180 degrees reversed from what consultation should be...and that applies too when they want to build a pipeline...that attitude...but that's the Alberta government, then you go below that, well that's what the government requires of industry (A-19:90).

Since 1981 trappers received compensation for losses under the Trappers Compensation Program. Trappers must first negotiate directly with the

responsible company. If this negotiation fails, the claim may be submitted to the compensation board. Very few used this process, as they feel that their interests were not sufficiently represented and the compensation board was not adequately funded (A-47:192).

The Dene Tha' band office had established an office responsible for trappers' liaison and negotiating Memoranda of Understanding with individual companies. The officer responsible noted that certain companies did not recognize the need to negotiate, but that the real difference between companies was their willingness to contribute funding to First Nations to enable consultation and negotiation. According to the officer, negotiations with EnCana were "going pretty well so far...they do support...some of our principles" (A-12:181). However, without government regulation, legal requirements remained minimal.

Alberta's government considered lands comprising Treaty Eight as 'public lands' and the province had full legislative powers to manage these lands and natural resources, under the 1930 Resource Transfer Act

which came into effect...without the participation of First Nations back then...so because of those things there isn't that cooperation put in place that we would want, from the provincial government especially...and also the federal government, because sometimes, because of the 1930 Act it's like they've tied their hands...today the Federal Government cannot get involved in the province because of that...so there's going to be a continuing struggle...continuing court cases (A-20:114).

Court rulings, however, have taken to interpreting treaty rights in a broader manner. With regards to livelihoods, the "courts have said, if there's change...if you're disturbing that kind of way of life, you have to help create a new way of life, help people get on their feet again" (A-19:87). The Supreme Court has also

ruled, in a B.C. case, that subsistence harvesting and trapping have priority rights, ahead of the rights of oil companies (A-19:99).³⁴

Alberta's First Nations base their claims to territorial, land and natural resource rights on treaties negotiated with the federal government over a century ago. These claims were being settled primarily through litigation, at a high cost to Aboriginal communities. Without government recognition of treaty rights, and their land claim not yet settled, a key difficulty for the Dene Tha' remained their inability to secure independent livelihoods and protect their culture. "One of Dene Tha's highest priorities" is the right to be consulted and "be involved in decision-making about resource development on their lands" (D-DT-11).

Consultation: Dene Tha' and Governments

The right to be consulted and to "inclusive processes for First Nations as equal partners on a government-to-government basis in decision-making with respect to our lands" takes high priority in all First Nations (Assembly of First Nations 2007). This appears especially important in Alberta, where the provincial government has strenuously argued against its duty to consult with Aboriginal peoples.

In the landmark case *Haida Nation v. British Columbia (Minister of Forests)* heard before the Supreme Court of Canada in 2004, the province of Alberta argued that "it has no constitutional or fiduciary duty to consult with First Nations, even those First Nations with Treaties, until there is actual proof of Aboriginal or Treaty rights in court". The Court, however, "said that all governments have a legal duty to consult with First Nations whether or not the First Nations have proven their rights in court." In the opinion of the Dene Tha's legal counsel in the case "the Government of Alberta can no longer get away with

34 *Relentless Energy Corporation v. Davis et al.*, 2004 BCSC 1492

minimizing and ignoring your rights and interests and giving away resources on your lands without your input” (D-DT-12).

Following the Haida court decision establishing the Crown’s fiduciary duty to consult with First Nations, the Alberta government released and adopted its *First Nations Consultation Policy on Land Management and Resource Development* in 2005. The first draft of the policy, released in 2004, stated that “Alberta’s objective is to build a ‘made-in-Alberta’ policy approach that is not legally or procedurally oriented.” A legal opinion for the Dene Tha’ noted that such an approach is based on “good business practice”, not on a duty to consult (D-DT-12). In other words: “The Alberta government believes that consultation will take place if it makes good economic sense, so it’s all based on expediency, not on duty, not on necessity” (A-19:89). According to a spokesperson for the Alberta government—questioned in 2004—the ‘made in Alberta’ approach was no longer an objective for the final draft (A-60:221). However, Aboriginal Affairs Minister Pearl Calahasnan still referred to a ‘Made in Alberta’ policy in 2005 (*Windspeaker*, June 1, 2005).

Although the government consulted with First Nations representatives on the policy, the two sides could not come to an agreement and the Chiefs of Alberta rejected the document. A brief summary of the reasons for the rejection is taken from a legal opinion on the Consultation Guidelines prepared by the Dene Tha’s legal counsel (D-DT-12).

Rather than referring to “treaty rights”, the Alberta consultation guidelines instead referred to “First Nations rights and traditional uses.” The definition of ‘rights and traditional uses’ was “very revealing. It referred to “existing constitutionally protected rights to hunt, trap and fish and other uses of public lands....and does not refer to proprietary interests in the land.” The Supreme Court ruling stated clearly that the duty to consult is a legally binding obligation

arising from the Treaties. “It’s a duty...not a goodwill gesture” (A-19:81). The Alberta government position refused to recognize proprietary interests in land and pointed to a preference to consult on a voluntary basis. The onus was placed on First Nations to identify their concerns and essentially prove that their rights might be infringed “before government or industry have any obligations at all. Even then, the Guidelines leave it to government and to industry to determine if any such infringement justifies consultation.” The Court decision made it clear that it was up to government and industry to initiate consultation when there was the *potential* for infringement.

The Guidelines were very vague and did not define essential terms such as “consult” and “consultation.” There was no clear guidance on when and where consultation was required or what was involved. The Guidelines often used the terms “consider” and “listening openly” to First Nations’ concerns and inputs, yet did not indicate a process whereby such concerns and inputs would be accommodated. There appeared to be very little trust between the Dene Tha’ and the Alberta government. Numerous letters and documents contained statements that Dene Tha’ willingness to meet, or comment “does not mean that we have been consulted or accommodated” (e.g. D-DT-15).

In 2005 the Dene Tha’ turned to the Courts again when they were not consulted over a portion of the proposed MacKenzie Valley pipeline which would cross their territory. The Federal Court ruled in favour of the Dene Tha’ and Chief Ahnassay said that “the time has come for Alberta to scrap their unconstitutional Consultation Guidelines and to sit down with Dene Tha’ and other First Nations in Alberta to negotiate a mutually satisfactory consultation process” (Dene Tha’ Press Release, January 17, 2008). So far, the 2005 Guidelines, followed by a 2007 version with minor revisions, remains the Alberta government’s official position on consultation.

Consultation, as defined by the Dene Tha', is a dialogue in which information is discussed and shared, taking place between (government) decision-makers and First Nations *before* the decision-maker selects a course of action (D-DT-14).³⁵ Consultation is an ongoing and interactive *process* (section 52). The Dene Tha' also understand that consultation is contextual and depends on several factors.

[C]onsultation how the First Nations interpret it...it depends on community, it depends on the social structure, it depends on the leadership...what they want to push for, it depends on the location...if they're close to a community, maybe the need for jobs is more than the need for money, or the need for money might be higher than the need for training. For the Dene Tha' who still rely so much on trapping, it's very different than people just outside Edmonton or Calgary (A-19:87).

Consultation however is only part of the requirement. The second part, following consultation, is *accommodation*. This connotes "modifying an impending decision or course of action in order to avoid infringing Aboriginal or treaty rights or to minimize any potential infringement." Consultation, then, is a process, "accommodation is outcome-based" (section 53). The two often overlap, but included in any interaction must be the possibility of changing a particular course of action, following Aboriginal input. The Dene Tha' and other First Nations must also not be treated as stakeholders to be included in the normal consultation and hearing process, but are entitled to a separate and distinct consultation process (section 58 c.). The Dene Tha' further submit that the duty to consult is a duty of the Crown and cannot be delegated (D-DT-14).

³⁵ Information in this section is from the "Factum of the Intervenor Dene Tha' First Nations" in the Haida Nation vs. Weyerhaeuser case, dated January 13, 2004.

The Dene Tha' and First Nations in general do not claim the right to veto over development on their traditional lands. Not only have the courts refused this veto, but First Nations generally are not opposed to development on their lands. They do, however, insist that they must be meaningfully consulted, that they benefit from resource activity, that accommodations be made to minimize infringements of treaty rights, mitigation of unavoidable environmental damages, or compensation where such infringements are unavoidable (D-DT-17).

It's not just about economic benefits...it's about protecting culture, protecting values, protecting traditional ways, and hopefully if the development can proceed in a fashion acceptable to [us], then you get some economic benefits (A-13:188).

Most importantly, such accommodation must take into account First Nations' culture and livelihood concerns.

Consultation: Dene Tha' and industry

A major objection to the Alberta Consultation Guidelines was that they treat First Nations and industry equally. For example, the only direction to statutory decision-makers such as the Energies and Utilities Board was that they must review all information 'and fully consider the views of industry and First Nations.' Again, First Nations and industry appear to be treated equally, which is not what the law requires.... These Guidelines appear to let industry off the hook" (D-DT-12).³⁶ The legal opinion submitted to the Dene Tha' First Nation on the Consultation Guidelines concludes by saying that "they [guidelines] are of little value in my view" (D-DT-12). It is interesting to note that certain

³⁶ Consultation requirements of governments are complicated by their relationship with 'quasi-independent' decision-makers, such as the Alberta Energy and Utilities Board. For a broader discussion see Potes, Passelac-Ross and Banks, 2006.

parts of EnCana's Aboriginal Guide parallel the language and general position of Alberta's Consultation Guidelines.

The Dene Tha' experience was that industry behaved differently when they operated in Alberta, compared to when they operated in British Columbia, where strong consultation guidelines were introduced in 2003. "[W]hen you look at the locale, when you look at the same company operating in northern B.C., same company...as soon as they cross the border, there's a different attitude" (A-19:88). Unlike Alberta,

B.C. recognizes that it has legally enforceable consultation obligations, it gives capacity funding to Dene Tha' to engage in consultation, including review of projects, it sets out a specific consultation process as well as a dispute resolution mechanism, it recognizes that consultation is required throughout Dene Tha's Traditional Territory located in BC and it allows Dene Tha', and not government, to determine when its concerns are sufficient to require consultation (D-DT-12).

EnCana's Aboriginal Guideline stated that its "philosophy and approach" draw from industry guidelines and from provincial consultation guidelines. Legal differences between provinces appeared to justify a different approach depending on context; however, it was consistent with EnCana's pledge to abide by all applicable laws.

An important principle of consultation is that it has to be a two way process, "it has to be meaningful...has to be dialogue...it has to be based on trust, respectful of the rights of each other" (A-19:87). The danger for industry, as well as government, was that true dialogue potentially entails a loss of control over the process of definition.

The Dene Tha' had appointed a Negotiations Team, consisting of three band councillors (one from each reserve) and an outside consultant to negotiate

with government and industry. However, industry tended to operate through local leaders or elites, they “come to the chiefs,” who often were equally unaccountable:

(They) wine them and dine them, take them to the petroleum club, make them feel really great...who gives a shit what’s happening in the community...that’s a pattern, they always do that...EnCana’s famous for that, you know?...and when they quit as chiefs, or are defeated, they’re guaranteed jobs by EnCana (A-19:94).

Regrettably, corruption and mismanagement “are rife in the Indian community” (A-19:92). At the time of my interviews in the Dene Tha’ community, the chief was removed from office and a statement of claim filed in the courts of Alberta, claiming fraud and misrepresentation (A-24:173).³⁷ Several sources reported problems with “accountability, transparency and political infighting in the community” (A-12:70). The chief, however, was later re-instated by the elders of the community. Corporations such as EnCana thus are often required to engage with communities in difficult social circumstances, marked by uncertainty over representation and lack of local institutions that have the support of the whole community.

Consultation protocols were often negotiated between specific corporations and First Nations. EnCana and the DTFN had been negotiating a protocol for some time, not without difficulties.

Their tactics...they never say no we don’t want to...they waste your time, they attend meetings, they take notes, delay, delay, delay...Then they table you with a take-it-or-leave-it draft, you know, where they dictate the terms of how they will consult, when they consult and how

³⁷ Statement of Claim, Provincial Court of Alberta, Action # 0503 01572, filed January 25, 2005.

much they pay for the cost of your staff time and all those things...I know we could sue them, because (they were) pretending to negotiate, while really they were not (A-19:98, 99).

Despite the courts' rulings that consultation is the duty of the Crown, the provincial government delegated much of its consultation responsibility to industry, making consultation protocols with industry important.

(The government) is passing the buck to industry, AEUB does the same thing...(but) the Supreme Court and Haida made it very clear, no, it is the Crown. The Crown cannot delegate it...ultimately it is their duty (A-19:102).

The duty to consult remained no exception to the tendency towards 'private governance' (discussed in chapter two).

While it is assumed that power relations in configurations of private governance are constituted horizontally, this underestimates the qualitative differences in power, influence and resources of different actors in negotiations (see chapter two). This was commented on by a DTFN negotiator:

And you sit down with each company and say guys, wake up, just look at all those court cases. You really want to go to court and prove that you're a bunch of jerks?...take EnCana for example, their attitude really stinks. I mean, they are the biggest kid on the block, big and rich, they can do whatever the hell they want to do! (A-19:90).

Another source put it more mildly:

I think some of the court decisions that were made kind of encourages industry to do that (social and environmental programs)...a court decision...creates an atmosphere for more cooperation....Companies like EnCana, Mobil and other large companies are setting a good example (in environmental performance). It also puts pressure on other, smaller

companies...But, nevertheless (it does not happen) without a bit of resistance, you can see that (A-20:108, 115).

Nevertheless, it was in the interest of industry to consult with First Nations, based on court rulings.

In terms of industry, although the Court said that industry does not owe legal duties to consult with First Nations, as a practical matter, it is in the interest of industry to work with you. The risk for industry is that if the government fails to meet its consultation obligations, then any permits or licenses or approvals that industry has will be at risk and could be struck down in court. (D-DT-12).

CSR initiatives can and do increase the power, resources and influence of corporations. EnCana attempted to use the drilling contracts they signed for the 50% Dene Tha' owned rigs (discussed above) as a lever in negotiations with DTFN:

[T]hey use it (the drilling rig contract) as a lever, so when we took it up at consultation they said, 'well we brought you the drilling rigs', literally that was their line....So we said, well that's a commercial deal and you guys didn't put in a penny...I was there at the table...that's the taxpayer's money and (Dene Tha') Council money! So what they do, they blackmail people...if you object to any of [their] projects, [they] shut down the work...I've seen it happen....you don't give us the environmental approval, you try and create noise for us, then we'll just pull the work....(they) suck you in, because your livelihood depends on them then (A-19:91, 92, 94).

It also remained difficult to change the culture of the Alberta oil industry, which has had free reign in the province in many respects.

(I think they can) absolutely not get it through their heads that part of corporate responsibility is to build a relationship with the community....they cannot get it in their heads that now there's land claims and there is treaties and there is modern treaties and historic treaties, you have to accommodate those political legal realities....[C]onsultation is the main driving force there, because that's the only way you're gonna get industry to behave in a certain way...if they don't (consult), then...it's all confrontation, it's all whoever is the dominant force...that's when they (First Nations) choose blockades and legal action (A-19:95, 88).

A December 9, 2003 letter to EnCana's Vice-President of Aboriginal Relations perhaps illustrates the issue best.

As you are very aware, our First Nation has repeatedly expressed our concerns, to you and other EnCana representatives, with the lack of any consultations with us by EnCana or the Government of Alberta. We are especially alarmed with EnCana's planned large scale activities planned on our traditional lands. We have written you and met you to explain to you and your colleagues the legal obligations on EnCana and Government to consult our Nation, as required by law. You had promised to consult with us, but to date, we have seen no evidence of your commitment and practice to fulfill your legal duty to consult.

We have just learned that crews working on behalf of EnCana are carrying out physical work on our traditional lands, around the Boyer area. We are concerned with the impact of your activities on our rights, titles and interests. Without the proper consultations and necessary mitigations, there is prima facie evidence of infringements on our rights.

We ask you to immediately suspend all your activities on our traditional lands pending your company's fulfillment of your legal obligation to consult with us. We are available to meet at any time. Our First Nation reserves all rights to seek the appropriate legal remedies. We await your positive response to suspend your operations in the Boyer area and to arrange for consultation with us.

Industry and Alberta government culture did not yet acknowledge Indigenous rights on traditional lands, even though Canada's Supreme Court had ruled that they must.

Tight relations between industry and government were a sore point for DFTN. During the time I interviewed with Dene Tha' sources, EnCana's vice-president for Aboriginal Relations had been seconded to the Privy Council in Ottawa, while the regional director for Indian and Northern Affairs Canada spent a year as EnCana's vice-president of Aboriginal Relations.

Talk about conflict with government! (This) guy, the head of Indian Affairs, who knows every band, their weak points, their financial situation....within a month...he was sitting at the table in negotiation with the Dene Tha', representing EnCana! He was the head negotiator!....and Popko (EnCana vice-president of Aboriginal Relations) goes to Ottawa to become policy advisor and meddle a lot more in Indian Affairs (A-19:100, 101).

Despite my best efforts, neither EnCana, nor federal government officials were willing to comment on the appropriateness of the arrangement.

Although the foregoing discussion of consultation relied on two well-placed key informants and legal documentation, their accounts were confirmed by several sources. Some dissenting information emerged as well, mostly from

informants who dealt with EnCana on a day-to-day basis regarding smaller decisions.

While my focus was on social responsibility, environmental issues were often part of the discussions. For the Dene Tha', it was impossible to separate the two. "See, it's not only what happened to our land, it's what we leave. We learn the tradition from our elders, we pass it on to the children, they pass it on to theirs" (A-13:135). Disturbance of a trapline, for example, has ecological and economic consequences, but cultural and spiritual impacts were closely interrelated and given greater importance.

It appeared that EnCana responded to environmental concerns where they could and where regulation so required. I was, for example, told of an occasion where EnCana re-routed a pipeline due to the presence of certain unique mosses, identified by an elder (A-18:84). It was not clear whether this was in response to an environmental assessment, which often uses local knowledge. The band's environment officer related that:

They (EnCana) have been good players in negotiations. They always come to the table when we ask them and when they have a potential target in the foreseeable future, they always consult us ahead of time.

They've been pretty well consistent (A-15:73).

Another source related that environmentally, EnCana followed the guidelines and regulations and they were responsive to the band: "they respect our lands, that's the most important thing" (A-14:74). Changes in environmental practices had occurred in response to government regulation (A-14:74). However, in the words of one source: "I think they've done a good job, but until the environment says so, I dunno" (A-18:84).

Environmental problems, in cases such as a unique moss, tended to be looked at as technical problems to be solved. An ex-employee of EnCana related that:

The oil industry tends to be very technical, so we have a lot of technically focused people that tend to have to deal with risk as well. And it tends to be very linear in the way we do things as opposed to dealing with all the social complexity...I mean, I know the answer, let's just do it, right? (A-21:117).

Social complexity, as in the case of providing employment in a complex social situation embedded in historical, cultural and spiritual contexts, was more difficult to deal with and required a different skill set. Furthermore, negotiating a consultation protocol had legal, liability and risk implications that engendered the use of different tactics to minimize the risks for the company.

Section summary

Relations between EnCana and the Dene Tha' First Nation were controversial and fraught with difficulty, according to numerous informants. While the company cooperated in certain areas, especially where technical solutions were possible, it did not appear to be able to deal in an effective way with social and cultural complexity.

Incompatibility between the 'business case' and corporate social responsibility objectives led to prioritization of business objectives and the tension between the two remained unexamined. Respondents emphasized that on-the ground outcomes of CSR initiatives were much less successful than the company claimed. Very few positive effects were found in the crucial areas of enabling livelihoods, providing employment, and leaving community members 'better off.' According to a Dene Tha' band member,

Our people are poor. Dene Tha' have not benefited from industry on our traditional lands. The trucks still just roll by our communities and leave us in the dust (A-59:221).

EnCana's process of 'capacity building' had a very specific meaning. It targeted development of human capital in its relations with Canadian First Nations, following a modernization paradigm that emphasized participation in the resource extraction economy and education focused on marketable skills and knowledge. The company did not take responsibility for its participation in the destruction of traditional livelihoods and culture, nor did it consider traditional livelihoods and culture preservation as a sustainable development strategy for the Dene Tha'.

Contextual difference in corporate behaviour was found in the different consultation practices between British Columbia and Alberta. Government regulation and implementation of standards provided the impetus.

For the Dene Tha' power and legitimacy are derived from Treaty Rights. Their strategies to secure the rights granted to them under Treaty 8 mostly took the form of legal challenges through the Canadian court system. The struggle to have their rights and land claims recognized was more so with the state, rather than with corporate actors. Even though First Nations in general have made gains in power and control due to their control over lands, resources and a growing population considered to be an important source of future labour, for the Dene Tha' the settlement of claims to traditional territories remained elusive. Such settlement would give the First Nation an important source of power and increased control over what can and cannot be done on their lands.

The Alberta government position that it has far-reaching powers to manage and lease traditional lands greatly limited Dene Tha' involvement in planning and decision-making, especially at the early stages of development.

There was little evidence of government support—especially from the provincial government—for First Nations in corporate-community relations. Government tended to support the modernization paradigm and the business case, culminating in a relationship that was distrustful and where disputes were subject to continuous litigation in the courts.

First Nations specifically sought support from the courts to gain a voice in activities on their traditional territories through meaningful consultation. They further insisted that consultation without accommodation is meaningless. The Dene Tha' First Nation was not involved in all phases of planning and operations, which severely restricted its power and options.

I now turn to an analysis of EnCana's CSR practices in Ecuador, followed in chapter eight by a discussion of the findings and implications of the case study.

CHAPTER 7

ENCANA IN ECUADOR

EnCana's relations with the Siona-Secoya and settler communities in North-Eastern Ecuador

State involvement in the Ecuadorean Amazon has been minimal (as discussed in chapter three), except to—throughout the 1990s and early twenty-first century—implement neoliberal reforms, that sought to modernize Ecuador, and open it further to private investment—especially to increase oil production. This has left social welfare and many development functions in the hands of private organizations.

The Ecuadorean experience is that there is a weak presence of the state in the oil exploitation zones...the state has not been involved in the relationship between enterprises and communities...enterprises have followed their own interests and not the interests of the people....We have a state that used to work thanks to the petroleum industry and now it needs petroleum to pay the international debt...so the logic is to extract all resources, in a short time and at low cost (E-1:1, 2).

In Ecuador, however, many of the state's neoliberal reforms backfired and resulted in impressive resistance, especially by the country's Indigenous peoples.

City Investing—the forerunner of EnCana—had operated in the *Oriente* since the mid-1970s, leaving—along with Texaco—a legacy of environmental pollution, and social and cultural upheaval.

City Investing had, under various owners, the longest operating history of any company in the Ecuadorian oil industry... The company was perceived as hostile and irresponsible. As a result, acts of sabotage to the

company's installations and blocking of roads became very common (Vredenburg, 2003).

An academic and researcher of oil industry and Indigenous relations in the Amazon told me that

[t]his area has the highest level of environmental pollution, the highest levels of social violence, of social marginality and poverty. We find that the social situation lived in this zone is closely related to an oil exploitation model (E-01:1).

When the Alberta Energy Corporation purchased the Ecuador assets from PacAlta in 1999, the company spent \$250 million to “clean up the sins of the past” (A-28:204). Legally, responsibilities for environmental legacies transferred to AEC at purchase. EnCanEcuador's general manager told me that “under the provisions of the contract, AEC has carried out bioremediation of contamination incurred in previous times” (E-09:55). Whether they had done so was difficult to ascertain as the local population did not always distinguish between the legacy of each company. Oil interests in the area were referred to as *los petroleros* and were often assumed to be one and the same.

An absence of the state in the region has also meant that local interests were, and are, represented via indirect channels.

Communities have expectations, but people are not used to deal with a state presence, to deal with a state that assures their rights, or that serves as a mediator; they were used to have a different relationship with the state, an indirect relationship through other actors, such as religious missions, co-operative organizations, volunteers, and now oil companies (E-2:9).

Oil companies thus served as an important mediation channel between communities and the state. This worked both ways. Frequent protests and delays

of oil operations often were aimed at the state and used as leverage to acquire state and/or corporate funds for various needs.

A further difficulty was the recency of contact with western industrial society. A road from the capital Quito to the north-eastern oil town of Lago Agrio, completed in the 1970s, represented the first land access—other than on foot or by mule—into the Amazon region.

Many communities are extremely weak and fragile, because they only recently started to have these relationships with occidental civilization. That is why we cannot talk about a negotiation process, we have to talk about impositions, because there is no response capacity in the communities (E-1:8).

Colonist and Indigenous organizations learned and had established cross-level connections with many national and international NGOs.

Ecuador's Amazonian Indigenous peoples have a long history of local and environmental autonomy, strengthened by the establishment and activities of Indigenous organizations. In the past, the Siona-Secoya had opposed oil activities based on previous experience and because they enjoyed a fairly secure and growing alternative source of income—employment in eco-tourism. In 1993, an alliance between Indigenous people and the eco-tourism industry successfully pressured the government to temporarily halt exploratory work in the fragile Cuyabeno Reserve (Steyn, 2003:39).

EnCana's Tarapoa block was a concession of about 36,227 hectares of which 17,000 intruded into Cuyabeno Faunistic Reserve. This part of the concession was excluded from protections applied in the Cuyabeno reserve. The light gray area on the right-hand side of figure 7-1 represents the *zona intangible* of Cuyabeno Reserve, with the exception of the area within the white lines indicating the boundary of EnCana's Tarapoa Block. Most of Cuyabeno

EnCana's Tarapoa Concession Block

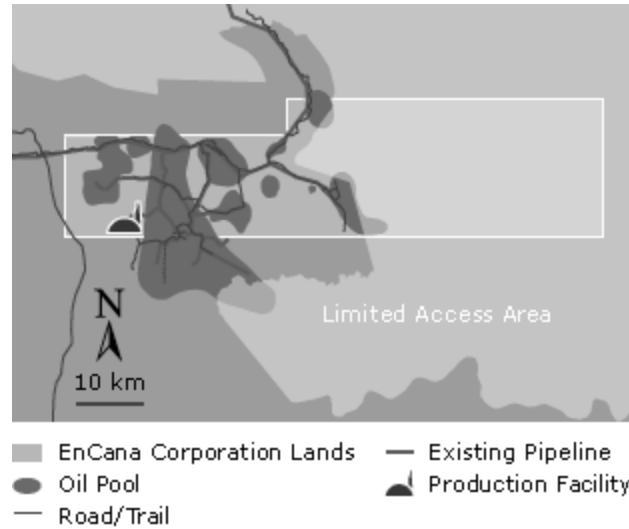


Figure 7-1

Reserve had been declared a *zona intangible*, which refers to an area that is protected due to its cultural and biological diversity and where any human and exploitative activities that can threaten aforementioned diversity are prohibited. These zones are sometimes referred to as ‘hard’ zones.

Oil development was already occurring prior to the establishment of the nature reserve, concentrated in the western half of the block. In 1993, Ecuador’s government conveniently re-drew the borders of the reserve to allow oil activity to continue. The area was part of Siona-Secoya traditional territory and contained numerous colonist farming co-operatives in the western part of the Reserve. In addition to farming settlements, Tarapoa Block and the Cuyabeno Reserve were subject to harvesting of tropical woods, much of it illegally. As mentioned, ecotourism had become an important activity, focused on the Cuyabeno and Zancudo lagoons. The tourism industry employed numerous Indigenes, either as guides, boat operators, or service staff, partially incorporating them into

commercial relations (E-57:218). Ironically, ecotourism was made possible when the oil industry developed access roads into the Amazon region.

Oil activities had taken place in the region since the mid-1970s, first by City Investing, then Pacalta, then Alberta Energy Corporation Ecuador, and lastly by EnCanEcuador.³⁸ PetroEcuador and Occidental Petroleum also operated in the region. By the end of 2003, EnCana averaged production of 51,000 barrels of oil per day from its Ecuador concessions, including 40,000 barrels per day from its Tarapoa block. The company drilled thirty-two wells in 2003 and forecast a fifty percent increase in production for 2004. In August 2003, the consortium in which EnCana held a thirty-six percent ownership completed building the OCP pipeline, necessitating increased production to fill the pipeline.

One of the complaints in the area was that “the company”, as many people referred to it, kept changing its name.

Alberta, City, EnCana, whatever they want to call themselves, all these name changes represent a strategy to confuse people, to avoid responsibilities related to the behaviour of the last company. The people are not really confused, they understand it is a game, a strategy (E-38:231).

EnCana changed its operating name from City Investing Ltd. to AEC Ecuador in 2002, just prior to the merger that created EnCana. EnCana continued operating in Ecuador under the name AEC Ecuador (AEC). In day-to-day conversation local people used ‘City’, ‘Alberta’, ‘AEC’, ‘EnCana’, or ‘the company’ interchangeably to refer to EnCana Corporation. According to EnCana’s general manager in Ecuador, the provisions of the original contract between City

³⁸ The word ‘EnCana’ connotes something like “imprisonment” in Latin America. The internet translator Babelfish consistently translates the name as “arrests.” Hence, EnCana dropped the last letter of its name and operated as EnCanEcuador.

Investing and the government of Ecuador transferred over to EnCana Corporation (E-08:55).

Siona-Secoya and settler community profiles

The Siona-Secoya Indigenes of Ecuador are a small remnant of an estimated original 16,000 Indigenas who lived in the northeast of Ecuador, southern Colombia and north-western Peru prior to European contact. Current estimates of the total remaining Siona-Secoya population range from 1,000 to 1,200. The names Siona and Secoya only came into general use in the early twentieth century and are currently used to refer to members of the two nations living in Colombia, Peru and Ecuador. While the Siona and Secoya once were separate nations, dwindling numbers—due to infectious diseases such as measles and mumps—and a long history of close ties and intermarriage have brought them together. Though they are usually referred to as one people, the Siona and Secoya themselves still differentiate.

In the case study area in Ecuador's Amazon region, an estimated 500 Siona-Secoya live along the Aguarico river and its tributaries the Eno, Cuyabeno and Shushufindi Rivers.³⁹ Siona-Secoya territory is shown in dark-grey on the map (Figure 7-2) below. In the 1970s, after bitter political struggles, the Siona-Secoya were granted land rights over approximately 8,000 hectares of their ancestral land (<http://edufuturo.com>. Accessed July 12, 2003).

The area to the north of the Aguarico river is part of a protected area known as the Cuyabeno Faunistic Reserve—one of the most important protected areas in Ecuador—created in 1979 and covering just over 600,000 hectares.

³⁹ According to the Amazon Defense Front, the Secoya population consists of 330 persons, in 78 family units and the Siona population totals 172 persons, in 51 family units, for a total of 502 persons in 129 families.

Siona-Secoya Territory

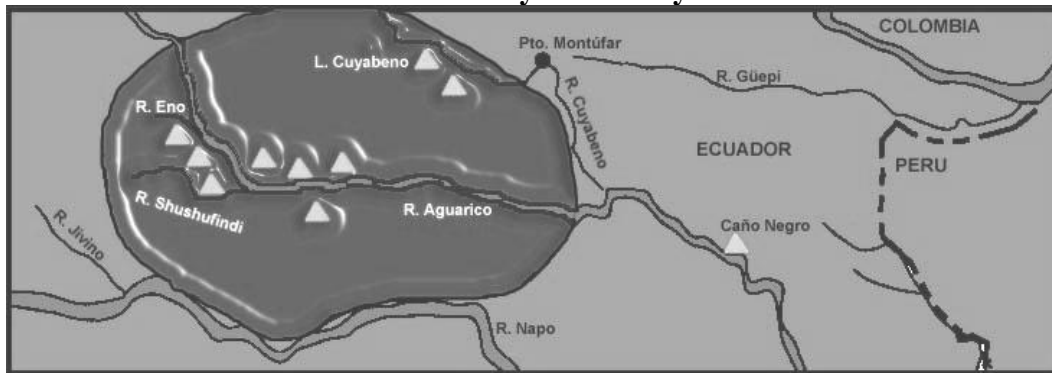


Figure 7-2

Within the reserve, the Siona community of Puerto Bolivar holds title to 744 hectares and in 1994 the Siona were granted management rights over 127,000 hectares within Cuyabeno Reserve. Approximately 17,000 hectares of the Tarapoa oil concession block (owned by EnCanEcuador) juts into Cuyabeno Reserve, but the government of Ecuador excluded this area from protection. The area is critically important for its ecological and cultural diversity, containing over 900 types of trees and more than 500 bird species, several unique species of mammals, such as the pink dolphin, and many other rare species of plants and animals.

Historically the Siona -Secoya shared the Aguarico basin with the Cofan Indigenes, moving within a vast territory between the Río Napo in the south and the Río Putumayo and Río Caquetó in the north. Cultural-ecological adaptations served the groups' survival in an extremely warm, humid and densely forested region with generally poor and acidic soils.

Today, both the Cofan and the Siona-Secoya are minority peoples in danger of physical extinction. The Siona-Secoya peoples speak Paicoca (some now also speak Spanish) and at time of European contact occupied an area of 82,000 square kilometres of wet tropical rain forest. Prior to the Spanish colonization of Ecuador, the *Oriente's* inhabitants lived in dispersed and non-

permanent settlements throughout the forest. In 1683 a royal decree gave the Jesuits the authority to missionize the natives of the Aguarico and Napo river regions. Jesuit activity from 1709 to 1769 established seventeen missions in the region that were designed to settle the natives in larger, semi-permanent settlements along the banks of the major rivers (Vickers, 1989).

Current Siona-Secoya settlements are semi-permanent and are characterized by flexible arrangements that vary from isolated households, to clusters of households, to larger villages of 100 or more individuals. None of the villages has electricity, sanitation or potable water. The Siona-Secoya communities can only be reached on foot during the dry season, or by boat during the wet season when most of the forest is flooded. Typical homes are simple shelters, raised on posts, with a wooden floor, and only partly enclosed by wood and palm frond walls. Settlements are used as bases for foraging and hunting trips. Subsistence of the Siona-Secoya is based on shifting cultivation, hunting, fishing and gathering. Most homes will have a small orchard next to the house and a larger orchard and gardens at a more distant location. Gardens are polycropped and often contain over fifty varieties of food, medicinal and utilitarian plants. The most significant addition to their economy has been the introduction of chickens and pigs, which are used as a commodity to generate cash through sales to river merchants. The Siona-Secoya further earn petty cash by selling some timber, animal skins, maize, hammocks, pottery and other artefacts. Some have entered into the wage economy of tourism, clearing forest to lay pipelines, cleaning up oilspills, or setting explosives for seismic tests.

Historically, the fragmentation of the Ecuadorean environment into small and different ecological zones ensured the development of different customs, beliefs and languages amongst its Indigenous nations, prohibiting political integration (Steyn, 2003). Among the Siona-Secoya each group had its own

headman (usually the shaman) and there was little political cohesion or cooperation among groups (Vickers, 1989).

The development of an oil infrastructure since the 1970s and the corresponding expropriation of land by industry and colonists in traditional Siona-Secoya territory necessitated the development of political co-operation between the various Siona -Secoya communities in order to present a united front in the face of these outside threats to the very basis of their existence. To this end, in 1986 for the first time in their history, the Siona-Secoya united politically in a single organisation, the *Organización de Indígenas Siona –Secoya del Ecuador* (Organization of Indigenous Siona-Secoya of Ecuador, OISSE) and have co-operated with other Indigenous groups and organisations in the *Oriente*. While the political mobilisation of the Siona -Secoya came too late for these communities to withstand the first wave of oil developments by Texaco and their joint venture partners, it did become a crucial aspect of their survival strategy in the course of the 1990s as new oil developments in the Cuyabeno Faunistic Reserve again threatened to displace and marginalise their communities in the name of national development and modernisation.

Internal conflict within the Siona-Secoya nation related to negotiations with Occidental Petroleum in the 1990s, “highlighted the genuine lack of political co-operation within this group, and the continuation of the nation's identification with village communities, as opposed to the wider Siona-Secoya nation” (Steyn, 2003:317). In 1992, “recognizing the advantages of maintaining their distinct identities,” OISSE split into two organizations: the *Organización de la Nacionalidad Indígena Siona del Ecuador* (Organization of the Siona Indigenous Nationality of Ecuador, ONISE) and the *Organización de Indígenas Secoya del Ecuador* (Organization of Indigenous Secoya of Ecuador, OISE) (<http://abyayala.nativeweb.org/ecuador/secoya>).

Within the boundaries of the Cuyabeno Faunistic Reserve, for example, the community of Tarapuya is Siona and the community of Puerto Bolivar is composed of both Siona and Secoya. Puerto Bolivar is the largest of the communities in the Reserve and has a school, community office and some ecotourism infrastructure. Other Siona-Secoya communities are Biaña, Orehuëaya, Secoya Remolino, San Pablo, and Secoya Eno. The local organizations are members of CONFENAIE, the Amazon Indigenous organization founded in 1980, which in turn is an important part of the national Indigenous organization CONAIE. Within CONFENAIE, the Siona-Secoya are a very small minority, with the much more numerous Quichua and Shuar dominating the organization.

The oil industry, in the form of a Texaco Gulf consortium, arrived in the *Oriente* in 1967, along with several smaller companies. One of these was City Investing Ltd., later bought by Pacalta Resources, which in turn was bought by Alberta Energy Company – the company that merged with PanCanadian Energy Corporation to become EnCana Corporation. The Siona-Secoya are part of a 30,000 strong Indigenous and colonist group that has brought a class action suit in the Ecuadorean courts against Chevron-Texaco for US\$1 billion in compensation for past pollution and environmental damages.

Since the 1980s, tourism—largely controlled by factions within the Siona nation—has become a significant additional source of income. Tourism in the region, shaped mainly by the private sector, is focused on the Cuyabeno Faunistic Reserve and the Cuyabeno lagoons. Indigenes in the region participate either through autonomous operations, or through salaried employment. Many people work either as drivers of canoes, bringing tourists to and from the lagoons, or as guides, showing the local plant and animal life. Tourism related cash flow has helped raise environmental awareness among the Indigenes living in the area and

raised questions about the impact of oil operations on the tourism industry. While oil, logging, squatters and certain forms of unsustainable tourism are the main environmental threats to the Cuyabeno Faunistic Reserve, site-specific internal pressures by Indigenous residents and colonists, in terms of over-hunting and deforestation for cash crops and cattle ranching, should not be neglected.

The construction of new roads within the Aguarico basin and their connection with Quito, Ecuador's capital, spawned a massive wave of agricultural colonization by small scale farmers from Ecuador's coastal and Andean highlands regions. Estimates are that, since the 1970s, at least 250,000 settlers migrated into the region following the trails and roads constructed by the oil industry. For reasons of land reform, population pressures, national security and economic development, the Ecuadorean government encouraged the colonization of the Amazon, declaring it a national task. The government ignored Indigenous claims to traditional lands and granted each settler family 50 hectares of land. Agrarian reform laws declared that inefficiently utilized land could be appropriated, and colonists had to develop at least half of their land to protect their claims, resulting in high rates of deforestation. It is estimated that at least one million Amazonian hectares have been settled by colonists.

Colonist farms typically are found immediately along oil roads and pipelines. The overwhelming majority of colonists in the *Oriente* are sedentary farmers who practise polyculture agriculture that incorporates both cash and subsistence crops, and is based on swidden agriculture. New villages and cooperatives sprung up in close proximity to oil company installations and compounds. The colonist towns of Aguas Negras and Tarapoa are located adjacent to EnCana's main compound and installations in the region. FOCAN (*La Federación de Organizaciones Campesinas de Aguas Negras*), the colonist farmers organization of Aguas Negras, runs rice and coffee mills for their

members. Due to their proximity to the EnCana compound, the communities were the main focus of EnCana's community development activities.

Siona-Secoya: seismic testing and negotiations for compensation

In the words of EnCana Vice-President Dick Wilson, Ecuador's "Indigenous population is on the fifth rung of a three-rung ladder," the consequence of a colonial regime which established rigid social and economic hierarchies (A-28:202). Significant segments of the Indigenous population suffer the effects of pervasive poverty, and little social spending was directed toward this sector. Although Indigenous organizations in Ecuador had gained increasing political power in recent decades, the Siona-Secoya were a small minority within the Indigenous organizations.

AEC Ecuador negotiated agreements with both Siona and Secoya nations to carry out a 3D seismic survey on their traditional territories and in the portion of EnCana's concession that juts into Cuyabeno Reserve.⁴⁰ According to EnCana, their approach to seismic surveys leaves the lowest environmental footprint possible.

In seismic operations, we use low-impact approaches. These include self-imposed restrictions on road construction; the use of narrow, discontinuous seismic lines, which are hand cut so as not to disturb the forest canopy; and helicopter support of ground operations (Website EnCana Corporation/Ecuador).

⁴⁰ Seismic surveys are a method of mapping the subsurface by using vibrator trucks or low level explosives to generate underground shock waves recorded by listening devices called geophones. Placing geophones along intersecting grid lines allow computers to produce a 3-D model of subsurface rock formations to identify areas that are most likely to contain hydrocarbons.

While negotiations with the Secoya nation were completed without much apparent conflict, negotiations with the Siona nation were subject to internal disagreements and division among Siona settlements.

On July 16, 2001, an agreement was made between ONISE (the Siona Indigenous organization) and the Ministry of the Environment, entrusting the Siona Nation with the administration and management of 127,028 hectares in the Cuyabeno Reserve. Siona settlements within Cuyabeno reserve include the villages of Puerto Bolívar, Tarapuy, Bi'aña and Orahuëaya' (D-E-45:T1). On July 31, 2002, the Secoya Nation also entered into an agreement with the Ministry of the Environment to administer and manage 3,477 hectares “in the non-colonized sector at the headwaters of the Rio Aguas Negras” in the Cuyabeno Reserve. The Secoya Nation held title to a total of about 20,000 hectares, of which approximately 4,500 hectares were in Cuyabeno Reserve. Secoya settlements were Centro Sicoya Remolino, Centro San Pablo de Catetsiaya and Campo Eno (D-E-52:T1). Ironically, considering consequent seismic testing by AEC Ecuador requiring 6,000 detonations, the environmental management agreements included a clause prohibiting the “use of explosives or chemicals” for the purpose of hunting or fishing (D-E-50).⁴¹

In November 2001, AEC Ecuador applied for a license from the Ministry of the Environment to commence 3D seismic exploration work in the 17,000 ha. portion of its Tarapoa Block concession intruding into Cuyabeno Reserve and Siona-Secoya managed territory. The application was subject to an environmental impact assessment and environmental management plan, both approved by the Ministry. An NGO representative, closely involved with the Secoya people noted

⁴¹This also points to a power struggle between the Ministry of the Environment and the Ministry of Energy and Mines. “According to the law the Environmental Ministry is the highest authority on the environment, but what really happens is that it does not participate in oil projects” (E-2:12).

that concerns remained, despite environmental impact and management assessments:

Most of us here are satisfied that the technological aspects of this seismic testing are fairly well designed and represent a standard strategy that may not be particularly damaging (since this simply involves the establishment of a transect grid, the installation of geophones and a series of underground explosions). What preoccupies us most about this activity is that in practice, at least a few hundred people are required to work in the forest — cutting and then repeatedly walking closely-spaced grid lines, creating localized but serious impacts in a way that will extend to essentially every part of the forest (D-E-55).

Furthermore, the possibility of the discovery of large deposits of crude oil and consequent production activities, generated concerns about the construction of access roads and further colonization.

In addition, under Article 28 of Ecuador's Environmental Management Law and at the request of the Ministry of the Environment, AEC was required to negotiate with ONISE and OISE and the affected Siona and Secoya communities to establish compensation for seismic work and community benefits (D-E-45:T2).

Negotiations with ONISE (Siona)

AEC representatives met several times with delegates from ONISE, and representatives from the communities of Puerto Bolívar and Tarapuy. On May 29, 2002 an agreement was reached, stating that ONISE had consulted with its members and that its members approved of the terms of the agreement and gave AEC authorization to commence with the seismic work (D-E-45:T2). The agreement was witnessed by representatives from CONAIE and CONFENAIE (E-33:236). Seismic work includes mapping topography, construction of trails, heliports, drilling platforms, drilling, firing (dynamite explosions), registering

shockwaves, refraction, verification in the field and collecting samples. The agreement was notarized and signed on June 12, 2002 (D-E-45). It pertained solely to 3D seismic work AEC was to undertake between December 2002 and April 2003.

Under the terms of the agreement AEC agreed to pay the Siona Nation “for their cooperation” twenty US dollars per hectare, for a total of \$340,000. ONISE agreed that the money would be used for projects to benefit the members of the Siona Nation and to report and provide documentation to AEC on the uses of the money received. A further stipulation noted that “there will be no additional payment for any reason” (D-E-45:T3). AEC would also contribute a new 12-person “2002 Van Ford Club Wagon E-350 XLT” to be used by *Empresa Siona Tours*, for tourism activities; US\$10,000 towards operations at the ONISE office; US\$15,000 to purchase land for an ONISE building; a maximum of US\$12,000 to purchase a pick-up truck for ONISE activities; and a 40 HP outboard motor for ONISE activities (D-E-45:T3).

The agreement then stipulated the timing of various payouts, from the “first passing of the drill”, to the completion of the seismic project (D-E-45:T3, 4). In addition, AEC promised the Siona Nation “opportunities to contract with AEC” and a number of workplaces “proportionate to ONISE”, or “the number of hectares of this project” (D-E-45:T5, 6). Employment characteristics of work in the oil industry typically reveal a surge of work in the exploration phase and construction of infrastructure. Work related to seismic exploration generally is short-term and consists of manual labour to clear trails, set explosives and so on. The planning horizon is typically very short, which does not give Indigenes time to position themselves for employment.

Despite its collective culture, the Siona Nation committed “*individually* and collectively” to permit and guarantee to let AEC Ecuador carry out the work,

collaborate with contractors and subcontractors and to respect AEC's workers. AEC committed to respect the members of the Siona nation and their culture ((D-45:T4; emphasis added). Clauses 5.1, 5.6, 6.4, 10 and 12 of the agreement all stressed in one way or another, that members of the Siona Nation would not obstruct the seismic work and would respect the agreement, "even if there should be a change of directors" (D-E-45:T5). The precision of the agreement contrasted sharply with the aspirational language of EnCana's constitution and code of conduct.

Agreements made with various small colonist settlements in Cuyabeno Reserve used the same compensation amount of U.S. twenty dollars per hectare. Every 50 hectare colonist farm received U.S. \$ 1,000 as compensation, proportionally adjusted if the size of the farm was more or less than 50 hectares. Colonist farmers also would be employed by AEC, "proportionate to the number of hectares occupied" (D-E-52). In addition, each settlement (*cooperativa*) received U.S. \$ 2,500 to help solve the community's "most urgent problems" and to "improve the quality of life" (D-E-52).

As related above, negotiations with the Siona nation were with ONISE and representatives from the communities of Puerto Bolívar and Tarapuy. According to some, the agreement was completed in "total silence" (D-E-18). It was not until December 16, 2002 that the communities of Bi'aña and Orahuëaya' met to discuss the "problems left by President William Criollo (ONISE), who negotiated unilaterally without consulting all centers" (D-E-35).

At the time, William Criollo, a young man about twenty-five years old, was president of ONISE, president of the community of Puerto Bolívar and president of *Empresa Siona Tours*, a Siona-run ecotourism organization. Puerto Bolívar's population of about sixty male adults over the age of fifteen consists primarily of two Siona clans: the Criollo family and the Piaguaje family. Tourism activity is

controlled by the Catholic Criollo family, to the almost complete exclusion of the Evangelical Piaguaje family, exacerbating traditional kinship rivalries and introducing modern religious tensions (D-E-33:237). The agreement's inclusion of a 12-person van for use by *Empresa Siona Tours* directly benefited William Criollo and his business.

I used to be friends with Willy (Criollo). We used to get together and talk. Since the agreement, Willy is the 'big man' in town and he doesn't talk to me anymore. He got a bus and a pick-up truck for his tourism business, then his brother got into an accident with the truck and they sold it and bought a motorcycle instead. The whole Criollo family did very well from that agreement (E-32:240).

The two excluded communities, Bi'aña and Orahueäya', met on December 16, 2002 and rejected the agreement made between AEC Ecuador and "William Criollo." The meeting minutes emphasized that "Siona territory cannot be divided by president William Criollo." (E-35:2). The communities demanded a meeting within five days. Despite the fact that AEC had already commenced seismic work, this meeting did not take place until January 8, 2003.

The Amazon tourism industry was alerted to the seismic work following the publication of the environmental license approval and also became involved in December. The tourism operators association issued a strongly worded invitation to NGOs, public authorities and civil organizations to attend the January 8 meeting, stating that it was essential to stop AEC from "destroying traditional communities and biodiversity" (D-E-38). The letter continued by saying that, in a province affected severely by the effects of Plan Colombia and the "invasion of oil interests," oil exploration in Cuyabeno Reserve would dash "unique hopes" for the development of a tourism industry that employs many local people and could become an alternative source of income and employment for the country.

According to a tour operator: “one major spill would put all the tour operators in the area out of business” (E-57:247). Since most oil activities were concentrated at the headwaters of the Aguas Negras River, any oil spilled could possibly contaminate the whole of the Cuyabeno watershed.

Bi’aña and Orahueaya’ representatives were highly critical of a development agency’s involvement in the original negotiations between AEC and ONISE. Assisting William Criollo, Arturo Proaño, a representative of the *Fondo Ecuatoriano Populorum Progressio* (FEPP), was accused of weakening the unity of the Siona people and ONISE and to favour the interests of “a transnational,” rather than the collective rights of the people.⁴² Proaño was further accused of demonstrating a “clear bias” in favour of AEC and to allow the destruction of biodiversity without analyzing or discussing the environmental impact assessment, “mortgaging the future of the people for a miserable \$340,000” (D-E-34). The January 8 meeting was held at the FEPP offices in Lago Agrio, but—contrary to custom—FEPP refused to let a group of Siona from Bi’aña and Orahueaya’ sleep in their building the night prior to the meeting. Lack of funds forced the group (including children) to sleep in the streets, resulting in a media announcement declaring Arturo Proaño “inhuman” and “persona non grata” (D-E-30).

The January 8 meeting proceeded with many invited guests in attendance, including the mayor and vice-mayor of Cuyabeno, a delegate from the Ministry of the Environment, FEPP representatives, provincial councillors, councillors from the town of Lago Agrio, tourism operators, media representatives and environmental NGOs. AEC was not represented, despite being invited to the meeting.

42 FEPP is an Ecuadorean development institution.

The meeting found AEC in violation of Ecuador's constitution and International Labour Organization Article 169 (assuring Indigenous peoples' right to consultation), and guilty of provoking conflict in the Siona Nation. It declared the agreement between AEC and "William Criollo" null and void.

Following the meeting, a number of municipal and provincial representatives, tourism operators, the communities of Bi'aña and Orahue'aya', and NGOs, including the *Frente de Defensa de la Amazonia (FDA—Front for the Defence of the Amazon)*, formed the Committee for the Defence of Cuyabeno (*El Comercio*, January 18, 2003). The newspaper *El Comercio* commented that the Bi'aña and Orahue'aya' centres maintained a "double position" regarding oil exploration. Rather than being in total opposition to oil activity, their main concern was that they had been left out of negotiations for compensation (January 18, 2003). As reported in the same newspaper article, a spokeswoman for AEC commented that the company had complied with all applicable laws and had negotiated a compensation agreement with the legal representatives of ONISE. According to William Criollo, "[t]he agreement did not discriminate against any centre."

By the end of January 2003 a new agreement had been negotiated ensuring that all centres would benefit directly from the \$340,000 negotiated with AEC. At that point AEC had paid out a portion of the settlement, amounting to \$102,000. This amount was divided between eighty-six adults over the age of 15 in Puerto Bolívar and Tarapuy, who each received a cheque for \$ 1,162. Seismic work had not yet started in the Bi'aña and Orahue'aya' region. By then only the Municipal Council of Cuyabeno, the Sucumbíos Provincial Council, and some NGOs remained opposed to the seismic work in Cuyabeno.

Eventually all adults in all four communities received cheques—some reports say for \$ 1,150, others cite a figure of \$ 1,400. A tour guide in Cuyabeno

told me to check the outboard motors on the dug-out canoes that are used to travel from place to place in the area. Before the payments, most boats had 25HP outboard motors; after the payments were made almost every canoe sported a brand new 40HP Yamaha outboard motor. Stories also circulated that many of the men had taken taxis to Quito and spent the money on alcohol and prostitutes.

Seismic work was completed by March 28, 2003. Representatives from the Siona nation signed off on the final agreement in a public ceremony, verifying the completion of the work in accordance with the Environmental Impact Assessment and Environmental Management Plan. The final sign-off also acknowledged the direct participation of the communities, specifically the work of eight Siona community-monitors, who inspected the environmental practices of AEC. Finally, the sign-off verified that all compensation had been paid (*La Hora*, May 3, 2003:A3).

According to EnCana vice-president Dick Wilson, the process was perhaps even more stringent than in Canada. An advisory committee of Indigenous groups, environmental groups and a government committee oversaw the seismic drilling. There was a review and evaluation with 120 Siona families participating. They agreed that EnCana did what they said they would, minimized the 'footprint' and that they were satisfied (A-28:204).

Asked what he could tell me about 'affected communities' in Cuyabeno Reserve, an AEC community development officer in Ecuador, said:

There are no affected communities. They are all happy. Testing was about a year ago. The whole Siona nation signed the agreement. There are about 300-350 people in the Siona nation...the whole nation participated and was happy with the agreement. (E-10:60).

Some newspaper reports noted that Cuyabeno's tourism operators had complained about the noise from seismic work and overhead helicopters. The reports noted that this had scared-off wildlife and disrupted the tourism industry. A late February, 2003 site visit by the Committee for the Defence of Cuyabeno noted an absence of wildlife in the area and some evidence of firing points too close to bodies of water.

A lengthy interview with the vice-president of ONISE who was party to the negotiations, illuminated the negotiation process from the perspective of the Siona Nation (E-33). According to this source the whole process took about a year and representatives from AEC came seven times to talk to the community. At first, AEC tried to impose an agreement on the community, but ONISE negotiators refused and made their own needs known to the company. An important requirement was that food and water would not be disturbed by the seismic activity. This requirement was not directly addressed in the final agreement, except for a reference that AEC would comply with the environmental management plan.

Strategic positioning by AEC as an agent of development and portraying its work as beneficial to the whole nation included an argument put forward by AEC that "the oil belongs to everybody and ONISE should help their fellow citizens in Ecuador by allowing oil exploration" (p. 236). The community rejected this argument, saying that "land, trees, animals, water, oil, minerals...it's all the same, all part of life" (p. 237). This totality, the Siona believe, belongs to the community, not the state. To the Siona it cannot be divided and everything depends on the natural environment: "*La tierra es la vida*" (the earth is life) (p. 237). A female villager in a Siona community made the same point very strongly when she told me:

For us the most important are the earth and the plants we need to survive. We grow corn, maize, rice, yucca...when the oil company comes it will disappear...money is not important. I don't care about that. The food is the most important, we need it to survive. I want them to tell me that the food will be safe. The best would be if the oil company would not come (E-5:41b).

According to ONISE's vice-president there was "a little trouble" with two of the Siona communities. The directors of ONISE subsequently met with representatives of all communities. "Some people were opposed, but once they understood, everyone agreed" (E-33:237). He also noted that some people thought that the directors signed the deal in secret and that the directors kept a lot of money for themselves. "But it is better that everyone knows. We had everything out in the open" (E-33:237).

A special point of pride for ONISE was that they took control over the negotiations and decided for themselves what they wanted. Government representatives also tried to tell them to sign the agreement with AEC, but ONISE said 'no thanks' and negotiated alone, *nada de gobierno* (without the government) (E-33:238). However, EnCana's vice-president for Environment, Health & Safety, and Community Affairs informed me that a government representative was legally required to be present at negotiations with communities. In this case, the requirement for government representation was met by Artur Proaño of the FEPP office located in Lago Agrio. Possibly, the Siona director considered 'government representatives' only those officials coming from Quito.

It also was very important that the communities and especially the directors

learned a lot from the process; we gained negotiating capacity and realized that as a community and nation we had to stand together, be

united and we had to all agree...Now the community has more power, we are more united and we gained a lot of knowledge from the negotiating process. Another benefit was that we learned more about our environment, there were many things we did not know before (E-33:237, 238).

As noted in other case studies, it appeared that Indigenous and experiential environmental knowledge was devalued and subjected to ‘expert’ knowledge. According to two Ecuadorean academics, the people said that

oil people talk to them using technical words, complicated explanations that they don't understand...and the oil companies understand that Indigenous people have this weakness (E-29:234).

A lack of western-based scientific literacy and technical skills can reduce the ability of communities to challenge corporate ‘experts’ about environmental and health impacts of proposed activities.⁴³

Possible future activities such as further exploration or production were not part of the agreement. The leadership of ONISE believed that the organization controlled whether future activities could take place.

We have control over our territory. We were given legal ownership and the right to manage our territory. That also means that we can say no to the oil company if they want to come back and do further work (E-33-236).

Given that the Ecuadorean state owns the subsoil resources and AEC’s agreement with the state included the rights to extraction within its Tarapoa block, it was highly unlikely that ONISE would be able to refuse further activity. A villager in Tarapuy had a more realistic—and fearful—reaction:

⁴³ A similar evaluation is made by Frynas, 2005; Korovkin, 2003.

They will come! The community can say no, but it will not make a difference. They will come!...It will be very bad for the people. The plants are dying, there will be no yucca, no bananas left. I think the plants would be destroyed and the people need the plants to survive (E-05:41).

A report on the Ecuador operations in EnCana's annual report for the year 2003 by then president of the Ecuador region, Don Swystun, stated merely:

In the undeveloped eastern portion of the 90,000-acre Tarapoa block, EnCanEcuador is evaluating the exploration potential after completing a three-dimensional seismic program in 2003 (D-ECA-59).

By the following year, EnCana had put its Ecuador holdings up for sale.

Negotiations with OISE (Secoya)

Time, financial and travel constraints prevented me from interviewing Secoya representatives directly. Analysis of negotiations between AEC Ecuador and OISE, the organization representing the Secoya nation, are based on a direct interview with Ermel Chavez, the leader of the Environmental Defence Coalition (*Frente de Defensa de la Amazonía - FDA*), two direct interviews with academics familiar with the case and on documents obtained from a (now Ecuadorean) NGO, which has worked with the Secoya for at least ten years. Previously the work of this NGO was based at the Institute for Science and Interdisciplinary Studies (ISIS), associated with Hampshire University in Amherst, Massachusetts. Of specific interest is a comparison of the agreements made between AEC Ecuador and ONISE (as described above) and OISE. I have chosen this comparative analysis to point to some subtle, but important differences in the negotiating process. This analysis will follow the description of events, to which I will now turn.

The Secoya territory is located further south and west than the territory of the Siona causing somewhat earlier contact with external interests. The Secoya territory borders on the Sushufindi, Libertador and Tarapoa oil concessions. A large part of Secoya territory falls within oil concession Block 15, under license by Occidental Exploration and Production Company of the United States. In 2000, the company (commonly referred to as 'Oxy') transferred a forty percent interest in Block 15 to EnCanEcuador.⁴⁴ In addition, about 15,000 hectares of African palm oil plantations are located to the north of their granted territory. The South American rubber boom began in 1894 and briefly opened the northern *Oriente* to palm oil interests. The Secoya people were forced into labour on the rubber plantations, resulting in a high degree of social dislocation.

During the 1970s and 1980s new oil roads were opened, followed by new waves of colonization. The upper Aguarico watershed, home to the Secoya people, experienced the highest rate of deforestation in Latin America during the 1970s and 1980s. Following the rubber boom only about 120 adult Secoya were left. Many died from newly introduced communicable diseases and others moved deeper into the jungle. Currently, their numbers have increased to 300-500 persons in three communities: Secoya San Pablo de Catetsiaya, Secoya Remolino and Secoya Eno.⁴⁵ Initial effects of oil exploration were centred in the community

⁴⁴ The controversial transfer was not reported to, or disclosed to the government of Ecuador, leading to the eventual expulsion of Oxy from Ecuador. Popular protests in 2005 demanded the removal of both Oxy and EnCana from the country (http://news.ft.com/cms/s/c2fc7c2c-1083-11da-adc0-00000e2511c8.ft_acl=s01=1.html)

⁴⁵The number of Secoya living in these communities is 330 according to *Frente de Defensa de la Amazonia*, and 490 according to the Ecuador government agency CODENPE (<http://www.codenpe.gov.ec/secoya.htm>)

of San Pablo de Catetsiaya, in a major oil producing area and the site of a gas refinery.

Over time, the Secoya had to negotiate their rights with numerous groups entering their territory – palm oil plantations, oil companies, colonists and other Indigenous nations such as the Quichua and Shuar, some of whom have also settled in the area. An academic source commented that the Secoya were “limited and enclosed by different agreements” with the various interests in their territory (E-29:231). Communities were polarized between two co-existing sets of feelings. Based on past experience, they lived in fear of the social, environmental and cultural impacts of oil exploitation in their territory, coupled with hopes and expectations of benefits and a better life (E-2:9).

Oil companies, attempting to gain access to remote territories tended to follow a general approach, an “oil exploitation model,” identified by several Ecuadorean academics (E-1, E-2, E-29, E-30). During the first thirty years of exploration, oil company workers used to walk into a village or settlement, offer the population some rice, machetes, rain boots, chainsaws, or other minimal tokens and proceed to commence work. John Wright, CEO of PacAlta referred to a “rubber-boots-and-chocolate” style of paternalism. “They’d give the dads rubber boots to keep their feet dry and give the kids chocolate as a reward for keeping clear of the operation” (Keyser, 2006). Now, more formal negotiations take place, although some of the old attitudes remained. In the early phase of a proposed project

the enterprise...tries to obtain support to enter...central strategies at this point are related to control and safety. Strategies available at this point are short-term agreements, deals with specific groups, families, or even individuals, etc. (E-2:9, 10).

Ecuadorean law specified that oil companies should consult with “communities,” but did not specify what a community is. This provided an opportunity to consult with fragments of the population to fulfill the consultation requirement, as happened in the case of the Siona people. According to several researchers, this led to conflict and social disintegration.

When there is a group opposed to the project, in many cases the majority, companies concentrate their energies trying to exclude the dissidents, to make the opposition disappear. The oil companies send people—sociologists, anthropologists—to identify...the complex universe of contradictions within communities. They locate those groups that could become allies of enterprises and start working with them...In the Amazon these people are known as ‘Experts in Community Manipulation.’ And some of them are really efficient (E-2:9; E-30:234).

In 1999, in response to previous experience and ongoing conflict, the Secoya people—with the assistance of national and international NGOs—negotiated a Code of Conduct with Occidental Petroleum, prior to further seismic exploration on their lands.⁴⁶

The Code of Conduct is notable for the fact that it did not address operations, rather it established a process for negotiations, attempting to address the highly unequal bargaining power and access to information between parties. The objective of the Code of Conduct is to establish the principles, procedures, requirements, responsibilities, and obligations that OISE and OEPC should fulfill during the discussion process relating to the petroleum activities of OEPC in territory of the Secoya Nation situated within Block 15 (D-E-20).

⁴⁶ For an analysis of the Code of Conduct negotiations, see Melo, March 2000, *Centro de Derecho Económicos y Sociales*.

The code of conduct, “a mechanism to try to eliminate the asymmetry” between oil interests and the Secoya people, was a landmark agreement within the Ecuadorian oil industry, governing dialogue between an oil company and an Indigenous organization (E-1:4). The Code of Conduct was especially important to the “dignity of the Secoya people”, so they would no longer “negotiate from their knees” (D-E-20:43). However, according to one source, the code was “not a typical example. It is not easily repeatable in other cases in the Ecuadorean Amazon” (E-1:4).

Negotiation of a Code of Conduct was, however, repeated in February of 2002, when OISE and City Investing (later AEC Ecuador) agreed to a code specifying a “process of dialogue” between the two parties, prior to negotiating an agreement to allow seismic prospecting by AEC Ecuador in the Tarapoa Block and Cuyabeno Reserve. OISE signed an agreement on behalf of all Secoya communities on June 12, 2002, around the same time the initial agreement was reached between ONISE and the Siona population of Puerto Bolívar and Tarapuy (D-E-52).

Meetings, “in compliance with the Code of Conduct” were held between AEC, OISE and the directors of each of the Secoya centres “at the designated Dialogue Table (*Mesa de Diálogo*)” on the third and fourth of June 2002. The agreement was ratified by the members of OISE on June ninth 2002 (D-E-52). The Secoya Nation received US\$37,252,30. Specified in the agreement were precise amounts for the use of the compensation. The money was to be spent on an environmental technician, health, education and agriculture management projects and a small portion (\$2000) towards the management of OISE. In comparison to ONISE’s seven meetings, close to a year of negotiations and further negotiations with the two initially excluded communities of the Siona people, the process was swift and straightforward.

Subtle, but important differences can be found in a close reading and comparison of the two agreements, one between AEC and ONISE (Siona), the other between AEC and OISE (Secoya). In the following analysis I will simply refer to ONISE and OISE to differentiate between the agreements. I will italicize the differences for clarity. Where appropriate the original Spanish terms are noted in brackets.

1. The preamble to the objectives (Clause 2) of the agreements, states that ONISE has to comply with (*debiendo cumplirse*) the terms of the agreement; OISE must *observe* (*debiendo observarse*) the terms.
2. Clause 3 states that ONISE will receive monies and goods for *indemnification and co-operation*; OISE simply receives *compensation*.
3. The bulk of the monies paid to ONISE will *be used for projects that will benefit the members of the Siona Nation*; OISE's agreement contains *a clear and precise schedule of distribution for projects beneficial to the community*, including amounts for each project.
4. ONISE will *provide documentation* to AEC on the uses of the money paid to them; OISE commits to *inform* AEC how the money is used.
5. Both agreements contain a clause stating that the legal authority to ensure compliance with environmental regulations rests with the Undersecretary for Environmental Protection within the Ministry of Energy and Mines. Both also refer to the Environmental Impact Assessment and Environmental Management Plan as the public documents that govern the obligations of AEC regarding environmental activities.

Only the OISE agreement contains an additional clause informing AEC that OISE's *Environmental Monitoring Committee* will be *vigilant* in monitoring the seismic activities of AEC.

6. OISE also formed a *Follow-Up Committee (Comisión de Seguimiento)* to deal with clarification of issues as required and to function as a first forum for the resolution of any disagreements.

My analysis of the differences between the two agreements and the addition of clauses referring to the Environmental Monitoring Committee, plus the establishment of a Follow-Up Committee, indicates a much stronger and confident negotiating position for OISE. Without getting into semantics, it is clear in the case of ONISE that the different terms used indicated a more subservient position and a larger degree of control by AEC over the conditions of the agreements than was the case for OISE.

NGO Coalitions

OISE also benefited from the involvement of the Amazon Defence Coalition (FDA) with their negotiations. While some would prefer to see the oil companies leave the Amazon altogether, a realization had set in that, in the case of the Northern Amazon, this was no longer possible.

In Central and South-East Amazonia the companies are just entering, so they (Indigenes) still have the opportunity to try and keep them out, or at least to demand good conditions...the reality in our (Northern Amazon) case is that we cannot take them out of here (E-36:226).

Despite the fact that many areas in the Amazon had been declared protected areas, patrimonial forest, or nature reserves, "something called 'national interest' always trumps protected areas" (E-29:233). Asked whether his department had ever refused an exploration license in a protected area, or due to Indigenous

opposition, the answer of the National Director of Environmental Protection in the Department of Mines and Energy was a simple: "Never!" (E-26:71).

The Amazon Defence Coalition, a coalition of colonist and environmental groups—originally formed in 1995 to represent local interests in the legal case against Chevron-Texaco for its past pollution of the northern Amazon—provided technical and legal support to communities and groups in oil producing regions and worked closely with Indigenous organizations. Their vision was to “help communities understand their rights to negotiate with companies, and develop a vision for the future” (E-62:263).

As in Alberta, consultation, self-determination and the opportunity to participate in decision-making were central concerns for Indigenous peoples and local communities in Ecuador.

It is different now, people have an environmental conscience...in the ten years we have been working here, we have achieved that people take care of the environment and that they have a voice...not in decision-making, but at least in the process (E-36:226).

Indigenous demands for consultation and a voice in decision-making processes are based on International Labour Organization Convention 169, which gives Indigenous Peoples the right to Free, Prior and Informed Consent. This convention has been ratified by the Ecuadorean government and is part of its constitution. Unlike the Canadian Supreme Court decisions, stating that Indigenous Peoples do not have the right to reject resource extraction on their lands, the principle of FPIC includes the possibility of rejection.

The legal regulations on consultation, created in a process that included foreign oil corporations,

did not recognize the 'peoples' character of Indigenous people as territorial and cultural unities...so the regulation talks about consultation

with 'communities' and not 'peoples'...also the regulation legitimized the fact that consultation with Indigenous peoples could be done by oil companies and state participation in this process is not necessary (E-2:11, 12).

In a country professing to be 'plurinational', the idea of collective rights of Indigenous peoples had not penetrated into Western minds. "I think that both (individual and collective) rights should be the same thing...we have been working on that...but the company thinks the opposite" (E-36:225).

In this legal gap, oil companies generally tended to negotiate with "vulnerable people, offering money in exchange for a signed permission, so they can achieve their goals" (E-29:234). According to the FDA, AEC was no exception to this practice:

They offer money to leaders of the community, consequently leaders take the company side forgetting the community's interest. So then, other leaders appear and conflicts start....there is...a terrible economic crisis in the Amazon...that's why people sell their conscience when AEC offers them money, even if it is little....It is different here, the laws are not respected...maybe they (AEC) think we are savages and uncivilized people (E-36:225, 229).

Generally, communities and Indigenous Peoples invited the FDA to be part of the negotiation process with oil companies.

There was a time when 'City' operated here and we tried to push them for a fair negotiation process with the people, so they said: 'OK, let's negotiate with the people, but we want the Amazon Defense Coalition out of the process...but the communities invited us to be part of the process anyway (E-36:226).

FDA's experience with negotiations had pointed the way towards strategies that attempted to address the power and resource asymmetries between corporations and communities. Municipal and provincial councils were represented in the negotiations, adding a further level of inclusiveness. The national state, however, was generally absent from the process.

The Ecuadorean state just signs contracts with the oil companies and gives them total freedom to explore and get the oil out. There is an absence of the state in the process...the state also takes no role in relations between companies and communities (E-36:228).

Academics commented along the same lines and spoke of the “marginal”, “limited” and “timid” role of the state and the state's failure to press the rights of Indigenous peoples and local communities (E-1:8; E-2:9; D-E-54:28).

Negotiations attempted to reach more balanced agreements, for example, provisions in the case of default, giving the right to cancel an agreement to both parties not just to the company (E-36:227). Rather than merely reacting to company proposals, or simply producing a list of projects, communities strategically put proposals on the negotiating table “rooted in long-term strategic visions of the community” (E-62:263).

When the community does not have (their own) plan, the company has more power....so we are discovering that to have an equal process, we must have a plan ourselves, that addresses community needs according to its own realities...that is why we are promoting 'Community Development Plans' which...correspond to real conditions and demands of the community, in order to establish a symmetric situation to negotiate with the companies (E-36:226, 227).

The strategy had delivered improved results:

Their attitude changes when we tell them: 'These are our needs, our demands. How do you respond?' Then a different process takes place, because we negotiate over proposals from both sides...that is how 'dialogue tables' get started (E-36:227).

With the help of the FDA, communities adopted a proactive approach allowing them to forward plans rooted in their own cultural, traditional, spiritual and livelihood objectives.

Summary

In the above section I have analyzed negotiations to gain access to Indigenous territory for a 3D seismic project, between AEC Ecuador and the Siona and Secoya nations. Seismic exploration was carried out between December 2002 and April 2003.

Indigenous attempts to gain a voice in decision-making and a degree of self-determination, based on the principle of free, prior and informed consent, were limited by the inaction of the Ecuadorean state and by the unwillingness of oil companies to acknowledge the principle of FPIC. Oil companies were hesitant to start consulting early, when knowledge of their findings and options to proceed are still unclear. Indigenous communities wanted to be part of the process from the beginning.

Analysis of the negotiations and subsequent agreements between AEC Ecuador and the Indigenous Secoya and Siona peoples in relation to 3D seismic work in the Cuyabeno Reserve on territory granted to and managed by them, revealed different processes. A number of conclusions can be drawn identifying the reasons for these differences.

First, the Secoya gained earlier experience negotiating with outsiders than the Siona. Their longstanding experience with Occidental Petroleum and the palm

oil plantations had honed their abilities to engage with outside interests. The Siona peoples are located further into Cuyabeno Reserve and their experience with oil interests is more recent. The Secoya benefited from alliances with outside groups, such as ISIS, the FDA, and CDES, who assisted in formulating a Code of Conduct for negotiating processes. The Code of Conduct enabled OISE to put forward their own objectives and allowed them to negotiate from a position of strength.

Second, OISE acted on behalf of all Secoya, and included the presidents of all Secoya centres in the process. Compensation proceeds from the agreement were designated for specific, communal purposes. ONISE used the process to benefit certain parties within ONISE and excluded two communities, a source of continuing internal conflict. Compensation proceeds were designated to some projects within ONISE, disproportionately benefiting certain interests within ONISE, however, a very large amount was not tied to long-term plans or objectives for the Siona nation as a collectivity.

It must be acknowledged that AEC Ecuador was at times in a difficult and almost impossible position. Negotiations were made in good faith with the leadership of ONISE, which stated that they had consulted with all of their members yet neglected two of their own communities. The government representative in this case appeared to not only have condoned the strategies of ONISE's leadership, but actively participated in the exclusion of two of ONISE's communities.

It is interesting to note that a summary of the 'General Characteristics of the Siona and Secoya communities' on the FDA website does not list employment or income from oil companies as a 'principal economic activity.' However, under 'problems', 'environmental contamination' is listed for both. In the case of the

Siona Nation, 'internal conflicts in the community' is added under 'problems' (FDA website; accessed June 2, 2009).

Third, while ONISE also had the support of certain outside groups, these groups appeared to have had little impact on the process. The tourism industry protested exploration in the Cuyabeno Reserve, however, their self-interest in maintaining lucrative tour businesses was not directly related to the interests of the Siona peoples. Environmental groups, active in the Cuyabeno Defence Front were not able to collect convincing evidence of environmental misbehaviour related to seismic work by AEC Ecuador. In one case, a contradictory position was taken by both the tourism industry and the environmental NGO, complaining about noise from helicopters that resulted in the absence of wildlife. However, the use of helicopters minimized access trails into the Reserve that might later be used by *colonos* to settle deeper into the Cuyabeno Reserve.

In both cases, Indigenous organizations attempted to negotiate settlements 'without the state'. Evidence presented shows that the Ecuadorean state pressured Indigenous groups to allow access to oil interests on their territories to serve the national interest. The near-completion of the new OCP pipeline required increased production from the Amazon to fill the pipeline.

EnCana (AEC Ecuador)'s relations with settler communities in Tarapoa Block

Despite my focus on Indigenous peoples, I would be amiss to not include a report on AEC Ecuador's relations with the settler communities located in the direct vicinity of AEC's Tarapoa base camp. These include the towns of Aguas Negras and Tarapoa. AEC's CSR efforts were focused on the colonist population in these communities and AEC's community development foundation ÑanPaz (Quichua for 'road to peace') is located in Aguas Negras. Furthermore, I was granted a tour of ÑanPaz and several of its projects, guided by AEC's community

development officer at the foundation, followed by an interview with John Keplinger, EnCanEcuador's general manager and Fernando Benalcazar, its vice-president of Environment, Health & Safety, and Community Affairs in the EnCanEcuador head office in Quito.⁴⁷

EnCana's then-president Gwyn Morgan advanced AEC and ÑanPaz as “a model for social responsibility” (E-06:43). While its participation in building the OCP oil pipeline garnered AEC/EnCana a lot of international attention, opposition and bad publicity, many of AEC's ongoing difficulties with its social responsibilities were a result of its interactions with the *colonos* located near its operations.

I will first present a brief history of the Fundación ÑanPaz (FNP) and locate the position of the colonists in the Ecuadorean Amazon. This is followed by a narrative relating the AEC-guided tour of ÑanPaz projects and the foundation's site. I will then expand on my findings by presenting additional interviews I conducted independently with *colonos* in the area, other NGOs and interviews at AEC headquarters in Quito, and present their evaluations and my analysis. Finally, I will focus briefly on the issue of security and the militarization of oil producing regions.

Social responsibility at arms-length? The ÑanPaz foundation

Travelling into the Amazon, two visually striking images have remained with me and illustrate the nature of relations between AEC and the communities in its area of operations. First was the sight of EnCana's base of operations in Tarapoa. After several hours on poorly maintained roads, driving by humble farms and bare homes, EnCana's compound rose out of the forest like an alien

⁴⁷AEC/EnCanEcuador does not open its doors to very many researchers, or outside interests. A Canadian team filming a documentary on the OCP pipeline, in Ecuador at the same time I was, had asked repeatedly for a tour of ÑanPaz. Despite four months of efforts, they never even received a reply.

vessel that has landed in the middle of the jungle. The compound was completely surrounded by electrified barbed wire fences with guard towers at intervals.

Within the compound were an airplane landing strip, modern, clean, painted and well-maintained buildings, running water, sanitation and electricity that always worked.⁴⁸ The office building I visited was comfortably air-conditioned. Just approaching the gates had guards raising weapons and questioning the visitor's reasons for being there and whether or not the visit was authorized.

The second memorable visual image was of the Fundación ÑanPaz buildings and compound. The main building rose above the jungle like a cathedral, much higher than anything surrounding it and much grander than anything since the capital city Quito. Inside were spacious (mostly empty) rooms, stone-work floors, and dining and sleeping facilities for invited visitors. A few young women worked as guides and explained the display of the flora and fauna, and the Indigenous inhabitants of the area. On the sixty hectares of grounds was FNP's model integrated farm, set up as a demonstration project to improve the farming practices of the colonists in the area. Again, armed guards were stationed throughout the grounds.

Fundación ÑanPaz was established in 1997 by Pacalta, with its own charter and bylaws and registered with the Social Welfare Department in Ecuador. FNP was fully funded by Pacalta to operate in the region of its operations. Its initial director was Jim Geenen, a U.S. born career international development NGO leader and the foundation had some board members from Pacalta's management ranks. From the beginning FNP sought ties with and additional funding from national and international development organizations.

⁴⁸ Unlike the town, where electricity was sporadic and random until the year just prior to my visit. Since then, electricity, provided by the Ecuadorean state, was available most of the time. Electricity was provided in 2002 following fifteen days of strikes and roadblocks.

Although FNP was established as a not-for-profit, nongovernmental organization, there was a fair bit of confusion within the community—and possibly within the company—where FNP ends and AEC begins. When asked, the Quito-based community development officer of AEC for the region replied:

Some projects are done directly; there is also another community department that handles other projects; health and education are usually done by the (community relations) department; ÑanPaz handles other projects; sometimes they do projects together (E-10:61).

During my tour of AEC/FNP's projects I noted that most buildings and projects displayed the AEC logo, and only some the FNP logo. An officer of the Canadian-Ecuadorean Development Fund (funded by CIDA) involved in a joint project with FNP in Aguas Negras, noted that his office “doesn't really work with corporations. We work with the foundation they have created, that is ÑanPaz, an NGO” (E-07:51). At the end of the interview, when asked about future projects with oil companies, the officer noted that they would work with other NGOs set up by oil companies, “but maybe they will not have as tight control over the NGO they set up as EnCana did” (E-07:53). The president of the coffee processing project jointly funded by ÑanPaz and the Canadian-Ecuadorean Development Fund perhaps summed it up best: “Technical assistance was provided by ÑanPaz Foundation and of course by AEC, which is really the financial supporter” (E-03:14).

When AEC bought Pacalta, it also inherited the foundation from its predecessor. According to a study done by Harry Vredenburg of the University of Calgary's Haskayne School of Business, the foundation functioned quite successfully as a “bridging strategy” between Pacalta and the surrounding communities. However,

[w]hen Pacalta was acquired by another larger company, Alberta Energy Company (AEC) in 1999, the new owners were concerned with control of the strategic bridging organisation, FNP. Their thinking was that as they were 'paying the piper' they should be able to 'call the tune'. By trying to control FNP more closely they jeopardised some of the true international development projects and favoured more traditional paternalistic oil company initiatives. This in turn compromised FNP's (and the oil company's) relationship with the communities because the community leaders saw FNP as being little more than an arm of the oil company rather than the much more independent NGO that had initially been set up. Some of the old problems started to reappear. AEC had fallen into one of the traps to which strategic bridging is vulnerable (2003:44).

At the time of my research, the chair of FNP's board was Pat Trottier, an oil and gas consultant and the spouse of EnCana president Gwyn Morgan. Funding for FNP from AEC was about US\$ 600,000 annually. Referring to the PacAlta era, EnCana's vice-president of public affairs said:

Ñanpaz used to be run by a 'gringo' who was regarded with suspicion...people don't always make the connection. We are now converting Ñanpaz into a funding organization...we will bring in Ecuadorean NGOs to work on sustainable development programs. This will be non-company dominated and not gringos running it (A-28:213).

In 2001, AEC hired an Ecuadorean as its vice president of community relations and some locals noted that since that time relations with AEC had improved (E-04:36).

Colonos and community relations with AEC Ecuador

It is estimated that about one million hectares of land in the *Oriente* were colonized by outsiders as a direct result of the development of oil road infrastructure (E-29:232). Other estimates are that between 400-2400 hectares are colonized for every kilometre of new oil road (Nolso Aaenn, 2005). Encouraged by the Ecuadorean government, *mestizos* from the coast and Andean highlands settled in the Amazon, first, to relieve population pressures and a shortage of farmland, second to establish a “living frontier” in Ecuador's dispute with Peru over its eastern border. Now, more than thirty years later, new generations of farmers born in the *Oriente* consider this their only home (E-1:7).

Colonos occupy a contradictory position in the *Oriente*. Most settlers came to the Amazon to make a better life for themselves and their families. They are proud of their role in the settling of Ecuador's frontier territories. They are extremely poor and suffer from environmental pollution caused by oil exploitation in the places where they live. But they are also invaders of Indigenous lands and contributors to deforestation.

Politically, *colonos* exercised power at the regional and provincial level. They were by far the most populous group in Sucumbíos province and constituted a strong faction in the bi-provincial Assembly of Civil Society, a gathering that strongly influenced local and regional decision-making (E-1:7).

The farming community in Aguas Negras formed *La Federación de Organizaciones Campesinas Aguas Negras (FOCAN)* in 1994, to defend the interests of their community and to procure resources for sustainable development (D-E-51H). Participation in a lawsuit against Texaco (now Chevron-Texaco) Corporation for past pollution was the initial impetus for organizing FOCAN. Environmental issues in general became their main focus, but the organization also engaged in capacity building for its people and legal issues (E-38:230).

FOCAN had made numerous agreements with Fundación ÑanPaz, although it was notable that each agreement was witnessed by a representative from AEC Ecuador (D-E-51).

Community Development in host communities

Field research in the communities of Aguas Negras and Tarapoa consisted of two days of extensive interviews. First, a day-long guided tour with representatives from AEC and Ñanpaz Foundation. Second, I conducted numerous independent interviews with community leaders and representatives. Arriving at the Fundación ÑanPaz I expected a tour of perhaps a few hours, however, I was informed that two days had been set aside for my visit. I could not accept the full two days, as I had set aside the next day for interviews with an independent guide. Regrettably, the FNP guided tour had to be cut to one day.

The tour was a logistical marvel. Our guides, a *Fundación ÑanPaz* employee, and AEC's community relations officer (CRO) in Tarapoa, travelled with us (myself, my translator and another researcher I had met in Quito).⁴⁹ A second vehicle travelled ahead of us, to make sure everything was ready and the beneficiaries of projects were gathered at the project and ready to speak to us. At different places we were joined by community leaders, and representatives of local organizations.

According to our guides:

We have prepared a 'Development Plan' in which we pay attention to community participation through meetings and assemblies with leaders, local and provincial authorities. This is a voluntary decision, beyond

⁴⁹ The researcher, Patricia Widener from the United States, was doing fieldwork on the involvement of international NGOs in the protests against the building of the OCP, Ecuador's new pipeline, in which EnCana had a major interest. She also had previously requested a visit to FNP, but had been refused. When I received my invitation I asked EnCana's head office whether Pat could come along and they agreed.

obligations imposed by law... At present we work with the FAO (Food and Agricultural Organization of the United Nations)...the Public Health Ministry (of Ecuador), the Vice-President of the Ecuadorean Republic office and three Ecuadorean NGOs...We work directly with three institutions that co-finance and co-execute projects: the Interamerican Foundation, INNFA (Ecuadorean children and family institution) and the Ecuadorean-Canadian Development Fund (E-03:13).

FNP also worked with the provincial health department, and an organization promoting allopathic medicine.

The development plan was created jointly by FNP and AEC and intended to be an “integrated” plan to address all aspects of development. “We are no longer working in a dispersed way, attending to isolated problems. Now we have a plan that integrates all the aspects of development” (E-03:26). The plan was for a period of six to eight years and intended to undertake 75 projects in the area (E-03:15). AEC Ecuador’s long-term plan was to withdraw from direct provisioning of services and to become a co-funder, letting other organizations execute the actual projects.

Referring to EnCana’s philosophy of capacity building and providing a ‘hand-up, not a hand-out’, the CRO told us that one of the company’s institutional goals was to

create micro-enterprises that can provide direct services to EnCana Corporation....according to the rhythm and dynamic of the company....and for the people (to create) a different way to obtain money in case the company leaves....I will tell you that two and a half years ago, local people did not want to work for the company, because they earned enough income from their coffee crops, but when coffee prices fell, people started to get interested in getting a job with the

company. Unfortunately, we cannot absorb the full demand of local hand labour (E-03:13, 14, 29).

At the time, three micro-enterprises had been set up: trash collection, recycling paper, and a reforestation program. During the tour we were shown projects in five different areas: health, agronomy, micro-enterprises, education and employment.

In the area of health, AEC was part-sponsor of an initiative promoting allopathic medicine, incorporating traditional medicine, and “health promoters” organized into “medical brigades” that went into the Amazon to visit small communities (D-E-56). FNP also sponsored small gardens to grow traditional medicinal plants in nine different communities. Devaluation of local knowledge and a paternalistic approach are evident. One of the “health promoters” stated that:

We have a lot of natural medicine around but sometimes we don't know how to use each plant and we decide to buy medicine at a drug store. But thanks to courses promoted by ÑanPaz foundation and its coordinator, people are starting to value properties of natural medicine and using it, so we receive training and afterwards reinforce our knowledge working with communities (E-03:16).

Under the auspices of the Ministry of Health, AEC's health workers also assisted government nurses to inoculate the population (E-03:18).

AEC had built two medical clinics (*dispensarios*), one in Aguas Negras and one in Tipishca in Block 27. The clinic in Aguas Negras had become too small and a new clinic, near completion, was scheduled to open soon. A community leader noted that the company had contributed US\$8,000 to the construction of the clinic, in accordance with an agreement the company had with the community (*parroquia*) of Aguas Negras (E-03:20). The community provided

the land and labour to build the clinic. The clinic serves a population of 6,089 in the Cantón of Cuyabeno (E-03:19). According to AEC 4,512 patients visited the Aguas Negras clinic in 2002 (D-E-56). Patients paid one dollar per visit. “The money (fee) is used to pay part of the staff, but AEC pays the doctors wages...it (fee) is also used to buy drugs” (E-03:18). In addition, AEC donated drugs worth US\$2,000 annually. AEC had also provided an ambulance for the region, to take seriously ill patients to hospital in Lago Agrio (a three hour drive) (E-03:18).

The clinic employed two doctors, who worked a rotation of fourteen days on, fourteen days off—a typical oil company work schedule. The doctor on duty in the clinic at the time of our visit noted that the community preferred to come to the AEC clinic, because they were “guaranteed assistance and quality” (E-03:19). According to the doctor, the problems most frequently attended to were those that are related to “general life conditions here...it is hot and humid, consequently we have respiratory infections, skin infections and chronic diarrhoea” (E-03:18). Many experts note that these conditions are also specific to areas of oil production.⁵⁰ In 2004, EnCana received the ‘Improving Physical or Social Infrastructure Award’ sponsored by SNC - Lavalin International, at the Canadian Manufacturers and Exporters 12th annual Canadian Awards for International Co-operation in Calgary, for its health programs in Sucumbíos province.⁵¹ When an Ecuadorean environmental activist expressed surprise at the award, a Calgary spokesperson for EnCana said: “I’m not certain (he) has an understanding of the types of initiatives EnCana is involved in.” The activist has a Master’s degree in Tropical Health.⁵²

⁵⁰ See for example Kanoui, 2001.

⁵¹ The award is granted to projects implemented by Canadian companies in developing nations that, by improving economic or social conditions, create progress in the local economy with the aim of achieving sustainable medium- and long-term development to reduce poverty.

⁵² Reported by Steele, 2004.

The physician also noted that many health problems occur due to the lack of clean water and sanitation. AEC provided materials to build 310 latrines (the people themselves provided labour and land), and intended to build 300 additional units by 2005. The community still did not have clean water, despite a 1999 agreement with AEC. This led to a prolonged dispute, reported in independent interviews with local leaders, which I will discuss in the section below. A water project, directed by the national Ministry of Infrastructure, was slated to start soon. The ministry would pay 60% of the cost of the project, the municipality would contribute 30% and the community was required to contribute ten percent, an amount of about US\$15,000. “Of course they don’t have this money”, and AEC had agreed to contribute the community’s share of the water project (E-03:17).

Agronomy projects included the supply of *marquesinas solares*, low structures with plastic roofs to dry coffee beans, cocoa and rice. Drying covers are essential, as the Amazon receives almost 4000 millimetres of rain annually. In cooperation with the Canadian-Ecuadorean Development Fund, Ñanpaz had helped the *Expreso de Oriente* association set up a coffee processing enterprise. Coffee can be roasted, ground and bagged at the facility. Local women created outer bags of local rope, to give the packages a distinct appearance. It appeared to my research companion and myself that the farmers demonstrating the process did not seem to have a lot of familiarity with the operation of the machinery, which caused us to wonder whether the machinery was being used often, or at all. The association did not yet have an outlet to sell its processed coffee and marketing of the coffee was the next step to be solved. When asked whether AEC bought the association’s coffee, the answer was “no.” In AEC’s compound and in its head offices in Quito, coffee machines used pre-packaged Nescafé coffee.

A centrepiece of Ñanpaz's agricultural development strategy was its "integrated farm," a model farm intended to use space intensively and create complete self-sufficiency for its owners. For AEC it was a way to "transfer technology" (E-03:26). At the sixteen hectare model farm on the grounds of Ñanpaz, operations included vegetable gardens, livestock, rice, fruit and sugar cane cultivation. All operations were intended to be integrated, growing "food for people and for animals," and dung was collected to be used as fertilizer. Animal dung was also intended to be used as feedstock for cooking gas (methane) production. The process had not worked as yet, but hopes were that "we are going to produce gas, for the first time, in about twenty-two days, so we are going to be able to cook every day" (E-03:26). Each farm would also have a specialized crop, for example medicinal herbs, to generate cash income. Twenty-eight farms in the area had received assistance, consisting of training and a monetary contribution of US\$5,000 to set up integrated farms.

Two micro-enterprises, established since EnCanEcuador hired an Ecuadorean as their head of community relations, were focused on generating income for women. The first was a paper recycling project, involving seven women who were "family heads...their incomes represents the greatest part of the family income" (E-03:22). Paper is collected from AEC, the mayor's office, the municipality and the schools. The women recycled this into cardstock, incorporating dried wildflowers and seeds, and created cards, envelopes, notebooks, and small bags. At the time they were working to fill a 500 card order from Quito. According to the women "this work requires a lot of patience...we have been doing this for seven months and we all earn some money" (E-03:22). Ñanpaz donated an industrial blender and the women had an arrangement to use the community hall of Aguas Negras for their work.

A second micro enterprise, involving twenty-three families, was set up to incubate eggs. The project received support from Ñanpaz and INNFA—a state agency for women and children. The idea was that the women could offer different services:

The incubation of eggs for other farmers...the women could incubate their own chicken eggs and sell the chicks...or they could raise the chicks and sell grown chickens (E-03:23).

Chicks sold for twenty-six cents in Quito, but by the time they were flown to the Amazon, the local price for chicks had risen to sixty cents each. The project could supply the local market at better prices and offer eggs more cheaply.

The women's organization involved was organized in 1999 and their goal was to "increase the quality of life for our families. Our goal is to fight to get benefits for our families and our homes" (E-03:23). The incubation project began in 2002. AEC helped the women to buy more hens and increase egg production. Each family was required to contribute eggs from their own hens for incubation. The incubation machine arrived two months prior to our visit and at the time, the first batch of eggs was in the machine.

This was also the first time that ÑanPaz did not administer the money for a project. Funds were deposited directly into the women's organization's bank account and administered directly by the organization.

A list and pictures of AEC and ÑanPaz projects in the field of education is taken from an EnCanEcuador presentation on Corporate Responsibility (D-E-56). We also visited several schools.

- Scholarships
- Computers
- School Materials
- Rain Coats

- School bus
- Training and Support for Teachers
- Infrastructure
(dining rooms, latrines, classrooms)
- School Furniture and Equipment



Figure 7-3 AEC School Bus in Aguas Negras

The picture (left) is of the AEC school bus which, according to EnCanEcuador, transports 300 students daily (D-E-56). Below is a picture of some of the school materials

AEC distributes to about 70 schools in the region. The AEC logo is visible on the school bus and in the lower left hand corner of the booklets.



Figure 7-4 AEC Curriculum Materials

AEC’s community development officer related that, in the Cantón of Cuyabeno “the quality of education is not very good...of the 52 teachers in the canton, only three have a

university education” (E-03:15). There also were many strikes, and government payments were often two to three months late (E-03:25). AEC considered

education a critical and vital problem. In the field of secondary education Ñanpaz paid for two additional teachers to teach specialties in the areas of agriculture, ecotourism and secretarial training—notably not in specialties relating to work in the oil industry. At a private, secondary school, information technology was offered as a specialization area, with some help from AEC—mainly, used computers and some instruction material (E-03:28).

Despite specialized training, only fifteen to twenty local people are employed by AEC, a figure disputed by AEC's head office (E-03:29; E-09:54). According to AEC's spokesman:

One of the company's policies is to generate jobs...specifically in the area of services. But the problem that Don Vicente (principal of private school) is talking about, I mean the fact of an unqualified population...traditionally not used to the work discipline, because they used to work for themselves...(meant) that the company brought employees from outside, from other places...but now, because of the changes in education levels and the establishment of agreements with communities, the situation has changed. Outside people are (fewer), which means that local people are hired more by the enterprise. It is our policy; it is just what is being done by the Community Relations Department of EnCana (E-03:28, 29).

EnCanEcuador employed about five hundred permanent staff. According to Fernando Benalcazar, AEC permanently employed about 150 locals, directly and through subcontractors. Numbers went up considerably when taking into account the hiring of temporary unskilled labour. The seismic work carried out between December 2002 and April 2003, for example, required a large contingent of temporary unskilled labour. According to EnCanEcuador's Community Relations

department, community employment increased from 500 people in 2000 to 1,700 by 2002.

Boundaries of Corporate Social Responsibility in developing regions

A recurring theme, and a change in the direction of Ñanpaz Foundation implemented in 2001, was its mandate to become independent of oil funding within ten years. In 2003, FNP already received large grants from other organizations. The Canadian Ecuadorian Fund for Development (CEFD), for example, sponsored ÑanPaz with US\$270,000 in 1998 and renewed this grant for another three years in 2002. Despite this sizeable contribution, very little mention was made of the input of CEFD, nor was much credit given.

An important question relates to the boundaries of corporate social responsibilities and local, regional and national governments' responsibilities, especially in the areas of education, health and agriculture. One of AEC's main concerns was to "not replace state functions" (E-03:17). The company's goal was to eventually transfer projects to the local population, NGOs, or the state. As an example of this philosophy, our guide used education as an example:

We try to solve the problems of people, not all of them...it is not about supplanting the state, it is about solving problems of people...generally we try to strengthen the communities and then we transfer that to the state...for example, we are in the process of establishing an agreement to tenure teachers, so we support it financially and the state confers the titles (E-03:27).

Trying to 'not supplant the state' in the Cantón of Cuyabeno was even more difficult. The canton was only created in 1999, with a population that legally was too small for a new political entity. Consequently, administrative infrastructure was non-existent, or very weak. According to EnCana's CRO:

The results are obvious. There is not an efficient or legitimate government...society does not receive services and...they also do not feel represented by a political authority, consequently there is a very weak state presence here (E-03:27).

Local corruption was a serious problem. Part of the taxes paid by AEC to the Ecuadorean state should return to the region for improvements, however, there was very little evidence of it. Taxes paid locally seemed to disappear. A communal leader, present during part of the Ñanpaz tour, related that many projects were coordinated by “the company and the population”, but that there had been no support of the mayor of Cuyabeno canton.

I understand that is because of the person who is now the mayor...he doesn't want to I think...the enterprise pays its taxes to Cuyabeno canton at the beginning of the year, it is their duty...the mayor should do something for the communities with that money (E-03:21).

The Ecuadorean government sent auditors to investigate, at the request of the first mayor of Cuyabeno Canton, but their report had not yet been received. According to the former mayor, “tax money is reflected in the new cars of the mayor and his new house” (E-03:30). In an attempt to demonstrate the size of tax payments to the canton, AEC began in 2002 to pay its taxes in a public ceremony. The corporate strategy was to show in public that they paid taxes, how much it was, and who received it and then to get the community to hold their government accountable for how the money was spent (E-09:56).

An accountability process requires the local government to report to an annual ‘popular assembly’ of the people. In 2003, for the first time, AEC and the Ñanpaz Foundation were invited to participate in the annual assembly.

We participated as a social actor—a very important one, by the way—to inform the communities what we have done, how we have done it and

what we are planning to do in the future, because we now have a closer relationship with the people...but we don't get involved in local politics, it is not our business, we don't give opinions about municipal behaviour. We have proposals to support communities, to promote social responsibility and 'good neighbour' policies (E-09:56).

Despite the disavowal of political involvement, our tour guides made certain to include a visit with the ex-mayor of Cuyabeno, who provided copies of cheques AEC had issued to the canton of Cuyabeno and who related the corruption of the current mayor.

AEC and Ñanpaz's strategy was to involve other organizations or funders and there usually was an element of a contribution by the community. EnCana's philosophy and culture of a 'hand-up, not a hand-out' was clearly demonstrated and articulated.

We are here to help them, not give them everything...we co-operate by offering a part of the whole (project), so people have to complete the work...we want to create conditions for people to achieve their own proposals, either as an obligation or as an agreement (E-03:35).

AEC's participation at the annual political assembly was partly an attempt to clarify boundaries and co-responsibilities:

What are our responsibilities? I mean, responsibilities we assume voluntarily and what they expect we should do, and their responsibilities: what we expect they should do (E-03:23).

Despite the sizeable input of the community into projects co-sponsored by AEC/Ñanpaz and other organizations, at each project the refrain was one of gratefulness to 'the company':

Aguas Negras community leader: We are lucky because we have our farms in good condition, thanks to technical support of the Nañpaz

Foundation and of course AEC Paper recycling project leader: Yes, we have plans to expand the project with AEC's help of course. They have always helped us, we are all really grateful for that. We are also grateful to you for visiting us!....School principal: Thanks to Ñanpaz we have the specialization studies.... in general we appreciate all foundation support for communities through programs like the integrated farms. They helped the poorest families with this project. They support education too...infrastructure, teachers, donating 700 uniforms to sports teams. The company's support has been good and for next year, I hear there will be good projects too (E-3:14, 20, 23, 31).

Many of the interviews were guided by questions from our AEC/Ñanpaz guides, who prompted interviewees to tell me about certain projects or work of the company.

Despite expressions of gratitude, present also were notes of subtle resistance and covert negotiating. A community leader interjected that the medical centre was a result of "an agreement with the communities" and that "the best thing about this would be the support of the enterprise" for the long-term (E-03:19). At the paper recycling project, the woman in charge mentioned that, not only did they get paper from AEC's offices, but that "the ladies that work here find paper at the mayor's office, the municipality and the schools" (E-03:22). At one of the schools, the principal remarked that the company had supported them with computers, "although those were not the most modern" (E-03:28). And at another school where AEC had built a dining hall to accommodate a breakfast program initiated and funded by the Education Ministry, the principal added: "And we have asked AEC to give us the tables and chairs for the dining room", which led AEC's representative to an on the spot commitment to do so (E-03:34).

The question of the usefulness of Ñanpaz's integrated farms led to an interesting exchange with the principal of a secondary school with a specialization in agronomy. Asked whether students learned the technique of integrated farming at the school and whether Ñanpaz's farm was a useful example, the evasive answer was: "Yes, that is how students learn things well—practice and applying their knowledge" (E-03:31). Due to the newness of the program, there were not yet any graduates, but the expectations were that the learning would "improve home situations, because the kids will work at their parents' farms. If the farm situation improves, their lives are going to be better" (E-03:31). Whether this would be due to the system of integrated farming was left in the air.

Our EnCana guides seemed genuinely proud of the company's efforts in the communities.⁵³ AEC's community relations officer told us a story that he said had inspired his work and illustrated corporate behaviour:

A man was walking on the beach and met a young man standing at a spot with many sea stars and noticed that the young man was returning sea stars back to the sea. He was intrigued and asked him: 'What are you doing? Don't you realize how many sea stars there are to return to the sea? Your job is not important.' The young man, while throwing a sea star back into the sea, replied: 'It is important to this star' (E-03:27).

Our guide then added: "I really like this story, because it means that 'wherever we are, we should do something'" (E-03:27). Indeed, earlier he had noted that the absence of the state in the area meant that the company did not want "to replace the state", but it had to "do something to change this reality" (E-03:25).

⁵³ *Corporate Knights Magazine*, in a report on EnCana's behaviour during the building of the OCP pipeline noted the same phenomenon and commented that "one would expect EnCana to be more measured in their exaggerations but with EnCana we got the feeling it is a case of pride rather than a desire to deceive" (Heaps, 2003:34).

At the end of our tour, our guides noted that they hoped we had not understood the tour as “an apology by AEC,” rather they hoped that we perhaps might have seen that “EnCana does some good things here” (E-03:35).

Asked whether the community had the same capacity to negotiate as AEC’s employees, the CRO replied:

The capacity to negotiate is based on an agreement to do something together and our institutional disposition is to cooperate....what I have is the ability to talk and find good arrangements. For example, this classroom is a product of an agreement between different actors, so decisions are not absolute, because no one has enough power to force the decisions (E-03:35).

My final question was what AEC would do if the price of oil dropped. The reply:

We not only live in the present, we work in the present too. All governments give up social programs when there is a crisis, so maybe this would happen with the company too, that is the reason we try to work fast (E-03:35).

I will now turn to a report of independent interviews I conducted with community members in Aguas Negras and Tarapoa, following the AEC guided tour.

Community and other narratives: The importance of worldviews

Interviews with community leaders, without the presence of AEC/Ñanpaz personnel, painted a completely different picture of EnCana’s community development efforts, confirming the deep disconnect in perspectives between the company and the communities in its areas of operations. An interview with the president of the community (*parroquial*) council of Aguas Negras, immediately following our AEC guided tour, started with a question about the benefits of community development projects we had seen that day. The president bluntly

replied that “in my opinion those projects are not successful...(but) they help us with little things” (E-04:35, 36). He also stated that the projects were divisive in the community and created jealousy and problems. A leader of FOCAN noted that results of Ñanpaz projects were “nothing positive so far” (E-38:231).

Several sources forwarded the notion that Fundación Ñanpaz had been established to undermine the increasing power of FOCAN, the Aguas Negras peasant organization. A leader of the organization related that:

FOCAN was achieving a weakening of the power of the company, but the response of the enterprise was to create the Ñanpaz Foundation, in order to stop the increasing power of FOCAN. So, Ñanpaz had economic resources to offer people...on the other hand, FOCAN was not giving a thing. Which meant that people took the side of Ñanpaz and finally this fact weakened FOCAN (E-38:231; see also D-E-18; E-36).

As a result of co-financing by other organizations, for example CEFD, community power had increased somewhat. To get outside funding, FNP had to prove that there were beneficiaries for their projects—and that required signatures from intended beneficiaries. Several sources noted that they “have learned that the only way we are going to get something is to demand results before we sign” (E-04:36; E-06:44; E-36:227).

On a positive note, some sources noted that, compared to past practices, current practices had improved. The community no longer saw “constant spills or oil pools” as they had in the past, “we see them working with new technology now” (E-04:36). Following AEC’s purchase of the concession, the company “cleaned up oil pools and contaminated areas” (E37:231). However, respondents did not attribute the changes to the company.

Conflicts have decreased too...(In the past) the military always (accompanied) AEC workers...they just did what they wanted to. But

now it is different, they have to ask for permission to work here....Changes occurred for many reasons...some strikes (protests)...we have made demands...used resources like pressure and most of all the unity of the *colonos*....we got arrested during the strikes because we asked for better conditions....changes (did not come) because of the goodwill of the company. We have been in jail and we also have been beaten by the military (E-04:36).

A strike in 2002 specifically demanded that the company live up to a former agreement to supply the community with running water. The agreement had expired without delivering on the clean water project. The company had offered to pipe water from the Aguas Negras river into a holding tank. The community declined and claimed that the water was contaminated, since all residues from the Tarapoa operations were drained into the river. Instead, they asked for water from the Cristal river seven kilometres away. However, the company considered this option too expensive and nothing was done (E-04:37, 38). According to a 2003 study conducted by Ecuadorian NGO Acción Ecologica, content of harmful hydrocarbons in northern Amazon rivers—including the Aguas Negras river—measured on average 2.9 parts per million. The European Union only permits 0.01 parts per million (D-E-18:9).

Community leaders noted that other agreements with AEC or its predecessors also had not been honoured. An agreement made in 1997, for example, consisted of twelve parts including health and education initiatives. According to FOCAN leaders, only the health initiatives had been addressed, or as another source said: “Only the doctor is useful” (D-E-18:7).

Employment of community members with the company was minimal. “We asked for employment, but the company says we have no skills” (E-38:230). “People from the community are employed for two or three months and then they

are out” (E-04:39; E-38:231b). Shortly before my visit, Ñanpaz had offered a “capacity-building” course in mechanics. About thirty community members participated in the eight day course, but “not one of them got work” (E-38:231b).

AEC purchased very little from the community, almost all supplies were brought in from outside. A previous attempt to sell chickens to the company had failed due to refrigeration problems. Despite communal attempts to sell local product, such as plantain, papaya, yucca, pineapple, other fruits and meat, AEC’s conditions requiring refrigeration and proper sanitation made this impossible (E-04:39; E-06:43; E-37:229).

Ñanpaz and AEC’s model integrated farm and its process of ‘transferring technology’ to the community was controversial. Most sources agreed that the company had provided assistance with twenty-eight integrated farms in the area. However, FOCAN leaders noted that only five had received large investments (E-37:231c; E-38:230). The selection process was not open and many thought that the money for the farms came from the government of Canada, not Ñanpaz. The farm project is partly supported by CEFD (E-07:47). According to leaders, the project did not benefit enough people. “First of all, people have to have time to go to meetings at Ñanpaz Foundation, but also there must be friendship” (E-04:38). Replying to the question whether that meant that people who go on strike do not get the money, a leader laughingly replied that “no, I think it is the opposite. People that go on strike...the company finds it (the money). With pressure people find more” (E-04:39). Another remarked that “an important element for the farms to work is that it requires loyalty to Ñanpaz” (E-38:231c). Development experts observed that the problem was that the farm was too sophisticated and expensive for the peasants for whom it was intended (E-07:52).

A CEFD officer was surprised at the criticism of Ñanpaz Foundation, but admitted that his officers had never met with people in the community in the

absence of Ñanpaz employees. His assessment of joint projects with Ñanpaz Foundation was guarded, but some of his remarks pointed to specific difficulties. He observed that CEFD's approach followed the more current approach of 'human development', rather than the modernization paradigm, and that evaluation of projects was not so much concerned with concrete results, such as buildings, but "mostly the human growth, the local capacity that was built" (E-07:51).

Perhaps the strongest indication of difference related to the problem of not having a common vision.

We have to develop a joint vision and once we have that joint vision, well, maybe we have different ways of approaching it (development), but I am not sure we have that joint vision yet...(in our meetings) we tried to see things from different perspectives....first you must construct a common view of the problem and the solution (E-07:51-53).

Development also must be approached as a long-term vision and there has to be flexibility. He further emphasized that it must be possible to change strategies when contexts change (E-07:53).

The leader of the Amazon Defence Front observed similar differences in worldviews. Their strategy of presenting community's own development plans to the company, rather than negotiating over corporate proposals speaks to this difference. FDA stressed that the community created "proposals that correspond to real conditions and demands of the community" (E-36:227). An academic commented on the "different cultures" of oil companies and communities (E-02:7a).

Asked what he would tell EnCana, if he had the opportunity, the leader of the FDA offered the following:

First, they need to establish a relationship with people, because now it is barbarous. I mean, they don't respect anything, the historical process of the communities, the culture...not even the human aspects. Then, I think their concept of development must change. We need...a definition of development that includes human and environmental aspects. Another thing, or lie, they use with people is the phrase: 'We are using the ultimate technology'...what this means for communities and the consequences are obvious: pollution, losses of plants, animals and human and cultural processes. 'Ultimate technology' should be used not only to drill a new oil well, but also to benefit people, to guarantee their lives (E-36:228).

The FDA leader pointed to a holistic vision that was more than the modernization project offered by Ñanpaz/AEC.

Despite Ñanpaz/AEC's many projects in the area, and corporate ideas about capacity building, the main problem was that many projects did not include a follow-through to the end. Training was not followed by employment; modernization projects were not followed with the necessary assistance to market products; and projects were not linked to the regional or national economy.

There should be support to start a business and then find markets to sell the products. If they did this, it would be a good form of development: *un económico circular* (a circular economy)...development is not only about having a project, but also about completing it, otherwise things just don't change (E-36:228,229).

Different understandings of 'capacity building' are but one example of opposing worldviews at work. To EnCana, capacity building means "helping people help themselves" (cited in this chapter, above). Capacity building is rooted in a modernization paradigm, focused on building human capital for participation

in the capitalist economy. To academics I interviewed at the Andean University in Quito, capacity building courses meant teaching community leaders from the Amazon “how to manage the environment and to defend their human rights” (E-30:231; E-29:232).

Relations with communities were strongly affected by AEC’s security forces. Amazon *colonos* and Indigenous peoples found themselves in a complex situation, far removed from decision-making centres, markets for their products, political influence, and in the midst of a volatile situation on the border with Colombia where violence and conflict regularly spilled across the border.

According to one source, AEC employed at least 250 security personnel in the area (E-11:63). An academic expert noted that, in general, the ratio of spending on community development to spending on security by oil companies in the Amazon, ranged from 1:5 to 1:8 (E-34:247). EnCanEcuador did not supply a ratio for their spending in reply to a follow-up question. In the following section, I will more closely examine the question of AEC’s security operations and its effects on community relations.

Security and community relations

Protests, road blockages and occupations of oil infrastructure are quite common occurrences in Ecuador’s oil fields. Existence of enormous wealth, side by side with extreme poverty and lack of basics is the most evident, most visible and most direct manifestation of the problems of inequality, the paradox of plenty and the resource curse (discussed in chapter 2).

According to the people in oil extraction regions, government institutions in Quito mostly rule in favour of the oil companies, or ignore complaints. That is why many...resort to strikes or blockades, to struggle against this injustice, to not be trampled....It is

dangerous and a lot of work to try to protect our rights, but we have no choice. (E-40:242).⁵⁴

While during the first ten years of oil extraction in Ecuador massive investments were made in education and health, at the time of my research there was no sense of a redistributive state. The principal beneficiaries of oil activity were foreign corporations and international creditors.

Distribution of the wealth generated by oil extraction was a source of great friction, as it was for the Dene Tha' and Indigenous peoples elsewhere.

The people say:

riches that belongs to us has been extracted from here and the profits obtained...have not been shared with us, we receive just two percent of those resources, and the rest of the money goes to the big cities—Quito for example—to pay the bureaucracy and external debts (E-29:234).

An additional difficulty in Ecuador was the presence of high levels of corruption, evident in this case in the disappearance of tax monies from the Cantón of Cuyabeno.

These inequalities and local frustrations boiled over in February 2002, in fifteen days of protests that spread across the provinces of Sucumbíos and Orellana. A prolonged three year recession had led to growing poverty, especially among peasants and Ecuador's Indigenous peoples. Protestors, led by local government officials, had seized sixty oil wells, cutting state crude output by nineteen percent, and halted construction on the OCP oil pipeline in which EnCana was the principal investor (Reuters, March 4, 2002). The protests led the government to declare a state of emergency and suspend civil rights. The goal of

⁵⁴ “The word 'paro', typically, at least in Chile and other parts of South America, means 'strike' in the labour sense. In Colombia, this is also used interchangeably to mean any large protest, which I think is the sense that it is used here” (Personal communication with Ricardo Acuña, June 22, 2009).

the protesters was to acquire state funds to improve electric services in an area plagued by constant blackouts, to have the eighty kilometre road between Lago Agrio and Tarapoa paved and to obtain development credits for poor farmers (E-40:242; Reuters, March 4, 2002).

In Tarapoa, the military attacked demonstrators with tear gas and rubber bullets.

The blockade was broken up by the army, with bullets. Then about 150 soldiers did a house-to-house search in the town...Many of us had to hide in the forest. Others left the area for safer places...some were arrested, some were beaten by the military and some spent time in jail (E-40:242).

Following days of violence in which one person was shot dead, the government of Ecuador agreed to provide additional electric power to the region, pave roads and provide access to cheap credit for farmers in the region (Reuters, March 4, 2002).

AEC's role during the strike had generated considerable ill will, both locally and with international organizations. Many people in the region believed that EnCana had called in the army to put down the protests. Ecuadorean armed forces had landed on EnCana's airstrip in Tarapoa, and were transported in EnCana trucks, with company drivers. Stories also told of EnCana security personnel actively involved in the attack. The company stated for the record that EnCana was legally obliged to allow the Ecuadorean military access to its airstrip at any time and to assist the army logistically. It also maintained that the company was unaware of the participation of its security personnel (N-06:44). John Keplinger, the company's general manager in Ecuador recounted that

the Ecuadorean government unilaterally decided to use EnCana's airstrip to fly in the military. The next day EnCana was accused on every NGO

website of cooperating with the military and even of calling in the armed forces themselves to solve their problems for them (E-08:55).

The company was indeed obliged to let the Ecuadorean military use its airstrip and company trucks. This was, however, not the result of a unilateral decision by the Ecuadorean government. In July 2001, City Investing Ltd., along with fifteen other oil companies operating in Ecuador's Amazon region, had secretly signed a master agreement with the Ecuadorean armed forces. The purpose of

the 'Military Security Cooperation Agreement between the Ministry of Defense and the Oil Companies that Operate in Ecuador,' was to establish ... the terms of collaboration and coordination of actions to guarantee the security of the oil installations and of the personnel that work in them (D-E-58).

While each oil company kept the responsibility for internal security within its installations, security outside the immediate oil infrastructure and buildings was to be executed by the Ecuadorean armed forces, on behalf of the oil companies. The military would carry out regular land, water and aerial surveillance, in coordination with the oil companies' private security forces. The companies were obliged to provide lodging, fuel, food, security equipment, operating expenses, medical aid, and maintenance of army facilities. The agreements were kept secret until an Ecuadorean NGO, Las Lianas Resource Center, obtained copies in 2005.

A supplemental contract signed June 10, 2002 and in effect for a period of five years between AEC Ecuador and the Ecuadorean Ministry of Defence, specifically committed the military to protect AEC's installations in Tarapoa Block, Block 27 and in Lago Agrio. This contract spelled out again that the military had access to AEC's facilities when necessary. The military established bases in Tarapoa and Tipishca (Block 27) specifically for the purpose of

protecting AEC installations. Furthermore, AEC's security forces and the military would hold regular meetings to discuss security and to inform each other of plans and problems (D-E-57).

EnCana's statement on human rights simply states: "In providing for the protection of company personnel and assets by public or private security forces, EnCana will promote respect for, and protection of, human rights" (D-ECA-04:sub4). Even though Ecuador does not have the record of human rights abuses that other oil producing countries do, agreements between foreign multinationals and national armed forces raise serious concerns about 'respect for' and 'promotion of' human rights. It seems clear that a military force, dependent on a foreign multinational for its lodging, food, fuel, operating expenses and facility maintenance is no longer an independent force. In effect, the Ecuadorean military became privatized to work on behalf of oil interests. It also seems disingenuous, at the very least, to blame the Ecuadorean government for imposing its military forces on EnCana.

Widespread public outrage followed the publication of the secret security arrangements between the military and private oil companies and the agreements were annulled in December 2005. Numerous local commentators accused the Armed Forces of abandoning their role as guarantors of national sovereignty. The military planned to replace the agreements with the creation of a special unit to provide security to the entire industry.⁵⁵

EnCana's security forces and guarded facilities made it more difficult to establish trust and relations with the communities. When asked whether it was more beneficial to negotiate with oil companies or with the state, Aguas Negras'

⁵⁵ Personal communication. Jim Oldham. December 10, 2005.

council president replied: “I think it is better with the state...They will give us things that the oil companies never will” (E-04:40).

The Amazon Defence Front leader pointed to differences in negotiations with private oil companies or state oil companies:

[The most] success...we have achieved until now has been with state companies. Our most advantageous negotiation process right now is...with Petrobras (Brazil’s national oil company)...[to negotiate] with EnCana is more difficult for simple reasons—they have a hard security system. I mean, security guards at each well. They also have intelligence guards driving around, and they invest more money in Community Relations. That is why it is harder...private enterprises are more aggressive, so we have to be more careful. We must be more astute too to handle this situation... Decisions of private enterprises are almost above the state (E-36:228).

Whether intended or not, EnCana’s security forces instilled fear and caution in the communities where they did business. This unavoidably made EnCana’s commitment to human rights highly problematic.

CSR: A Moving Target

Beyond the guided tour of AEC/Ñanpaz projects in Tarapoa and Aguas Negras, I conducted interviews with John Keplinger, EnCanEcuador’s General Manager, and Fernando Benalcazar, Vice-President for Environment, Health & Safety, and Community Affairs. Earlier I had interviewed Fernando Quintero, AEC’s community relations officer for the Tarapoa block. EnCanEcuador’s head office was located in the business centre of Quito. The company had offices in a highrise building with high security, metal detectors on every floor and armed guards at the doors. Its name was not displayed on the building. I was not

permitted to tape interviews: “We prefer at this point to just have a conversation” (E-08:54). The following is from extensive handwritten notes taken during the interviews and verified for accuracy by my translator, who was present at the interviews.

EnCana’s corporate constitution took a leading role establishing values and integrity. While the constitution had eight elements, three were key for operations in Ecuador: environment, health and safety and a commitment towards human rights and safe labour practices. Indeed, EnCanEcuador’s sign at the Tarapoa compound proudly proclaimed: “We Work Safely (*Trabajamos Con Seguridad*)” and noted 953 days without time-loss accidents. AEC’s vice-president, Fernando Benalcazar, noted that EnCana’s constitution and its commitment to values were important reasons in his decision to leave a job with Occidental Petroleum—a much larger corporation—and join EnCana. Another reason was to come home to Ecuador. He was brought in two years earlier to implement “a new vision of a responsible corporation” (E-09:56).

AEC was proud of its environmental practices in Ecuador. As examples, Benalcazar noted that AEC’s largest site for drilling platforms covered less than two hectares. Under Ecuadorean law just over three hectares were permitted. Similarly, while width of clearance permitted for pipelines was a maximum of four feet, AEC’s widest clearance was less than three feet (E-09:57). AEC had also publicly committed to not operate in Ecuador’s “hard, or intangible zones” (E-09:57).

Ñanpaz Foundation was not considered an effective tool, and AEC’s vice-president noted that the company was in the process of making “Ñanpaz an arm of AEC Ecuador, as a funder, not an executor...we want to work with other organizations as partners” (E-09:58). He also stated that the foundation’s overhead was too high. “NGOs should have administration costs of between ten

and twelve percent.” While he admitted that administration costs at Ñanpaz were higher, he would not say by how much. However, he used twenty percent as an example and noted that “eight percent, or \$80,000, would go a long way in the community” (E-09:58).

Practicing corporate social and environmental responsibility in Ecuador was not a simple matter for the company. It was revealing that the general manager’s primary question to me concerned the relation between CSR and security. This exchange resulted in his defence of AEC’s role in the 2002 protests, cited in the section above.

Reconciling security objectives with corporate objectives to hold the government accountable for royalty monies was conflicted and the contradiction appeared not well understood by corporate officials. Dick Wilson, EnCana’s Calgary based vice-president of public affairs said:

What is needed there [Ecuador] is a more cohesive campaign to engage the government and get them to spend royalty money in the community (A-28:209).

Frequent strikes by community members in EnCana’s areas of operations in Ecuador were intended to do precisely that, yet EnCana’s cooperation with the Ecuadorean military to put down the strikes flew in the face of this ‘cohesive campaign’ that was deemed to be so necessary.

A further difficulty for the company was the unpredictability of the business environment in Ecuador. According to the general manager:

Because of the unpredictability of laws, interpretation and governance, CSR in Ecuador is a moving target. Where do you draw the line? For us a primary strategic point is: do not take over from the government....corporations do not want to be substitute governments (E-08:54, 55).

Unpredictability and government interpretation of rules was evident in a long-standing dispute over value-added taxes. According to AEC, the company was owed US\$103 million in VAT refunds, which the government disputed.

“Corporations need predictability in the laws of the country” (E-09:54). EnCana had filed a grievance with the United Nations for a resolution of the conflict.

Despite AEC’s insistence on not wanting to be a substitute for government, they were forced into this role more often than not. Ecuador’s unstable political environment, lack of resources and levels of corruption were further illustrated by the emphasis placed during the interview on explanations of taxes and levies paid to various levels of government and organizations. AEC’s strategy of paying its taxes in a public ceremony was mentioned as an attempt by the company to “get the community to hold local government accountable for how the money is spent,” and countering local level corruption (E-09:56).

Contrary to the doctrine of domicile, interactions between transnational elites are thus shown to be problematic, rather than simply beneficial to transnational capital. While EnCana retained a high degree of influence in Ecuador’s affairs, due to its status as the country’s largest investor, the contextuality of CSR practices became clear when considering the added challenges for multinational corporations in countries where governing capacity and resources are weak.

Events after the Field Research

Protests erupted again in August 2005, again in the provinces of Sucumbíos and Orellana. Oil production was cut by sixty-five percent following attacks and occupation of oil installations. Local groups demanded more jobs for locals, higher wages, and the construction of schools, roads and health facilities. They also demanded the “immediate exit from the country of EnCana and

Occidental and the expulsion of Petrobras of Brazil from the Yasuni National Park” (Reuters, August 19, 2005). Newspapers reported that protesters had sabotaged an EnCana oil pipeline, “causing about 1,000 barrels of crude to seep into the river near the town of Tarapoa...EnCana...is desperate to leave Ecuador and is trying to sell its assets to Asian investors” (Reuters, August 19, 2005).

At the end of 2005, EnCana did sell its Ecuadorean assets to Andes Petroleum, a Chinese state-owned consortium. EnCana gave “Ñanpaz...to a private foundation named Natura [Fundación Natura].”⁵⁶ While the company publicly stated that its reason for the sale was a change in strategy to focus on North American gas and oil, Morgan had earlier referred to Ecuador as being a distraction and a difficult environment. “They don't need to sell, but in the big scheme of things it's a distraction for them,” said Martin Molyneaux, an analyst with FirstEnergy Capital Corp. in Calgary. “It takes a lot of management time and they've got more than their share of potholes with the government there” (Calgary Herald, August 27, 2004). According to some business reports, the returns on EnCana’s Ecuadorean assets were less than stellar.

The people of Tarapoa protested again in November 2006, demanding jobs and services. Andes Petroleum struck a deal “for 200 jobs and 256 temporary positions to be granted to locals as well as the hiring of a transportation service from local communities. Andes also will resume education and health programs that were suspended in 2005” (Reuters, November 16, 2006). A contact in Tarapoa wrote that changes and promises were watered down considerably in execution:

I want to tell you that there have been no changes here in terms of the environment....By way of force (strike/protest) we were able to achieve

⁵⁶ Personal Communication. Luis Merino. June 8, 2008. Fundacion Natura is an international NGO dedicated to environmental preservation.

that hundreds of workers would be hired to various jobs in the oil company (something that did not happen with Canadian company). Of course, little by little they (Andes Petroleum) began getting rid of them, and those that remained received very low salaries. Those that remained were supposed to be paid profit-sharing (here companies must distribute a portion of their profits to all of their employees based on a number of parameters), but the company didn't do this and today is faced with law suits in two provinces of the Amazon, and there is even a group of people holding a protest/strike in tents in the city of Quito where families and workers are living to pressure the courts to resolve this in their favour).⁵⁷

The eighty kilometre road from Lago Agrio to Tarapoa was paved, but my contact writes that it was “the result of a protest, and not as a result of the oil companies that travelled through there.”⁵⁸

Following the sale of its Ecuador assets in 2005, EnCana issued a final report and summary of the company's CSR practices in its Corporate Social Responsibility Report for 2005. The section, “Ecuador Operations Work Through Challenges to Leave a Legacy,” referred first of all to EnCana's payments to all levels of government in Ecuador—“in excess of US\$1 billion”—that “supported government programs”. This statement echoed former EnCana president Gwyn Morgan's philosophy that royalties and tax payments are not payments for resources extracted (discussed in the “Internal Culture and Doctrine of Domicile” section of chapter five), but rather a ‘transfer of wealth’ and proof of the beneficial nature of transnational corporations.

⁵⁷ Personal communication. Luis Merino. June 8, 2009.

⁵⁸ Personal communication. Luis Merino. June 18, 2009.

According to the report, an integral part of Ecuadorean operations was “capacity building, in terms of health, education or basic needs” (p.28).

While EnCana found Ecuador to be a complex environment in which to work, we achieved considerable operational, financial and social success, and we remain proud of these accomplishments (p. 28).

Considering the events following EnCana’s sale to Andes Petroleum, perhaps the most pertinent question to ask is whether it was socially responsible to sell the operations to a company with less interest in continuing EnCana’s community development programs, of which it was so proud. International NGOs that had campaigned against EnCana in Ecuador referred to EnCana’s “moral and economic obligations” that were not “erased” by a sale. The sale merely “highlighted flaws in a global economy that allows corporations to sell their messes rather than clean them up” (Global Aware, 2004). As far as can be ascertained, EnCana did not provide long-term funding for its community projects.

Summary

Similar to the case of the Alberta Dene Tha’, relations between EnCana and Indigenous and colonist populations in the Amazon were found to be difficult, conflicted and controversial. Narratives of community members were at odds with corporate narratives, whether related to benefits of community development programs, compensation negotiations, or the role of security forces. While international NGOs closely scrutinized EnCana’s involvement in the building of Ecuador’s second pipeline, much less attention was paid to EnCana’s field operations in Indigenous territories and its relations with colonist settlements. NGOs working with communities near EnCana’s operations in the

Tarapoa fields were mainly Ecuadorean, with the exception of an NGO from the United States (ISIS) that had worked with the Secoya people for over ten years.

NGO involvement in negotiations was not always beneficial, although when it was focused on community objectives, there were positive effects. The Amazon Defense Front, specifically, attempted to change asymmetrical power relations between corporate and community interests. It did so by proactively presenting community proposals to the companies, thereby establishing two-way negotiations, rather than simply responding to plans presented by the corporation. OISE benefited from NGO involvement in establishing a code of conduct, setting down rules for negotiation processes.

The inability of the Ecuadorian state to redistribute resources to benefit local development, and corruption in the area, meant that EnCana, to a large extent, had assumed the role of the state in the provision of health services, education, construction of basic and vital infrastructure and programs to improve the local economy, despite its insistence that it had no desire to replace the state. According to EnCana's Corporate Responsibility Policy:

[We recognize] that no corporation is solely responsible for changing the fundamental economic, environmental, and social situation in a community or country....[Within this context, we] assist in local capacity-building and develop mutually beneficial relationships to make a positive difference in the communities and regions where we operate (D-ECA-02, sub 8).

Nevertheless, minimal state presence and governmental corruption in the region forced EnCana into the role of an agent of development and a substitute state.

Despite theoretical perspectives presenting transnational elites as homogenous entities, EnCana's disputes with the Ecuadorean government over VAT taxes, and its disputed 40% share in Block 15, reveal a less than seamless

alliance between government and corporate elites. EnCana further was forced into a strategy of public payment of tax monies in the Cuyabeno region, in an attempt to hold local government accountable for its use of public resources. Frequent changes in government and consequent changes in legislation or interpretation of rules made doing business in Ecuador highly complex and CSR ‘a moving target.’

The company’s CSR programs in the region were designed to accommodate social and political pressure. Local populations used a strategy of mobilization to make demands on the state, mediated by the oil companies in the region. Blockades, occupations and stopping the flow of oil from the region were common strategies to force both the Ecuadorean government and the oil companies into provision of infrastructure and employment. Community development programs were often a way to quiet dissent and to advance corporate objectives.

Despite local claims that EnCana programs did very little for the population, the health and education programs the company had instituted were important enough to be demanded back once Andes Petroleum discontinued them. On the other hand, Andes Petroleum acceded to a demand for more local employment (albeit temporarily), something EnCana did not do.

Claims of Indigenous peoples in the region were rooted in the principle of free, prior and informed consent, as guaranteed in the International Labour Organization convention 169. Ecuador is a signatory to the convention and the principle is incorporated in Ecuador’s constitution. In practice, the principle of FPIC was not followed, and the state’s role in the region was to accommodate and assist in increased oil production. Consultation was left to the oil companies and the state took no active role.

The Secoya Indigenous nation’s negotiations to allow EnCana access for 3D seismic work appeared to be aided by the existence of a Code of Conduct,

governing processes of negotiation. As compared to the Siona nation, the Secoya nation appeared to negotiate from a position of greater strength, no longer negotiating ‘from their knees.’ However, when judged solely from a financial perspective, compensation for the Secoya nation was only US\$14.20 per hectare, as opposed to US\$20 per hectare for the Siona nation. The Siona nation, however, suffers to this day from divisions and conflict amongst its people.

In Tarapoa, EnCana’s immediate region of operations and location of its regional compound, linkages to the surrounding communities were minimal, as is typical of enclave economies. The highly technical nature of oil exploration and production work resulted in some short-term, highly cyclical use of local unskilled labour, but few employment effects beyond that. Very limited purchases of local services and products were a central cause of local discontent with the company.

In the host communities of Tarapoa and Aguas Negras, EnCana’s community development programs followed the pattern of most major oil corporations. The company provided a range of ‘sustainable community development’ programs, often attempting to partner with national and international development agencies. The company’s rhetoric of ‘providing a hand-up, not a hand-out’ was incongruent with recipients’ elicited statements of gratefulness to the corporation or its Ñanpaz foundation at every stop on the guided tour. Crediting the company with all benefits ignored the considerable input of the community and other funders of community projects.

Ñanpaz Foundation, EnCana’s NGO in the region, did not operate at arms’ length, and was tightly controlled by the company. It was not clear to the community, to me, or, it appeared in some cases, to company personnel, where EnCana ended and Ñanpaz began. This allowed Ñanpaz to gain funding from

other agencies and the company to use its activities for its own public relations purposes.

EnCana's definition of capacity building followed its narrow Alberta definition of developing knowledge and skills conducive to participation in industrial economic activities. Due to an absence of state programs and infrastructure, EnCana's efforts in Ecuador were often re-directed to social welfare provisioning and replacing state functions. While other development agencies, such as the Canadian-Ecuadorean Development Fund, were focused on human development strategies, EnCana's programs appeared to be located in the modernization paradigm. Local organizations questioned EnCana's definition of development, and urged the company to include humans and the environment in its vision. Furthermore, EnCana's claim of using the 'ultimate technology' should not be limited to techniques of oil exploitation, but should also apply to techniques of human development.

The company did not appear to understand the contradiction between its desire for changes in the political environment that would see royalty payments spent in the communities, and its support for military putdowns of strikes and protests intended to accomplish such redistribution.

Corporate security forces in the Tarapoa region were a major source of community distrust, resistance and resentment. Security and paramilitary arrangements are common to foreign oil companies operating in low-income countries, and EnCana was no exception. It could be argued that they operate in a volatile region, close to the Colombian border, and have every right to defend their facilities and installations against attacks, theft and sabotage. However, the secrecy surrounding their arrangements with the Ecuadorean military inherently associated EnCana with human rights abuses, while hiding behind references to the sovereign Ecuadorean state.

CHAPTER 8

DISCUSSION AND IMPLICATIONS

As a result of corporate re-positioning and neoliberal state withdrawal from many areas of social provisioning, demands on private capitalist interests have broadened to include a wide range of so-called ‘stakeholders’ and obligations. In the context of globalization adversarial relations between governments and TNCs have given way to corporate self-regulation. TNCs and governments now are seen as “partners in advancing economic development and national competitiveness” (Dunning, 1998:280). Subsequently, sixth generation CSR has invoked the notion that market forces should contribute to the attainment of development and poverty reduction goals. Of specific interest in the case study are relations between corporations and Indigenous peoples in developing regions and the development implications of CSR. This chapter will discuss the implications of this study, incorporating evidence from the case study and insights gained from the discussion in chapter two.

This dissertation had two objectives. The first objective was to construct a critical sociological theoretical approach to the corporate social responsibility field that paid attention to locations and expressions of power, structural limits or potentials, and the social construction of values and ideologies. In chapter two I constructed a historical account of CSR, grounded in questions asked from the perspective of political-economy, focusing on relationships between states and markets, politics and economics, and relations of power between societal groups.

The second objective of the dissertation was to contribute to knowledge about the ‘on-the-ground’ practice of CSR and its impacts on host communities, specifically in developing regions. In chapters five, six and seven I reported on the case study of EnCana Corporation’s practice of CSR in two locations, both on

Indigenous territory—one in Canada, in the province of Alberta, and the other in Ecuador. In addition, I studied EnCana's CSR practice in settler communities located in the immediate vicinity of the company's main field offices. Research gave specific attention to the processes whereby local Indigenous peoples attempted to hold the company accountable and to gain collective benefits.

The case study results confirm the context-specificity of CSR practices across the two countries. EnCana Corporation did not necessarily lower its standards when operating away from home, but was required to change its approach due to location-specific socio-economic and political factors. EnCana's corporate constitution imposed abstract, aspirational goals which had to be interpreted by local managers and adapted to fit specific contexts. Adaptation of CSR practices responded specifically to national development goals and state capacity and to community resources and strategies. Corporate culture remained constant and gave priority to the business case, foreclosing debate on values and alternatives. This resulted in a narrow, and subsequently limiting, understanding of capacity building and the meaning of development.

Beyond the success or failure of specific CSR initiatives, combining the case study and the political economy account of CSR in chapter two led to a number of further insights and identified several areas of future study. This chapter will proceed as follows: First, I will briefly re-cap the historical construction of CSR from a political economy perspective and emphasize the most important arguments. Secondly, I will discuss the context-specificity of CSR practices, using the findings from the case study. Thirdly, I will discuss my conclusion that the practice of CSR creates fragile dependencies. Finally, I will identify questions for further study.

A political economy account of CSR

A sociologically informed political economy perspective reveals CSR as a constitutive element of neoliberal global governance in the twenty-first century. Changes in the crucial business-society relationship are closely related to globalization, the consequences of neoliberal practices, deregulation and privatization and the regulatory vacuum at the global level.

During the twentieth century, failure at various national and international levels to restrain corporate power increasingly focused attention on the lack of legitimacy and democratic accountability of business interests. CSR emerged as a normative modification to the free market system and as a conscious attempt by business to forestall international regulation and state intervention in the market.

From the 1990s on, international institutions such as the World Bank, the International Monetary Fund, the European Union and the United Nations, increasingly called for business to take a leading role in solving environmental, social and development problems (OECD, 2003; World Bank, 2002; Jenkins, 2001; WBCSD, 1998). This occurred at the same time that governments withdrew from many areas of social welfare and professed their inability to meet many of their citizens demands (Moon, 2002).

Subsequently, the shifting roles of market and state actors manifested in institutional arrangements for governance giving a much larger role to market actors (Vogel, 2006; Swyngedouw, 2005; Bendell, 2004; DeAngelis, 2003). Politically this occurred by enlarging the private sector role in networks of global power relations and socially by taking on responsibility for certain public tasks and goods (Foucault, 2003; Drache, 2001; Cutler, Haugler and Porter, 1999).

The governance process is centred on the multi-stakeholder dialogue, a process that is presumably horizontal and equal, but suffers from power asymmetries and lack of democratic legitimacy. Participation is based on the

‘stakes’ held by groups with respect to the issues these networked forms of decision-making attempt to address.⁵⁹ Business and civil society are considered key players and partners, engaging in rule-shaping, self-regulation and co-regulation at the global level. An important example from the case study was the involvement of foreign oil companies in Ecuador’s political process to establish a consultation protocol (E-02:11). Increasingly, many rule-setting activities take place outside the international state system.

Using the discourse of CSR, business interests have largely self-selected to become important actors in global governance and rule-making. The discourse of CSR advocates self-regulation and voluntarism to forestall state intervention and serves as justification for dismantling regulatory capacity.

Business uptake of increased responsibilities rests primarily on the ‘business case’ conceptual frame, one of three frameworks discussed in chapter two. The business case seeks to combine three goals: economic prosperity, environmental quality and social justice, also known as the ‘triple bottom line’, identified by Elkington (1998). Arguments based on the business case are grounded in the assumptions that CSR is good for business and that triple bottom line goals are compatible and mutually reinforcing.

Business interests insist that CSR must be voluntary. In effect this gives business the power to set the terms of its own conduct. Corporations choose where and how to engage with social issues; which interests to acknowledge as stakeholders and how to respond; and the circumstances under which it chooses to enter into or exit from its programs.

The business case is based on the notion that business must incorporate social and environmental concerns into business practices, *because it is good for*

⁵⁹ For a more extensive discussion on “Government beyond the state”, see Swyngedouw, 2005.

business. CSR discourse may be understood as a Gramscian normalization process that reproduces ideological hegemony through the use of language, and modes of thinking and acting that are acceptable to the business community. De Angelis observes that the hegemonic global governance and CSR discourse turns Polanyi's criticism of the disembedded market on its head, "as it is based on the need to *embed society and the environment into the economy*, into business priorities" (De Angelis, 2003:23; emphasis in original).

Harnessing business resources and capabilities to solve problems of poverty and development runs up squarely against the incompatibility between corporate objectives and development objectives. The more important question is whether society needs a 'business case' to be made in order to pursue social, environmental, developmental and moral objectives (Lock, 2006; Blowfield, 2005a).

Focusing on CSR as a proposed solution to global problems needs to take into account the agency of different actors and the degree to which they are able to influence the course of events. Even under circumstances of uneven distribution of power, local communities have a range of strategies available by which to accept, reject or modify the workings of global capital. Such negotiations reveal CSR as an ongoing political contest over the meaning of sustainability, development and self-determination.

Context-specificity of CSR practices

EnCana Corporation, like other large oil and gas companies, has sought to address the impact of its activities on the environment and Indigenous peoples by adopting a corporate responsibility policy, and more uniquely, a corporate constitution. The case study demonstrates that the implementation and impact of such policies is highly contextual, despite EnCana's rhetoric stating that they

‘operate [everywhere] as you would at home.’ EnCana Corporation did not necessarily lower its standards when operating away from home, but was required to change its approach due to location-specific socio-economic and political factors.

The results of my research indicate that MNCs must adapt their CSR practices in response to local contexts. The viability of a business entity and its risk management depends on its responsiveness to social pressures. Specifically, EnCana Corporation adapted its CSR practices, responding to, first, national development goals and state capacity; and second, community resources and strategies. This confirmed contingency theory’s thesis of differential outcomes resulting from specific articulations of local socio-economic conditions. Confirmation of the doctrine of domicile was found in corporate culture and ideology which remained constant across developed and developing country contexts, allowing adaptation only within a certain range of possibilities.

My findings further suggest that, for host communities and in particular for Indigenous peoples, CSR practices create fragile dependencies. By this I mean that CSR maintains and reinforces the social disembeddedness of the corporation and subjects social, ecological and social justice objectives to economic imperatives. In the context of CSR, fragile dependencies are created by two important processes: first, at the business-society interface, citizens are conceptualized as stakeholders; second, participation in decision-making is institutionalized in the form of consultation, often delegated to project proponents, without sufficient involvement of the state.

National development goals and state capacity

The case study demonstrates that CSR activities respond to state priorities and capacities. Canada’s federal and provincial policies towards Aboriginal development have undergone a shift towards strengthening entrepreneurship,

developing human capital and taking advantage of Aboriginal resource and land assets (Indian and Northern Affairs Canada, 2009; NRTEE, 2002). According to a Senate study on Aboriginal economies, in the past too much emphasis was placed on social programs and not enough on economic development programs (Standing Senate Committee on Aboriginal Peoples, 2007). Policy now is focused on economic integration intended to lead to economic self-sufficiency. Primary mechanisms in this regard are partnerships, joint ventures and strategic alliances between industry and First Nations.

Many members of the Dene Tha' First Nation in Alberta, especially the younger generation, have abandoned their fierce anti-modernization positions and seek to get involved in resource development in attempts to participate in shaping events and gain a share of benefits. This has shifted their struggles for self-determination from engagement solely with the state and political and cultural institutions to include relations with corporate interests operating in their traditional territories

The leadership of Canada's First Nations endorse a strategy of economic integration based on taking advantage of economic opportunities. For example, the Chiefs Committee on Economic Development established a process intended to encourage Canada's corporate community to work with First Nations to increase direct partnerships, investments, procurement and employment (www.afn.ca/article.asp?id=107). "Through entrepreneurship and business development they believe they can attain their socioeconomic objectives" (Anderson et al, 2004:634; see also discussion in chapter 3). Within this evolving partnership model, the Federal government takes a lead role in facilitating initiatives between Aboriginal peoples and industry (Standing Senate Committee on Aboriginal Peoples, 2007).

When the Federal government announced a major funding initiative to help First Nations take advantage of business opportunities, the Dene Tha' responded by entering into a partnership to acquire half ownership in two drilling rigs. The case study specifically examined a drilling rig partnership with EnCana contributing four years of guaranteed work for the rig.

The drilling rig partnership demonstrated EnCana's responsiveness to national policy and development goals by taking advantage of the Federal initiative to insert itself into the joint venture. EnCana's Aboriginal policy also follows national policy when it commits to engage with First Nations to "develop their capacities to participate and benefit from business opportunities associated with EnCana's operations" (discussed in chapter 5).

Access to funds was an important factor allowing the Dene Tha' to pursue a strategy of joint ownership of drilling rigs and to attempt to gain benefits through participation in the resource extraction economy.

[S]ome of us have oil and gas on our land. So that gave us the money base...to work out certain solutions...and the cooperativeness of the federal and provincial governments...not as cooperative as we wanted, but (they) were there nevertheless.....Like when Indian Affairs provided an opportunity (for) economic development money in joint ventures, that's when the critics learn what a government can do...so, it's a joint effort, and also the willingness of First Nations to work out a deal, that's very important (A-20:114, 115).

The First Nation's ownership of resources and subsoil rights on their reserves gave the Dene Tha' a base from which to pursue inclusion into capital relations. The Canadian Federal Government's assistance with partial funding for the joint purchase of rigs provided the impetus for this strategy.

Two conditions are recognized as critical to the success of an entrepreneurial approach to economic development: first, the settlement of Aboriginal claims to land and resources; and second, in order to be successful, development strategies must originate in and be controlled by the community. According to Robinson and Ghostkeeper, strategies must respond to Indigenous culture and be “designed accordingly” (1987:173; see also Standing Senate Committee on Aboriginal Peoples. 2007, Anderson, 2004; NRTEE, 2003). The case study demonstrates that the drilling rig joint venture did not meet the conditions for success.

The Dene Tha’s claim to traditional territory has not been settled, and the project was not “designed accordingly.” The financial success of the Dene Tha’s drilling rig joint ventures did not translate into employment opportunities for the band’s membership. Rig employment probably was not the best fit for existing capabilities and traditional mobility patterns. Barriers to employment were located in cultural practices and traditional livelihood activities that did not necessarily correspond to industrial work schedules and requirements.

The fact that management of the rigs remained with outsiders prevented the Dene Tha’ from exerting sufficient influence in the joint venture. Inequitable control, limited participation in decision-making and limited meaningful transfers of knowledge and skills occurred, lessening the value of the joint venture as a development strategy. At the same time, the joint venture allowed resource exploitation companies greater access and range to exploit Aboriginal lands. Disillusionment with the lack of employment on the drilling rigs led to a more cautious approach to the possibility of future joint ventures. The capital intensive and highly technical nature of the drilling rig venture did not increase demand for the surplus of unskilled labour. The nature of the joint venture did not present the Dene Tha’ First Nation with an opportunity to mitigate the impact of resource

exploitation on the traditional economy. The project, and EnCana's involvement with it, did little to advance long-term goals of self-determination, generation of sustainable livelihoods and the protection of traditional cultural norms and values. Failure to understand that economic development must make sense to the community itself, tap into local capabilities, and resonate with Aboriginal values and culture means that such projects are not likely to be widely supported or sustainable.

Ecuador's development goals address its position as an 'underdeveloped,' low income country. Within Ecuador, the remote province of Sucumbíos—the location of EnCana's main operations—is the country's fourth poorest province, where 72% of the population lives below the poverty line. Development objectives within Ecuador focus on basic social welfare provisioning, such as public health, basic sanitation, education, housing and employment. It has long been practice in low-income countries to demand from foreign corporations operating in remote locations, that they provide these types of social services. Raymond Vernon attributes such demands to the weak capacity of the state and the underdeveloped democratic premise requiring governments to provide social welfare to all its citizens (1971).⁶⁰

EnCana's community development initiatives in Ecuador responded to national objectives and were focused primarily on improving human welfare in the communities surrounding its operations. The company did so by investing in education, health, sanitation and projects to improve agricultural productivity. EnCana, or its charitable arm, the ÑanPaz foundation, often partnered with national and international development agencies to leverage funding.

⁶⁰ Personal communication from Gordon Laxer, June 26, 2010, pointing out the historical context of demands on corporations in low-income countries.

In Tarapoa, EnCana's immediate region of operations and location of its regional compound, linkages to the surrounding communities were minimal, as is typical of enclave economies. The highly technical nature of oil exploration and production work resulted in some short-term, highly cyclical use of local unskilled labour, but few employment effects beyond that.

While the Canadian and Alberta governments maintained a sizeable presence in social welfare provisioning and Aboriginal relations and oversight, the Ecuadorean government was mostly absent from the remote regions where oil is extracted. An Ecuadorean researcher noted that

[t]he Ecuadorean state just signs contracts with the oil companies and gives them total freedom to explore and get the oil out. There is an absence of the state in the process...and the oil companies use this as an excuse to avoid responsibility. The state takes no role in relations between the communities and the companies (E-36:228).

Government presence in the region was minimal and plagued by corruption, forcing EnCana and other oil companies into the roles of development agents and substitutes for the Ecuadorean state. EnCana, to a large extent, had assumed the role of the state in the provision of health services, education, construction of basic and vital infrastructure and programs to improve the local economy, despite its insistence that it had no desire to replace the state. This amounted to the privatization of a public function.

CSR practice did not address structural factors related to the weakness of the state and institutions in Ecuador. On the one hand, it tended to relieve pressure on government to take up its social and re-distributive roles. Government, on the other hand, took advantage of corporate capacity, resources and proximity to offload responsibility for development and social functions. Despite the presence and capacity of the Canadian and Alberta governments, ideological factors in this

country have led to similar offloading onto the private sector. CSR thus becomes a mechanism in the weakening of government and increases the dependency of governments on corporate voluntarism.

Community Resources and Strategies

One evening we (Alberta Chiefs) had a ceremony put on by their (Ecuadorean Indigenous) elders...the ceremonies, the prayer offered and so on, was very similar to the way we do things in Canada (A-20:110).

While Indigenous peoples across the world hold much in common, including their marginalized positions, differences in context influence the spaces available to hold corporations to account and to carry forward Indigenous aspirations. Garvey and Newell have identified four factors that influence the ability of communities to influence CSR practice, including community “powerlessness” on a number of levels; the range of community employment opportunities or livelihood options; the heterogeneity of the “community”; and the nature of the relationship between communities and NGOs, unions and others who claim to represent them (2006:91; see also chapter 3). While these factors apply to Indigenous nations, an important additional factor revealed through the case study relates to the basis for claims on the corporation and the access of affected groups to the judicial system and enforcement of rights.

National and international agreements presumably bestow on Indigenous peoples a strong bargaining position versus industrial interests that affect their rights. A country’s legal framework and its accessibility can provide a vital mechanism for defining rights and enforcing responsibilities. At the same time, Indigenous peoples mostly are involuntary ‘stakeholders’ in corporate relations, attempting to deal with activities usually initiated without their prior consent. Free, prior and informed consent, or consultation, prior to and during resource extraction is a vital community resource towards self-determination. This is

discussed in more detail below, as one of the processes through which fragile dependencies are created.

In both locations, Indigenous peoples' pre-existing struggles with the state over recognition of their special rights and status within the country were inserted into claims on the corporation. The basis on which these claims were made differed. Dene Tha' former Chief James Ahnassay, who had occasion to visit EnCana's Tarapoa operations, commented:

[t]he way they do business with the government, industry, compared to the way we do things here...(was) very different. They don't have any treaties to go by, it appears. So basically, it was the political will of the people that was driving it...The government doesn't seem to be very willing to meet them halfway...to work out solutions (A-20:110).

The Dene Tha' First Nation claims the right to participation and self-determination on the basis of treaty rights, specifically Treaty 8, and their "preferential status as constitutional rights holders" (Potes, Passelac-Ross and Banks, 2006:35). The Dene Tha' First Nation's activities focused on participation and voice, intended to lead to economic self-determination. Alberta's Dene Tha' tended to use the avenue of court action and appeals to achieve their claims on both the Alberta and Canadian governments.

Siona and Secoya claims were based in ILO convention 169 and on the incorporation of the convention in the Ecuadorean constitution. While the *colonos* in Tarapoa and Aguas Negras had no such special status to call upon, their demands were based on their proximity to corporate operations and the costs of resource extraction imposed on them. The Ecuadorean government imposed a limiting factor on constitutional rights to communal lands by inserting a clause in title deeds that made obstruction of oil operations illegal, leading to a possible loss of title. Despite this clause, instability and corruption of the judicial system

left Ecuador's Indigenous peoples with few options but to pursue political avenues to gain their objectives. At the national level this took place through the Indigenous federations that have formed in Ecuador. Locally, this frequently took the form of direct action and mobilization against oil companies, including EnCana Corporation, to gain benefits and concessions from both the state and the private sector.

Contingency theory's prediction that an active civil society is extremely important to the negotiation of benefits for local communities was partially supported. While there was some NGO involvement in Ecuador, often NGO agendas conflicted with the goals of the communities. Where they did not, NGO involvement decreased asymmetrical power relations. Particularly in Ecuador, alliances with national and international NGOs constrained the political scope of action for the Ecuadorean government and for EnCana Corporation. Despite the lack of CSR institutions in Ecuador, Canadian CSR institutions and expectations (for example, from Social Investing Funds and Canadian NGOs) influenced and directed EnCana's CSR practice in Ecuador.

Alberta's and Canada's First Nations' struggles over resource extraction on their lands have not captured the attention of either activists or the media, to the same extent as the Indigenous peoples inhabiting tropical rain forests. Aboriginal disagreement over the meaning and institutionalization of consultation has seen limited NGO activity on behalf of Canada's First Nations. NGO efforts are focused on regulating the behaviour of Canadian extraction companies abroad, implicitly suggesting that Indigenous peoples in developing economies are different and require special attention.

While Ecuadorean interests have used international concern for the environment to advance their own social, cultural and economic interests, the destruction of the boreal forest and the livelihoods of its First Nation occupants

has not generated the same concern and attention. For example, following EnCana's sale of its Ecuadorean operations, attention of the Toronto Environmental Alliance—a key player in focusing attention on EnCana's involvement in building the OCP pipeline—turned to EnCana's operations in Chad, Africa, not to EnCana's domestic operations.

Corporate culture and ideology

Corporate ideology, based in a neo-liberal capitalist worldview remained a constant in EnCana's practice of CSR across both locations. This confirmed the doctrine of domicile, which states that international corporate behaviour is rooted in a company's home-country values and allows adaptation only within a certain range of possibilities.

The case study did not find support for contingency theory's rosy view of beneficial arrangements when a corporation conforms to the doctrine of domicile. Neoliberal ideologies have made the state more dependent on market forces, leading to an intertwining of ideologies. In both Canada and Ecuador, governments treat the remote oil-producing regions as internal colonies from which to extract wealth. Government's role is limited to creating conditions for the extraction of wealth, discounting the interests of local populations. CSR grounded in home-country values accepts the neo-liberal business case elevating the maximization of profits above social, cultural and ecological objectives.

Ideology informs and influences the possibilities and limitations of CSR, the values that are promoted and the ways in which CSR is implemented (Blowfield and Frynas, 2005). This was most clearly demonstrated in the corporate understanding of capacity-building and the meaning of development. A second ideological element, found in most business and institutional literature on CSR, is the reliance on consensus and "win-win" rhetoric. Neo-liberal ideology

does not acknowledge the inherent contradictions in being socially responsible and being concerned with the bottom line.

EnCana's practice of CSR was based on a policy of capacity-building. A development agency that had executed a joint project with EnCana's Ñanpaz Foundation noted the difficulty of working from different understandings of capacity building and the meaning of development:

First, you have to construct a common view of the problem and the solution....We (corporations and development agencies) have to develop a joint vision and once we have that joint vision, well, maybe we have different ways of approaching it, but I am not sure that we have that joint vision yet (E-07:53, 52).

Closer examination of the practice disclosed a narrow corporate understanding of this concept, rooted in the modernization paradigm. Capacity building was focused on human welfare, or on developing human capital—individual knowledge and skills conducive to labour participation in industrial economic activities.

Corporate discourse of giving a 'hand up' is meaningless in the field of resource extraction. The oil industry creates few linkages, or long-term opportunities for communities to engage with industry. Little evidence was found of current development practices focused on participation and self-determination. A development agency representative who had worked with the Ñanpaz Foundation on projects in EnCana's region of operations, noted that

development, it is mostly a human issue...we should not just look at concrete things, like a building, but mostly at the human growth, the local capacity that is built and that stays with people and that they can hopefully apply to other activities...Development, it is something really

long-term, it's not something we do for only three, five or ten years, but for a hundred (E-07:51, 52).

EnCana's idea of building capacity was based on market principles and not located in pre-existing local strengths and possibilities, which would allow for forms of long-term sustainable development. Corporate notions of rights to property and access were incompatible with notions of inclusive and participatory development. Striking in this regard is the corporate insistence on Western notions of property and access rights, while at the same time denying historic collective property rights to Indigenous peoples.

The lens through which corporate interests and host communities—especially Indigenous peoples—view the world and the socially constructed philosophies that shape their judgements and actions differed fundamentally from one another, making it difficult to reconcile opposing narratives. Bewilderment on the part of corporate officials who did not understand communities' different worldviews often led to a hardening of corporate positions and defensive postures. Specifically, EnCana's officials tended to refer to criticism as 'drive-by innuendo' and to carefully guard information and access, fearing that this could be used against them. The company's refusal to cooperate with the study, with the exception of some cooperation in Ecuador, illustrated the company's fear of independent monitoring.

Corporate "win-win" rhetoric assumes that corporations and communities have reached a consensus on shared interests and goals. A continuing thread in the narratives of the Dene Tha', Siona/Secoya and colonists, was the relentless refusal of EnCana to acknowledge conflict, difference, culpability for the destruction of traditional livelihoods, incompatible objectives, and less than positive outcomes. From the point of view of affected communities, corporate activity created the problems their CSR programs were intended to solve. Agreements, compensation,

provision of employment (albeit short-term), maintenance of roads, and other initiatives, were presented as community development benefits, CSR practice and something done through the generosity of EnCana. Most of what was done was required by law, part of contracts with the government, or also of benefit to the company.

In the case of the small number of projects that were offered as true community development programs, the company often cooperated with other funding organizations. EnCana had a tendency to claim full credit for such projects. The company further tended to ignore sizeable contributions by communities in the form of labour and land. A development agency official noted that

[l]ocal participants put in work or their time, and...they may not have much in terms of resources, but they put in a lot of effort (E-07:47).

EnCana's officials noted the required participation of the community, but did so in the form of a demand, rather than an acknowledgement of a contribution.

The community should...cooperate to solve their own problems (E-03:27)...We are not here to do everything for them, we are here to help them, to cooperate by offering a part of the whole, so people (the community) have to complete the work (E-03:35).

The solicitation of gratitude during my visit to several project sites pointed to a paternalistic and philanthropic mindset.

Corporate social initiatives were used to establish an image of a responsible corporation, irrespective of their success in fostering long-term, sustainable development. This is not to say that company community development initiatives were not valuable at all. Obviously communities valued certain initiatives, despite community rhetoric to the contrary. The best example of this was the Ecuadorean strike demanding the return of health and education

initiatives after they were shut down by Andes Petroleum. On the other hand, funds spent on community development initiatives were miniscule in comparison to corporate profits, or compensation paid to top corporate officials.

In Ecuador, EnCana attempted to uphold its corporately defined values of trust, honesty, and integrity in the face of high levels of corruption, a difficult balancing act under frequently changing governments. An innovative scheme of paying taxes in a public ceremony attempted to pressure communities to hold government officials accountable.

CSR leaves many aspects of transparency and accountability beyond public scrutiny. In Ecuador, secrecy around security arrangements and cooperation with the military put EnCana on shaky human rights grounds. Despite an assertion by a senior EnCana official that a more cohesive campaign was needed to engage with the Ecuadorean government and to pressure for more spending of royalty revenues in host communities, the company cooperated with the military to suppress all community campaigns to do so (A-28:207).

Security arrangements in Ecuador presented EnCana with its greatest difficulty to maintain its publicly-stated values.

There have been many complaints because the company has many private security guards. Their presence...scares people because they play almost a paramilitary role...the population complains because they (security) showed violent behaviour against them (E-11:63).

Almost invariably, foreign oil companies in low-income countries operate from highly defended paramilitary compounds and arrangements between private security and military forces are very seldom made public. To have access to security agreements, as in the case of Ecuador's military and the oil companies in the *Oriente*, is highly unusual. This master agreement together with the sub-agreement between AEC Ecuador and Ecuador's military directly linked EnCana

to human rights abuses in Ecuador. It is here that conflict between CSR values and the primacy given to the business case became most visible. Corporate rights to property and access to resources superseded commitments to the protection of human rights.

Corporate Social Responsibility: the production of fragile dependencies

The practice of CSR is not simply a set of processes and procedures with known or predictable outcomes, an “approach”, or an “attitude to be developed” (Blowfield, 2007:693; Idemudia, 2008:96). Rather, it is a set of power relations involving the state, market forces and citizens. Corporate social responsibility practices are part of the processes by which the power relations between societal groups are created and changed. Absence of the state as regulator and the creator of standards by which this process should take place tends to benefit those with the most resources and power, in this case, corporate interests. Furthermore, the practice of CSR obfuscates conflict and thus legitimizes the changed power relations it creates.

This set of relations establishes what Escobar calls “discursive practices” that set the rules of the game (Escobar, 1997:87). Jonker and Marlberg note that, thus far, business has dominated the discourse around CSR and that the lack of alternative conceptions “all but guarantees the institutionalization of CSR under its business case definition” (2007:108). Blowfield adds the observation that the “discipline has yet to develop the means for internal critique, and as a result is unable to recognize its own assumptions, prejudices and limitations” (2005a:173). The dominant discourse around CSR unquestioningly accepts the merits of corporate-led globalization, the beneficial nature of corporate activities, the freedom of capital and the voluntary nature of CSR.

As I have demonstrated in chapter two, the discourse of voluntary CSR functions as a constitutive force in ‘global governance’, shaping and changing the relationship between business, governments and civil society in contemporary global capitalism. CSR is constituted in a discourse of power and control which establishes a circumscribed space of thought and action, normalizing and legitimizing business action (Blowfield, 2005b).

Within this space, CSR creates what I call ‘fragile dependencies.’ I define fragile dependencies as a set of relations in which hegemonic forms of differential power, procedures and processes subordinate social and ecological entities to capital relationships, emphasizing economic power and de-emphasizing political, socio-legal and moral rights and obligations. Specifically, within the CSR model grounded in the business case, relations are structured to privilege economic power, reducing the degree of control exercised by local populations over their social and cultural context.

The reality expressed by many of the people interviewed for the case study indicates that CSR practices have limited positive impacts on the lives of those they are intended to benefit. The exercise of CSR, as practised by EnCana Corporation, mainly took the form of corporate philanthropy, which transformed dependency on corporate efforts from a problem created by corporate actions and the nature of capitalist relations, to communal demands not grounded in rights to compensation for lost or diminished livelihoods. In effect, the conception that CSR creates fragile dependencies recaps de Angelis’ notion of a Polanyian inversion at work in contemporary globalization. CSR, in other words, maintains and reinforces the social disembeddedness of the corporation and subjects social, ecological and social justice objectives to economic imperatives.

In the context of CSR, fragile dependencies are created by two important processes: first, at the business-society interface, citizens are conceptualized as

stakeholders; second, participation in decision-making is institutionalized as a weak communicative exercise, delegated, in many cases, to corporate interests and removed from the immediate purview of the state.

From citizens to stakeholders

The ‘stakeholder’ and ‘stakeholder management’ are fundamental concepts in CSR discourse. Probably the most widely accepted definition of the stakeholder is Freeman’s, who saw stakeholders as any group or individual who can affect or is affected by the organization’s objectives (1984). According to Banerjee, “the rationality that determines the legitimacy of a stakeholder arises from corporate and economic interests, not social” (2007:30). Stakeholder theory, while attempting to identify stakeholders a firm should pay attention to, remains focused on the centrality and perspective of the firm. Groups affected by corporate actions become ‘stakeholders’, rather than citizens with political rights to participation, the civil right of democratic voice, and social rights to state resources and services.

The simple purchase of exploration and extraction rights in a particular area gives a resource-extraction firm the status of master stakeholder, with large subsequent powers to select the rights of others. According to Kuyek, “even before they develop a mine, corporations assume that they have a right to be at the table. But this right is a fiction” (2006:216). Kuyek goes so far as to say that companies should be invited to the table by the owners of the land. If they are not, corporations are “intruders” (2006:215). Wherever resource extraction takes place, Kuyek argues, local communities have a much more significant livelihood interest than the company’s interests in profit on behalf of its principals and shareholders (2006).

CSR and the accompanying practice of the multi-stakeholder dialogue were instituted partly to address the so-called democratic deficit in global

governance. The notion of ‘stakeholder’ has expanded, mainly in utilitarian terms, to include a broad range of interests. Michael Blowfield has commented on the possibility that, in the Gramscian sense,

partnerships and the groups defined as stakeholders...(are part of)...the institutional means by which hegemony is claimed and maintained; or...following Foucault’s disciplinary approach to power, that standards, auditing and the concepts of stakeholder and partnership are amongst the techniques of normalisation through which entities regulate their own behaviour, and which structure thought and discourse into mutually exclusive categories such as correct–incorrect or desirable–undesirable (2005a:182).

To expose the contradiction of the current hegemony, a critical theory approach to questions of power, influence and interests needs to question the ‘stakeholder’ concept.

Use of the term ‘stakeholder’ in current discourse conceals the centrality of the firm and its power to choose whose interests to respond to, at what level, and the extent of its accommodation. This “makes assumptions about the rights of different parties to be at the table, assumptions that are symptomatic of the repositioning of governments and citizens vis-à-vis the corporation and the ‘private’ sector” (Kuyek, 2006:215). Furthermore,

CSR assumes that the concepts of stakeholder and partnership are ideationally neutral, and therefore it does not examine the possibility that the choice of these concepts over their alternatives has a determining effect on the very definition or implementation of corporate responsibility (Blowfield, 2005b:182).

Uncritical use of the stakeholder concept amounts to an inadvertent legitimization of one of the core assumptions in the CSR debate and closes off debate around the

obligations and duties of corporations to society. Stakeholder approaches tend to reinforce existing power relations and the prioritization of capitalist market interests.

While there is no doubt that Indigenous peoples have legitimate claims on corporations operating in their territories, their ability to engage with corporations is severely restrained by the stakeholder designation. Indigenous peoples' insistence to be treated as 'not just another stakeholder' points to the realization that the notion of stakeholder falls far short of the specific constitutional rights claimed by them and the obligations this imposes on corporate interests. Rather than being able to exercise the legal and political right to a livelihood, communities become passively dependent on the resources of corporations. Local people do not have the resources to claim ownership of community projects and development initiatives cannot remain functional without continued outside support. This was evident in EnCana's stated intention of handing projects over to governments or to NGOs.

Political claims for self-determination are tied to historical territorial claims, which are the responsibility of the state. CSR cannot and does not respond to territorial claims and responds only in partial and particular ways to claims for livelihoods. Corporations usually do not take responsibility for the destruction or diminishment of traditional livelihoods. The problem is that it is the action of capital which separates people from their means to a livelihood in the first place. Replacing the independent means to livelihoods with the limited notion of capacity building—understood as gaining the prerequisites for participation in the capitalist economy—places people in a position of subordination to capital relations. Projects often do not build on community capacity and strengths. The resulting activities are more likely to be disempowering and to reinforce

dependency and donor-recipient relationships rather than opening possibilities to secure and independent economic futures.

Corporate paternalism transforms dependency from a problem created by their actions and the nature of capitalist relations, to communal demands not grounded in rights to compensation for lost or diminished livelihoods. Under conditions of asymmetrical power relations and usually enormous differences in access to resources and knowledge, stakeholder relations create dependency on corporations.

Certainly, in cases of asymmetrical power relations, the fragile designation of 'stakeholder' depends on selection by others, and groups or individuals participate on the basis of the 'stakes' they hold in relation to the issue involved.

According to Shamir

[t]he CSR field thus evolves as a site where counter-hegemonic pressures and hegemonic counter-pressures begin to assume a more or less definitive structure, with 'authorized' agents who occupy certain 'recognized' positions from which they assert 'what is at stake' and from which they try to control the definition and scope of the very notion of 'responsibility' (2005:94).

Swyngedouw argues that these networked forms of decision-making are riddled with contradictions. "Arrangements are often imposed (from above), [and] there is widespread distrust, particularly as rules and norms are not agreed, but decided under non-codified and often informal ad-hoc principles" (2005:1995).

A new way of thinking about business and society relations must place citizens, rather than the firm, at the centre. The stakeholder and the citizen are not one and the same entity. This realization re-directs our attention and allows us to re-conceptualize the issues. Replacing the discourse of 'stakeholders'—who require from the firm a certain 'responsiveness'—with the notion of the

‘citizen’—a holder of rights and opportunities—directs our attention to duties and obligations required of others. It specifically draws attention to the social responsibility of governments to uphold and implement their obligations towards citizens.

The original meaning of stakeholder applies to the holder of the bets placed in a gamble. In this gamble, the elevation of economic interests over social and ecological concerns creates vulnerability for citizens, who find themselves with fragile ‘stakeholder’ claims to livelihoods, rather than the active exercise of citizenship claims, with corresponding duties and obligations held by others.⁶¹

Consultation

Indigenous nations claim the right to free, prior and informed consent to change current power relations and to gain a measure of self-determination. Without the right to consent to externally proposed activities, or to modify such activities to suit their own objectives, Indigenous peoples have a much reduced capacity to control their particular context. The statement of the Global Indigenous Caucus on the adoption of the United Nations Declaration on the Rights of Indigenous Peoples speaks to the importance of FPIC:

Indigenous Peoples’ right to self-determination is about our right to freely determine our political status and freely pursue our economic, social and cultural development. It also includes our right to freely manage our natural wealth and resources for mutual benefit, and our right to maintain and protect our own means of subsistence. ‘Free, prior and informed consent’ is what we demand as part of self-determination

⁶¹ Others, such as Pierre Bourdieu and Zygmunt Bauman, have commented on peoples’ vulnerability and precariousness in contemporary global capitalism; Ulrich Beck has introduced the notion of ‘risk society’ to capture similar concerns.

and non-discrimination from governments, multinationals and private sector.¹⁶²

Internationally, FPIC is regarded as an “established universal norm of international law”, and recognized as “a principle within the normative framework of Indigenous peoples rights and human rights standards” (Doyle, 2008:1).

A number of financial institutions have, or are in the process of updating their standards to include FPIC in their policies and requirements. These include the European Bank for reconstruction and Development, the Inter American Bank and the Asian Development Bank (Doyle, 2008). Notable by its absence is the World Bank whose policies are currently inconsistent with the requirements of FPIC. According to Baue, two models of stakeholder engagement have evolved: free, prior and informed consent (FPIC), and free, prior, informed consultation. Baue notes that only two letters separate consent and consult, making a profound difference in meaning, similar to “the dividing line between, for example, lovemaking and date rape” (no date). A 2007 handbook, published by the International Finance Corporation—the private sector arm of the World Bank—supported the “free, prior and informed consultation” approach, earlier endorsed in the World Bank’s 2004 Management Response Report.

Indigenous peoples in both Ecuador and Canada forward claims to be consulted and give consent to activities in their traditional territories on the basis of constitutional rights. In practice, states are reluctant to extend consultation and veto rights to Indigenous peoples and tend to delegate consultation duties to corporate interests. Where some form of consultation takes place, the subsequent

⁶²Statement by the Chairman, Global Indigenous Caucus, Les Malezer, 13 September 2007 on the adoption of the UN Declaration on the Rights of Indigenous Peoples.

obligations of corporations are often unclear. Corporations thus become mediators between the local communities and the state, eliminating policy processes that entitle citizens to democratic voice. Citizens' political rights are exercised versus corporations rather than the state (Swyngedouw, 2005).

Indigenous nations fear that consultation, as currently constituted, is an instrument that simply legitimizes the will of the state to advance oil development. Any dialogue can and often is presented as an implied endorsement of proposed projects. The industry fears that consultation and veto-rights will hold them prisoner to interest groups and will limit oil development.

Indigenous peoples' aspirations of self-determination conflict with government claims to subsoil rights and rights to sell exploration concessions. International conceptions of Indigenous peoples' right to FPIC understand consultation to include the right to veto. In Canada, this understanding has been ruled out by the courts. Such veto rights would have serious implications for the constitutional authority of the state to act on behalf of the total collectivity and the unity of the state. Canada's government opposes the principle of FPIC on the grounds that "the establishment of a veto power over legislative action for a particular group would be fundamentally incompatible with Canada's parliamentary system" (Passelac-Ross, 2008:7). In Ecuador, current president Rafael Correa also is unequivocally opposed to veto power for local communities, over what he considers vital matters of national interest (Moore, 2009).

Lack of FPIC constitutes one of the main causes of conflict in the planning and operation of major resource extraction projects. Consultation processes should play a central role in creating the conditions for participation in decision-making and at least some control over acceptable outcomes. In the case of Indigenous peoples in both Ecuador and Canada, a rights-centered approach would demand major involvement from national governments, and subsequent

accommodation to incorporate Indigenous concerns into general planning. This calls for a different approach to the responsibilities of the state and those of corporations.

Summary

Current CSR practices leave those negatively affected by corporate activities in a vulnerable state. Voluntary, market-based approaches to social and environmental crises leave communities with tenuous claims on corporate actors and dependent on corporate definitions of what it means to be responsible. The subordination of social, legal, and moral rights and obligations to the priorities of capital results in the development of dependencies on corporate largesse. Claims on the corporation do not constitute an active exercise of rights, or a social assertion of self-determination. Rather, processes by which citizens are conceptualized as stakeholders, and weak consultative mechanisms mediated by corporations, limit communities' ability to direct and control externally proposed activities. Especially for Indigenous peoples, the designation of stakeholder and the lack of free, prior and informed consent fall far short of their legally and constitutionally guaranteed rights to self-determination and the attainment of self-defined forms of development.

Future Research

Economic, social and political dependencies stem from the subordination of citizens' rights to the requirements of capital. Offering alternative conceptions first of all requires us to tackle a narrative that is being told from within an established business paradigm, linked to hegemonic justification and legitimation of current social organization. As stated by Burchell and Cook, the business discourse of CSR "appears to complement the structural setting" (2006:125, cited

in Jonker and Marlberg, 2007:112). It is difficult to see how business can move towards real sustainability and the provision of sustainable livelihoods if its thinking is limited to its own paradigm.

The critical academic debate on CSR tells a different story, one that questions a worldview and assumptions that place economics above all else. Instead, critical accounts are “based on the premise that current business practices are detrimental to people and the environment” (Jonker and Marlberg, 2007:113). Jonker and Marlberg argue that the CSR debate currently favours business conceptualizations, supported by governments. To effect a paradigm shift to a “new eco-social” conception, they argue that scholars need to work together to “formulate their own, clear, practical CSR agenda” (p. 166).

An alternative paradigm must, as I have argued above, step away from the use of the term ‘stakeholder’ and replace it with ‘citizen.’ Re-conceptualizing those who are affected by corporate activities as citizens, rather than stakeholders, may offer fruitful avenues of re-directing the CSR debate. This requires the state to take a much more active role as the enforcer of rights, and the creator of processes and mechanisms that “make real the rights” and obligations of both corporations and communities (Newell, 2005:556). It also imposes on corporations obligations to the state: to acknowledge the duties of the state towards its citizens, including the duty to regulate on their behalf.

Theorizing a rights-based conceptualization of CSR re-directs attention to correlative duties and obligations towards citizens. This differs from a focus on incorporating human rights into business practice. Business generally takes a legalistic approach to human rights and CSR strategies generally add on human rights as tactics to mitigate negative impacts. “In rights-based societies, rights status is the highest level of protection provided ... and the basis to demand

guarantees against threats to the free and full exercise of rights” (Passelac-Ross and Potes, 2009). According to Ruggie

[t]he root cause of the business and human rights predicament today lies in the governance gaps created by globalization - between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. These governance gaps provide the permissive environment for wrongful acts by companies of all kinds without adequate sanctioning or reparation. How to narrow and ultimately bridge the gaps in relation to human rights is our fundamental challenge (2008:6).

This must be accompanied by access to appropriate and effective judicial and non-judicial remedies for those whose human rights are impacted by corporate activities. A rights-based approach to CSR would parallel the rights-based approach to development championed during the past decade by some governments and the United Nations.

Rights-based approaches (RBAs) to development are based on the core principles of participation, accountability, equality and non-discrimination, transparency and empowerment. RBAs step away from benevolence and charity and focus on rights-holders accompanied by duty bearers and their obligations. According to Gibb, Foster and Weston, RBAs are “more explicit about the importance of changing power relations...raising the issue of mutual obligations between people and the state, and stressing the need for rights to be accompanied by responsibilities” (2008:18).

RBAs are particularly important to Indigenous peoples, who have articulated their alternative visions of development in terms of claims to rights with respect to their lands, territories and cultures. According to Coumans “interactions between Indigenous peoples and resource extraction companies are

increasingly characterized by Indigenous peoples' use of rights-based language," commonly with reference to international law and UN principles (2008:44). A rights-based approach to CSR implies recognition of the collective rights of peoples and the need for consent.

The principle of FPIC is a particularly important aspect of a rights-based approach. The struggles of the Dene Tha' First Nation and other Treaty 8 First Nations in Alberta to negotiate an agreement on consultation with the Alberta government points to fundamental disagreements on the scope and nature of the provincial government's obligations. In Ecuador, Indigenous peoples face similar struggles to establish their right to FPIC. Principles of CSR within the context of human rights applied to Indigenous peoples must include cultural protection, self-determination, and effective participation. As a minority group, Indigenous peoples are entitled to have their culture and their heritage protected. FPIC principles require that Indigenous peoples have control over their land and that, in respect of issues that affect them, no decisions be taken without their informed consent.

While human rights have tended to be viewed as issues to be facilitated and enforced by governments, the 2003 United Nations draft paper on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights (Draft Norms), acknowledges the primary responsibilities of states, but notes that business entities, as "organs of society", are also responsible for promoting and securing human rights (Preamble). The Draft Norms are the most detailed statement to date of the potential human rights obligations of TNCs and include the principle of FPIC. They were roundly rejected and criticized by private business and their representative organizations, but received widespread support of civil society organizations.

With the appointment of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, the debate has returned to an emphasis on the responsibility of governments to enforce human rights. The Special Representative's report states that "[o]bligations under international human rights conventions apply to states and do not directly create obligations for companies" (United Nations Human Rights Council, 2008:8). This raises the question whether corporations simply have a negative duty to not infringe on the human rights of others, or a positive duty to ensure the full exercise of rights by people or peoples affected by business activities.

The Canadian Government adopted the Special Representative's position in its report on the CSR Roundtables process on the responsibilities of transnational corporations operating outside Canada. The report notes that "[o]bligations under international human rights conventions apply to states and do not directly create obligations for companies" (Government of Canada, 2009:8). Civil society representatives, however, "argued for the development of standards rooted in internationally accepted human rights principles" (Coumans, 2008:62). Industry representatives and "some government officials" launched a strong attempt to shift the discussion to "an approach focused on better 'development' outcomes" (p.63). Eventually, a compromise was reached, deferring the decision on whether to include the principle of FPIC in the Canadian Standards.⁶³

Despite strong resistance to a rights-based approach to CSR, theorizing such an approach would take the obligations of business from a focus on immediate problems and their solutions to a broader focus on the structural frameworks in which business activity takes place and the power relations within

⁶³ For a detailed discussion, see Government of Canada, 2007:10-13).

which interactions with affected communities are embedded. Further research is needed to draw out the implications of a rights-based approach to CSR and the practicalities of operationalization.

Final thoughts

It would be easy to portray this story as an essentialist account of an all-powerful, uncaring corporation versus romanticized Indigenous peoples and the generic 'poor.' This is much too simple. As the end users of oil production, Northern consumers share a conflicted conscience with host communities, especially where resource extraction takes place on the lands of traditional peoples. Indigenous peoples want the benefits of industrial activity, but the caribou too; plentiful fish and a 40 HP Yamaha outboard motor. Northern consumers want cars and the ability to fly all over the world, with fuel that has been cleanly extracted, without disturbing the romanticized Indigenous peoples who should be left in their traditional state.

Exploiting a finite world in the pursuit of infinite growth presents societies with contradictions that cannot be reconciled. In the words of Seabrook

[c]apitalism – or, under its many criminal aliases, globalization, industrial society, the economy – must appear to reconcile growth with conservation. The political management of the contradiction involves reassuring people that we can painlessly have it all. We can all get richer and grow greener at the same time (2002).

Within the pursuit of painlessly having it all, governments' activities have been very narrowly framed by material aims and the pursuit of infinite economic growth. Issues of environmental degradation and the development aspirations of Indigenous peoples cannot be separated from the effects of global flows of capital

and resources. More importantly, they cannot be separated from questions about on whose behalf and for whose benefit these global flows operate.

Throughout this dissertation I have argued that the issue of power should be central to any understanding of CSR and corporate activities in Indigenous territories. Asymmetric power conditions make CSR a political contest over the meaning of Indigenous self-determination and the meaning of development. Within global and national frameworks, CSR is offered as a voluntary form of self-regulation within discourses of networked governance.

The struggles of Indigenous peoples against oil corporations, and industrial development in general, are very much struggles against a world order that reduces their territories to mere sources of raw resources, to be extracted as quickly and efficiently as possible. Indigenous peoples, along with progressive segments of global civil society, draw our attention to alternative conceptions of the world and the need to recognize the significance of ecological, social, cultural and spiritual values above economic values alone. At the macro-level CSR only serves to obscure deeper, systemic problems with today's dominant business and economic model.

As currently understood and practiced, CSR amounts to voluntarism from above rather than rights from below and as such is part of the processes by which power relations are maintained and changed to favour economic interests. While the business case promotes the rhetoric of sustainable development, ultimately the boundaries of the social responsibility of business are contained within the economic possibilities permitted by the market. As Jones points out, CSR equates with good business practice and thus becomes "redundant and unnecessary" (1996:63). In its present form CSR offers little possibility for fundamental change towards socially just sustainable development.

The nature of depletable resource extraction makes it unlikely that any CSR initiatives support sustainable development. Eventually the oil runs out, corporations leave and local populations are left to find livelihoods in a changed and diminished environment. As a Dene Tha' member said: "Companies are there for the short term. Afterwards, they forget about you" (A-12:69). Corporate self-regulation is not a significant shift towards ecologically sound and socially just development. The burden of proof that voluntary initiatives deliver desirable and sustainable results remains to be fulfilled and must rest with the corporate community.

BIBLIOGRAPHY

- ACR (Alberta Chamber of Resources). 2006. "Aboriginal Programs Project." Edmonton: Western Economic Diversification Canada, Retrieved March 10, 2007 (http://www.acr-aboriginalproject.org/B-Aboriginal_Population/aboriginal_population.htm).
- Albán, Jorge. 2003. "Participación, consulta previa y participación petrolera." Pp. 139-152 in *Petróleo y Desarrollo Sostenible en Ecuador. 1. Las Reglas de Juego* edited by G. Fontaine. Quito: FLACSO-Petroecuador.
- Alberta Federal and Intergovernmental Affairs. 1974. *The Alberta Energy Company*. Edmonton: Alberta Federal and Intergovernmental Affairs.
- Alberta Government. 2000. "The Alberta Advantage." Edmonton: Government of Alberta, Retrieved December 6, 2000 (<http://www.energy.gov.ab.ca/index.html>).
- Allinson, Robert E. 2004. "Circles within a Circle: The Condition for the Possibility of Ethical Business Institutions Within a Market System." *Journal of Business Ethics* 53:17-17-28.
- Amnesty International. 2004. Letter to Bill Graham, expressing support for the "UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights." March 23. Retrieved June 3, 2006. ([http://www.amnesty.ca/resource_centre/reports/view.php?load=arcview&article=1377&c=Resource Centre Reports](http://www.amnesty.ca/resource_centre/reports/view.php?load=arcview&article=1377&c=Resource_Centre_Reports)).
- Anderson, Robert B. 1999. *Economic Development Among the Aboriginal Peoples in Canada: The Hope for the Future*. North York, Ontario: Captus Press.
- Anderson, Robert B. and Robert Giberson. 2002. "Aboriginal Economic Development in Canada: Numbers and Outcomes." Presentation to the 2002 Babson-Kauffman Foundation Entrepreneurship Research Conference. Boulder: BKERC.

- Anderson, Robert B., Bob Kayseas, Leo Paul Dana and Kevin Hindle. 2004. "Indigenous Land Claims and Economic Development: The Canadian Experience." *American Indian Quarterly* Summer & Fall, Vol. 28, Nos. 3 & 4: 634-648.
- Assembly of First Nations. 2007. *Submission to the Sixth Session of the United Nations Permanent Forum on Indigenous Issues. Special Theme: Territories, Lands and Natural Resources*. Ottawa: Assembly of First Nations.
- Bakan, Joel. 2004. *The Corporation: The Pathological Pursuit of Profit and Power*. Toronto: Viking Canada.
- Balch, Oliver. 2005. "Corporate Responsibility in Latin America -- CSR on the Map." *Ethical Corporation Magazine*, 9 Nov.
- Banerjee, Subhabrata Bobby. 2007. *Corporate Social Responsibility: The Good, the Bad and the Ugly*. Northampton: Edward Elgar Publishing Limited.
- Banks, Nigel. 2003. "Regulatory Tribunals and Aboriginal Consultation." *Resources*, Spring, pp. 1.
- Barkemeyer, Ralf. 2009. "Beyond Compliance – Below Expectations? CSR in the Context of International Development." *Business Ethics: A European Review* Volume 18, No. 3, July.
- Barkin, David. 1998. *Wealth, Poverty and Sustainable Development*. Mexico City: Centro de Ecología y Desarrollo.
- Baue, William. 2005. "Speaking from Both Sides of the Mouth: The Art and Science of Corporate Tax Avoidance." *SRI-Advisor*. Retrieved February 21, 2005 (<http://www.sri-adviser.com/article.mpl?sfArticleId=1630>).
- , 2004. "Report Favors International Regulation Over Voluntary Corporate Social Responsibility." *Social Funds News* February 26, 2004, . Retrieved April 3, 2004 (<http://www.socialfunds.com/news/print.cgi?sfArticleId=1352>).

- No date. "Communities, Corporations, and the Difference Between Consent and Consult." *CR: Corporate Responsibility Magazine*. Retrieved June 24, 2009 (<http://www.thecro.com/node/498>).
- Bauman, Zygmunt. 1990. *Thinking Sociologically*. Oxford: Basil Blackwell.
- Bauman, Zygmunt and Keith Tester. 2001. *Conversations with Zygmunt Bauman*. Malden, MA: Blackwell Publishers Inc.
- Bendell, Jem. 2004. *Barricades and Boardrooms: A Contemporary History of the Corporate Accountability Movement*. Geneva: UNRISD Programme on Technology, Business and Society.
- Bergevin, Philippe. 2006. *Energy Resources: Boon or Curse for the Canadian Economy*. Ottawa: Parliamentary Information and Research Service.
- Bergman, Brian. 2003. "The Holistic Oil Baron." *MacLean's Magazine*, January 13, pp. 30.
- Berle, Adolph and Gardiner Means. 1932. *The Modern Corporation and Private Property*. Revised and Republished 1968. New York: Harcourt Brace & World.
- Bishop, John D. 2000. "A Framework for Discussing Normative Theories of Business Ethics." *Business Ethics Quarterly* 10(3):563--591.
- Blakeley, Georgina. 2010. "Governing Ourselves: Citizen Participation and Governance in Barcelona and Manchester." *International Journal of Urban and Regional Research*, Volume 34.1:130-45.
- Blowfield, Michael. 2005a. "Corporate Social Responsibility-The Failing Discipline and Why It Matters for International Relations." *International Relations* 19(2):173-191.
- 2005b. "Corporate Social Responsibility: reinventing the meaning of development?" *International Affairs* 81(3):515-+.
- 2007. "Reasons to be Cheerful? What we Know about CSR's Impact." *Third World Quarterly* 28(4):683-695.

- Blowfield, M. and J. G. Frynas. 2005. "Setting new agendas: critical perspectives on Corporate Social Responsibility in the developing world." *International Affairs* 81(3):499-513.
- Blowfield, Michael and Alan Murray. 2008. *Corporate Responsibility: A Critical Introduction*. Oxford: Oxford University Press.
- Boehlert, H.M. 2005. "Partnering Against Terrorism: Summary of a Workshop." Board on Science, Technology and Economic Policy. Retrieved July 2, 2006 <http://www.nap.edu>.
- Boele, R., H. Fabig and D. Wheeler. 2001. "Shell, Nigeria and the Ogoni. A study in unsustainable development: II. Corporate social responsibility and 'stakeholder management' versus a rights-based approach to sustainable development." *Sustainable Development* 9(3):121-135.
- Bourdieu, Pierre. 1990. *In Other Words: Essays Towards a Reflexive Sociology*. Stanford, CA: Stanford University Press.
- Braithwaite, John and Peter Drahos. 2000. *Global Business Regulation*. Cambridge, New York: Cambridge University Press.
- BSR Staff. 2001. "Introduction to Corporate Social Responsibility." U.S.A.: Business for Social Responsibility. Retrieved October 7, 2001 (<http://www.bsr.org>).
- Burawoy, Michael. 1998. "The Extended Case Method." *Sociological Theory* 16:1, March.
- Buechler, S. 2000. *Social Movements in Advanced Capitalism*. New York: Oxford University Press.
- Calder, Fanny and Malaika Culverwell. 2005. *Following Up the World Summit on Sustainable Development Commitments on Corporate Social Responsibility: Options for action by governments*. London: Sustainable Development Program, Chatham House.

- Calderbank, Bruce. Dec 2002. "Canadian Engineering and Geomatic Professionals and CSR Overseas." *Geomatica*. Vol 56 No 4.
- Canadian Business for Social Responsibility. 2002. "Roundtable on Expanding the Social Contribution of the Canadian Oil and Gas Sector: The Road to Collaborative Community Engagement: Roundtable Recommendations; Roundtable Findings." March 2002. Calgary: CBSR.
- Canadian Civil Society for the National Roundtables on Corporate Social Responsibility and the Extractive Sector in Developing Countries. June 2006. "Summary Critique of Standards Relevant to Extractive Industries." Retrieved September 4, 2006
http://www.mining.ca/www/media_lib/MAC_Documents/Publications/CSRENG.pdf
- Canadian Council for International Cooperation and others. Oct 2005. "Moving Beyond Voluntarism: A Civil Society Analysis of the government response to the Standing committee on Foreign Affairs and International Trade 14th Report, Mining in Developing countries." *Corporate and Social Responsibility 38th Parliament, 1st Session*.
- Canadian Democracy and Corporate Accountability Commission (CDCAC). 2002. *The New Balance Sheet: Corporate Profits and Responsibility in the 21st Century*. Toronto: CDCAC.
- Canadian Human Rights Commission. No date. Retrieved July 27, 2010
http://www.chrc-ccdp.ca/proactive_initiatives/section_67/page4-eng.aspx.
- CAPP (Canadian Association of Petroleum Producers). 2005. "2004 Stewardship Progress Report." Calgary: Canadian Association of Petroleum Producers.
- , 2007. "Fast Facts." Calgary: Canadian Association of Petroleum Producers, Retrieved May 23, 2007 (<http://www.oilandgasinalberta.com/fastFacts.asp>).

- Carroll, Archie B. 1991. "The Pyramid of Corporate Social Responsibility: Toward the Moral Management of Organizational Stakeholders." *Business Horizons* 34(4):39.
- , 1999. "Corporate Social Responsibility: Evolution of a Definitional Construct." *Business & Society* 38(3):268-296.
- Castells, Manuel. 1996. *The Rise of the Network Society, The Information Age: Economy, Society and Culture Vol. I*. Cambridge, MA; Oxford, UK: Blackwell.
- Cawthorne, Pamela. 2001. "Identity, values and method: taking interview research seriously in political economy." *Qualitative Research* 1:65.
- CBSR. 2005. "What is CSR?", Retrieved May 12, 2005 (<http://www.cbsr.ca/about/whatis.htm>).
- Chandler, Sir G. 2002. "Government and Corporate Social Responsibility - the Democratic Deficit." *Ethical Corporation Magazine* December:16. Retrieved January 6, 2003.
- Charkiewicz, Ewa. 2005. "Corporations, the UN and Neo-Liberal Bio-Politics." *Development* 48(1):75-75-83.
- Cheney, George, Juliet Roper and Steve May. 2007. "Overview." Pp. 3-12 in *The Debate over Corporate Social Responsibility* edited by May, Steve, George Cheney and Juliet Roper. Oxford: Oxford University Press.
- Child, John and Suzana Rodrigues. 2003. "The International Crisis of Confidence in Corporations." *Journal of Management and Governance*, 7:233-240.
- Christian Aid. 2004. *Behind the Mask: the Real Face of Corporate Social Responsibility*. London: Christian Aid.
- Cimoli, Mario, Nelson Correa, Jorge Katz and Rogerio Studart. 2003. "Institutional Requirements for Market-Led Development in Latin America." *Informes y studios especiales*. No 11. Chile: CEPAL, United Nations.

- Clarke, Tony. 1997. *Silent Coup: Confronting the Big Business Takeover of Canada*.
Ottawa, Toronto: Canadian Centre for Policy Alternatives and James Lorimer &
Company Ltd.
- Clement, Wallace. 1975. *The Canadian Corporate Elite: an Analysis of Economic
Power*. Toronto: McClelland and Stewart.
- Cloud, Dana L. 2007. "Corporate Social Responsibility as Oxymoron: Universalization
and Exploitation at Boeing." Chapter 15 in *The Debate Over Corporate Social
Responsibility* edited by Steve May, George Cheney and Juliet Roper. Oxford:
Oxford University Press.
- Coles, David and Kate Murphy. 2002. "Social Accountability: A New Approach to
Business." Retrieved March 24, 2002
<http://www.sustdev.org/journals/edition.01/preview/1.017.shtm>.
- Confederacy of Treaty Six First Nations and the Treaty 7 Tribal Council. 2006. *First
Nations Consultation: A framework for Relations with Government and Industry*.
Calgary: Confederacy of Treaty Six First Nations and the Treaty 7 Tribal
Council.
- Conference Board of Canada. 2000. *Case Studies in Voluntary and Non-Regulatory
Initiatives: Final Report*. Ottawa: Conference Board of Canada.
- , 2004. *The National Corporate Social Responsibility Report: Managing Risks,
Leveraging Opportunities*. Publication 607-04. Toronto: Conference Board of
Canada.
- Coumans, Catherine. 2008. "Realising Solidarity: Indigenous Peoples and NGOs in the
Contested Terrains of Mining and Corporate Accountability." In *Earth Matters:
Indigenous Peoples, the Extractive Industries and Corporate Social
Responsibility* edited by Ciaran O'Faircheallaigh and Saleem Ali. Sheffield:
Greenleaf Publishing Ltd.

- Cox, Robert W. 1999. "Civil Society at the Turn of the Millennium: Prospects for an Alternative World Order." *Review of International Studies* 24:3-3-28.
- Crook, Clive. 2005. "The Good Company." *The Economist*, January 22nd - 28th, pp. 54.
- CSRwire. 2002. "New Report Spotlights Media's Role in Corporate Social Responsibility and Sustainable Development Debate.", Retrieved January 4, 2002 (<http://www.csrwire.com/article.cgi/897.htm>).
- Culverwell, Malaika, Bernice Lee and Izabella Koziell. 2002. "Towards an Improved Governance Agenda for the Extractive Sector." Report based on RIIA Workshop Sustainable Relationships: Financing and Monitoring Responsibilities. London, UK.
- Cutler, A. C., V. Haufler and T. Porter. 1999. "The Contours and Significance of Private Authority in International Affairs." Pp. 333+ in *Private Authority and International Affairs*, edited by A.C. Cutler, V. Haufler and T. Porter. New York: SUNY Press.
- Dabbs, Frank. 2003. "Survival of the Richest: Social Darwinism and the Moral Economy." *Alberta Views*, January/February, pp. 44.
- Dahlsrud, A. 2005. "How Corporate Social Responsibility is Defined: an Analysis of 37 Definitions." Retrieved January 6, 2008, published online 9 November 2006 in Wiley InterScience (www.interscience.wiley.com) DOI: 10.1002/csr.132
- Davies, Robert. 2005. *The Role of Business in Development. Commonwealth Heads of Governments Meeting Report 2005*. Henley Media Group from the Commonwealth Secretariat.
- Davis, Gerald F., Marina V. N. Whitman and Mayer N. Zald. 2006. "The Responsibility Paradox: Multinational Firms and Global Corporate Responsibility." University of Michigan, Ross School of Business. Retrieved May 10, 2006 Social Sciences Research Network Electronic Paper Collection.
- Davos Report. 2004. Retrieved November 12, 2004 <http://www.zadek.net/blog/>

- D'Cruz, Heather, Philip Gillingham and Sebastian Melendez. 2007. "Reflexivity, Its Meanings and Relevance for Social work: A Critical Review of the Literature." *British Journal of Social Work*, Volume 37, pp. 73-90.
- De Angelis, Massimo. 2003. "Neoliberal Governance, Reproduction and Accumulation." *The Commoner* Spring, Summer.
- Demos, Telis. 2007. "10 Most 'Accountable' Big Companies." Website: CNN Money.com, Retrieved May 26, 2010
<http://money.cnn.com/galleries/2007/fortune/0710/gallery.accountability.fortune/index.html>).
- Denzin, Norman K., Yvonna S. Lincoln, Linda Tuhiwai Smith. 2008. *Handbook of Critical and Indigenous Methodologies*. London: Sage Publications, Inc.
- Department of Foreign Affairs and International Trade. 1997. *International Code of Ethics for Canadian Business*. Ottawa: DFAIT.
- , 2005. *Mining in Developing Countries - Corporate Social Responsibility: The Government's Response to the Report of the Standing Committee on Foreign Affairs and International Trade*. Ottawa: Government of Canada.
- , 2006. "National Roundtables on Corporate Social Responsibility and the Canadian Extractive Sector in Developing Countries." Discussion Paper June 2006. Ottawa: DFAIT.
- Devetak, Richard and Richard Higgott. 2001. "Saving the Social Bond and Recovering the Public Domain." In *Market or Public Domain? Global Governance and the Asymmetry of Power*, edited by D. Drache. London, New York: Routledge.
- Doane, Deborah. 2005a. "The Myth of CSR: The problem with assuming that companies can do well while also doing good is that markets don't really work that way." *Stanford Social Innovation Review*:23-23-29.
- , 2005b. "Beyond corporate social responsibility: minnows, mammoths and markets." *Futures* 37(2-3):215-229.

- Dobbin, Murray. 1998. *The Myth of the Good Corporate Citizen*. Toronto: Stoddart Publishing Company Ltd.
- Donaldson, Thomas and Thomas W. Dunfee. 1994. "Toward a Unified Conception of Business Ethics: Integrative Social Contracts Theory." *Academy of Management Review* 19(2):252--284.
- Donaldson, Thomas and Lee E. Preston. 1995. "The Stakeholder Theory of the Corporation: Concepts, Evidence." *The Academy of Management Review* 20(1):65.
- Doremus, Paul N., William M. Keller, Louis W. Pauly and Simon Reich. 1998. *The Myth of the Global Corporation*. Princeton, NJ: Princeton University Press.
- Doyle, Cathall. 2008. "Free Prior Informed Consent (FPIC) – A universal norm and framework for consultation and benefit sharing in relation to indigenous peoples and the extractive sector." Paper prepared for OHCHR Workshop on Extractive Industries, Indigenous Peoples and Human Rights. Moscow, 3rd - 4th December 2008.
- Drache, Daniel. 2001. "Introduction: The fundamentals of our time. Values and goals that are inescapably public." Pp. 1-1-34 in *Market or Public Domain? Global Governance and the Asymmetry of Power*. , edited by D. Drache. London and New York: Routledge.
- . 1983. "The Crisis of Canadian Political Economy Dependency Theory Versus the New Orthodoxy." *Canadian Journal of Political and Social Policy* 7:25-49.
- Drost, Nadja and Keith Stewart. 2006. "Encana in Ecuador: The Canadian Oil Patch Goes to the Amazon." Pp. 113-138 in *Community Rights and Corporate Responsibility: Canadian Mining and Oil Companies in Latin America*, edited by L.L. North, T.D. Clark and V. Patroni. Toronto: Between the Lines.
- Drucker, Peter F. 2005. "Trading Places." *The National Interest* Spring.

- Drucker, P. F. 1984. "The New Meaning of Corporate Social-Responsibility." *California Management Review* 26(2):53-63.
- Dunning, John. 1998. "An Overview of Relations with National Governments." *New Political Economy* Jul98, Vol. 3, Issue 2:280-285.
- Earthrights International. 2003. "Indigenous Struggle in Ecuador Becomes a "Force Majeure"." *Earthrights International*, March 12. Retrieved March 12, 2003 (<http://www.earthrights.org/news/forcemajeure.shtm>).
- Elkington, John. 1998. *Cannibals with Forks: the Triple Bottom Line of 21st Century Business*. Gabriola Island, B.C.: New Society Publishers.
- Elliott, M., B. Gray and R. Lewicki. 2003. "Lessons Learned about the Framing of Intractable Environmental Conflicts." In *Making Sense of Intractable Environmental Conflicts: Concepts and Cases*. Washington, D.C.: Island Press.
- Enderle, Georges. 1997. "Five Views on International Business Ethics: An Introduction." *Business Ethics Quarterly* 7(3):1--4.
- Engardio, Pete. 2004. "Global Compact, Little Impact: Four years in, the U.N.'s voluntary corporate responsibility plan is falling short." *Business Week* (i3891):86.
- Escobar, Arturo. 1997. "The Making and Unmaking of the Third World through Development." Pp. 85-93 in *The Post-Development Reader* edited by Majid Rahnema and Victoria Bawtree. Halifax: Fernwood Publishing.
- Estes, Ralph. 1996. *Tyranny of the Bottom Line: Why Corporations Make Good People do Bad Things*. San Francisco: Berrett-Koehler Publishers, Inc.
- Ethical Corporation. 2005a. "Leaders: Bad Arguments against the Good Company?" *Ethical Corporation* (January 31, 2005).
- . 2005b. "Press Release.", Retrieved August 17, 2005 (http://www.ethicalcorp.com/content_print.asp?ContentID=3841).
- Evans, Robert. 2006. "UN Votes for Native Peoples' Rights, Powers Oppose." *Reuters*, June 29, 2006. Retrieved June 29, 2006 (<http://ca.reuters.com>).

- Ferrazi, Gabriele. 2004. "Forging Aboriginal/Non-Aboriginal Partnerships: The Joint Venture Model." Retrieved January 7, 2005
<http://www2.brandonu.ca/library/CJNS/9.1/ferazzi.pdf>.
- Fielding, N.G. and J.L. Fielding. 1986. *Linking Data*. Beverly Hills, CA: Sage Publications.
- Finer, Matt and Leda Huta. 2005. "Yasuni Blues: The IMF Ecuador and Coerced Oil Exploration." *Multinational Monitor*, May/June: Vol 26 No 5.
- Fiorina, Carly. 2004. "Invention for the Common Good: Four Reasons Corporations Should Engage in Social Responsibility." *Stanford Social Innovation Review* Spring.
- Flanagan, Jackie. 2003. "The Golden Rule." *Alberta Views*, January/February, pp. 8.
- Fontaine, Guillaume. 2003a. "Aportes a una sociología del conflicto socio-ambiental." Pp. 79-102 in *Petróleo y Desarrollo Sostenible en Ecuador. 1. Las Reglas de Juego*, edited by G. Fontaine. Quito: FLACSO-Petroecuador.
- , 2003b. "Introducción." Pp. 15-23 in *Petróleo y Desarrollo Sostenible en Ecuador. 1. Las Reglas de Juego*, edited by G. Fontaine. Quito: FLACSO-Petroecuador.
- Fort, Timothy L. 2007. "The Corporate Contribution to One Planet Living in Global Peace and Security." *Journal of Corporate Citizenship*, Volume 26, Summer.
- Foucault, M. 2003. *Society must be defended: Lectures at the College de France, 1975-1976*. New York: Picador.
- Fox, Tom. 2004. "Corporate Social Responsibility and Development: In quest of an agenda." *Development* 47(3):29--36.
- Fox, Tom, Halina Ward and Bruce Howard. 2002. "Public Sector Roles in Strengthening Corporate Social Responsibility: A Baseline Study." Prepared for the Corporate Social Responsibility Practice Private Sector Advisory Services Department. Washington DC: The World Bank.

- Franklin, Ursula M. 1999. *The Real World of Technology*. Revised Edition ed. Toronto: House of Anansi Press.
- Freeman, R. Edward. 1984. *Strategic Management: A Stakeholder Approach*. Boston: Pitman.
- , 1994. "The Politics of Stakeholder Theory: Some Future Directions." *Business Ethics Quarterly* 4:409--421.
- Freeman, R. Edward and Daniel R. Gilbert Jr. 1992. "Business, Ethics and Society: A Critical Agenda." *Business & Society* 31(1):9--17.
- Freeman, R. Edward and Jeanne Liedtka. 1991. "Corporate Social Responsibility: A Critical Approach." *Business Horizons* July-August:94--98.
- Frideres, James S. and Joseph E. DiSanto, eds. 1990. *Natural Resource Development and Social Impact in the North*. New York, Frankfurt am Mein: Peter Lang.
- Friedman, Milton. 1962. *Capitalism and Freedom*. Chicago: University of Chicago Press.
- Friends of the Earth International. 1998. "A history of attempts to regulate the activities of transnational corporations: What can be learned?" Friends of the Earth--England, Wales and Northern Ireland: Washington, DC.
- Frynas, J. G. 2005. "The false developmental promise of Corporate Social Responsibility: evidence from multinational oil companies." *International Affairs* 81(3):581--.
- Gardiner, Louise, Catherine Rubbens and Elena Bonfiglioli. 2003. "Big Business, Big Responsibilities." *Corporate Governance* 3(3):67-67-77.
- Garvey, Niamh and Peter Newell. 2006. "Corporate Accountability to the Poor? Assessing the Effectiveness of Community-Based Strategies." Pp. 75-102 in *Development and the Private Sector: Consuming Interests* edited by D. Eade and J. Sayer. Bloomfield, CT: Kumarian Press, Inc.
- Gerlach, Allen. 2003. *Indians, Oil and Politics: A Recent History of Ecuador*. Wilmington: Scholarly Resources, Inc.

- Gibb, Heather, John Foster and Ann Weston. 2008. "Human Rights and Private Sector Development: A Discussion Paper." Ottawa: North-South Institute.
- Gibson, Robert B. 1999. *Voluntary Initiatives: the new politics of corporate greening*. Toronto: Broadview Press.
- Gideon, Jasmine. 2005. "Consultation or co-option? A case study from the Chilean Health Sector." *Progress in Development Studies*. Volume 5, Issue 3, pp. 169-181.
- Gilpin, Robert. 2000. *The Challenge of Global Capitalism: The World Economy in the 21st Century*. Princeton, NJ: Princeton University Press.
- Girona Declaration. 2002. Retrieved November 13, 2002
<http://www.globalpolicy.org/socecon/envronmt/0529girona.htm>).
- Glasbeek, Harry. 2002. *Wealth by Stealth: Corporate Crime, Corporate Law and the Perversion of Democracy*. Toronto: Between the Lines.
- Global Aware Canada. 2004. "No Absolution for EnCana." *Global Aware Position Statement* September 6.
- Global Development Learning Network. 2005. "Government, Private Sector, and Youth Organizations in Eight Latin American Countries Discuss CSR," Retrieved February 11, 2005 (<http://lac.gdln.org/news/CSRJan2005.htm>).
- Global Witness. 2000. *A Crude Awakening!* San Francisco, CA: Global Witness Foundation.
- Goulet, Jean-Guy A. 1998. *Ways of Knowing: Experience, Knowledge and Power among the Dene Tha'*. Lincoln: University of Nevada Press.
- Government of Alberta. 2005. *First Nations Consultation Policy on Land Management and Resource Development*. Edmonton: The Government of Alberta. Retrieved August 3, 2004
http://www.international.gov.ab.ca/documents/Policy_APPROVED-May16.pdf.

- Government of Canada, Department of Foreign Affairs and International Trade. 2009. "Building the Canadian Advantage: A Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector." Ottawa: Department of Foreign Affairs and International Trade.
- Government of Canada, Department of Foreign Affairs and International Trade. 2007. "National Roundtables on Corporate Social Responsibility (CSR) and the Canadian Extractive Industry in Developing Countries Advisory Group Report 2007." Ottawa: DFAIT. Retrieved September 2, 2008 (http://www.mining.ca/www/media_lib/MAC_Documents/Publications/CSRENG.pdf).
- Gramsci, Antonio. 1971. *Selections from the Prison Notebooks*. Edited and translated by Quintin Hoare and Geoffrey Nowell Smith. London: Lawrence and Wishart.
- Granovetter, Mark. 1985. "Economic Action and Social Structure: The Problem of Embeddedness." *American Journal of Sociology* 91(3):481-510.
- Grayson, Kyle. 2006. "Promoting Responsibility and Accountability." *International Journal* 61(2):479-494.
- Gutierrez, Roberto and Audra Jones. 2004. *Corporate Social Responsibility in Latin America: An Overview of Its Characteristics and Effects on Local Communities*. Washington, D.C.: Inter-American Development Bank.
- Halifax Initiative. 2006. "Extractive Industries and Corporate Social Responsibility," Retrieved June 20, 2006 (http://www.halifaxinitiative.org/index.php/Issues_CNCA).
- Hammersley, M. and R. Gomm. 1997. "Bias in Social Research." *Sociological Research Online*, vol. 2, no. 1, Retrieved January 12, 2009 (<http://www.socresonline.org.uk/2/1/2.html>).
- Harcourt, Wendy. 2004. "Editorial: Is CSR Rewriting Development?" *Development* 47(3):1-2.

- Harmes, Adam. 2004. *The Return of the State: Protestors, Power-Brokers, and the New Global Compromise*. Vancouver, B.C.: Douglas & McIntyre.
- Harvey, David. 2005. *A Brief History of Neoliberalism*. Oxford: Oxford University Press.
- Haskayne, Dick with Paul Grescoe. 2007. *Northern Tigers: Building Ethical Canadian Corporate Champions*. Toronto: Key Porter Books Limited.
- Haslam, Paul A. 2004. "The Corporate Social Responsibility System in Latin America and the Caribbean." *FPP-04-1*.
- Hasnas, John. 1998. "The Normative Theories of Business Ethics: A Guide for the Perplexed." *Business Ethics Quarterly* 8(1):19--42.
- Hawken, Paul. 1993. *The Ecology of Commerce*. New York: Harper Collins.
- Heaps, Toby. 2003. "Tightrope Act: Will Encana Face a Talisman-Type Backlash for their Presence in Ecuador?" *Corporate Knights Magazine*, Volume 28, Issue 4, April 28.
- Held, David, Anthony McGrew, David Goldblatt, and Jonathan Perraton. 1999. *Global Transformations: Politics, Economics and Culture*. Palo Alto, CA: Stanford University Press.
- Held, David, Mathias Koenig-Archibugi, and Jan A. Scholte. 2004. "Introduction; Civil Society and Democratically Accountable Global Governance; Transnational Corporations and Public Accountability." *Government and Opposition* 39(2):125-131.
- Henderson, David. 2005a. "Improving Capitalism: The Respective Roles of Business and Government." *CEI's Monthly Planet*, February/March, pp. 1.
- . 2005b. "The Role of Business in the World of Today." *The Journal of Corporate Citizenship*(17):30.
- . 2004. *The Role of Business in the Modern World: Progress, Pressures and Prospects for the Market Economy*. Washington, D.C.: Competitive Enterprise Institute.

- , 2001. "The Case Against 'Corporate Social Responsibility.'" *Policy* 17(2):28-28-32.
Retrieved November 9, 2003 Available: Academic Search Premier EBSCO Host.
- , 2001. *Misguided Virtue: False Notions of Corporate Social Responsibility*.
London: Institute of Economic Affairs.
- Hertz, Noreena. 2001a. *The Silent Takeover: Global Capitalism and the Death of Democracy*. Toronto: The Free Press.
- , 2001b. "Why we must Stay Silent no Longer." *The Guardian*, April 7, 2001, .
- Hetzner, Candace. 1997. "Why We Mean What We Say: The History and Use of
"Corporate Social Responsibility"." *Business and Professional Ethics Journal*
6(3):23-37.
- Hirschland, Matthew J. 2004. "Corporate Social Responsibility Networks: Assessing the
Private Governance of Public Goods." University of Colorado at Boulder,
Boulder, CO. Retrieved November 9, 2005 Available: Proquest UMI University
of Alberta Proquest UMI Database.
- Hodess, Robin. 2001. "The Contested Competence of NGOs and Business in Public
Life." Pp. 129-129-147 in *Market or Public Domain? Global Governance and
the Asummetry of Power*, edited by D. Drache. London, New York: Routledge.
- Hodges, Adrian. 2002. "A Commentary on the the Development of Corporate Social
Responsibility in the Americas." World Bank Institute/Inter-American
Development E-Conference on CSR in the Americas.
- Holliday, Charles O. J., Stephen Schmidheiny and Philip Watts. 2002. *Walking the Talk:
The Business Case for Sustainable Development*. San Francisco: Berrett-Koehler
Publishers, Inc.
- Holme, Richard and Phil Watts. 2000. *Corporate Social Responsibility: Making Good
Business Sense*. Geneva: World Business Council on Sustainable Development.
- Hopkins, Sam. 2006. "Meet Ecuador's New Maestro." *Energy and Capital*, 01-17.

- Horvath, Sherry, Laura McKinnon, Mark Dickerson and Monique Ross. 2001. *The Impact of the traditional land use and occupancy study on the Dene Tha' First Nation*. Edmonton, Alberta: Sustainable Forest Management Network.
- Hurtig, Anna-Karin and Miguel San Sebastian. 2004. "Incidence of Childhood Leukemia and Oil Exploitation in the Amazon Basin in Ecuador." *International Journal of Occupational and Environmental Health* 10(3):245-250.
- , 2002. "Geographical Differences in Cancer Incidence in the Amazon Basin of Ecuador in Relation to Residence Near Oil-Fields." *International Journal of Epidemiology* 31:1021-1027.
- Idemudia, Uwafiokun. 2008. "Conceptualizing the CSR and Development Debate." *Journal of Corporate Citizenship* 29, Spring.
- Ikelegbe, Augustine. 2001. "Civil Society, Oil and Conflict in the Niger Delta Region of Nigeria: Ramifications of Civil Society for a Regional Resource Struggle." *Journal of Modern African Studies* 39(3):437-469.
- Indian and Northern Affairs Canada. 2009. *Federal Framework for Aboriginal Economic Development*. Ottawa: Indian and Northern Affairs Canada.
- Indian Oil and Gas Canada. 2006. *2005-2006 Annual Report*. Ottawa: Indian and Northern Affairs Canada. Retrieved January 6, 2007 <http://www.iogc.gc.ca>.
- Industry Canada. 2006. "Corporate Responsibility: An Implementation Guide for Canadian Business." Ottawa: Industry Canada. Retrieved January 13, 2007 (www.strategis.id.gc.ca/csr).
- Instituto de Epidemiología y Salud Comunitaria and Manuel Amunáriz. 2000. "Informe Yana Curi: Impacto de la Actividad Petrolera en la Salud de Poblaciones Rurales de la Amazonía Ecuatoriana." Quito: CICAME.
- International Network for Economic, Social and Cultural Rights. 2005. "Joint NGO Submission, Consultation on Human Rights and the Extractive Industry." Geneva: Corporate Accountability Working Group.

- InterPares. 2004. *Rethinking Development: Promoting Global Justice into the 21st Century*. Ottawa: InterPares.
- Jardine, Kevin. N.d. *The Carbon Bomb: Climate Change and the Fate of the Northern Boreal Forests*. Greenpeace International.
- Jenkins, Rhys. 2005. "Globalization, corporate social responsibility and poverty." *International Affairs* 81(3):525-+.
- . 2001. *Corporate Codes of Conduct: Self-Regulation in a Global Economy*. Geneva: UNRISD. Retrieved January 7, 2003.
- Jennings, Ray. 2000. "Participatory Development as New Paradigm: The Transition of Development Professionalism." Prepared for the Community Based Reintegration and Rehabilitation in Post-Conflict Settings Conference. Washington, DC. October 2000. Retrieved October 14, 2004 (http://www.usaid.gov/our_work/cross-cutting_programs/transition_initiatives/pubs/ptdv1000.pdf).
- Jermyn, Leslie. 2002a. "A Short Geographic Trip to Ecuador." Toronto: GlobalAware. Retrieved August 19, 2002 (http://www.globalaware.org/Articles_eng/Ecuador_geography.htm).
- . 2002b. "Social/Economic History of Ecuador." Toronto: GlobalAware. Retrieved August 19, 2002 (http://www.globalaware.org/Articles_eng/Ecuador%20History_print.htm).
- Jochnick, Chris. 2001. "Perilous Prosperity." *New Internationalist* (335).
- Johnston, Josée and Gordon Laxer. 2003. "Solidarity in the age of globalization: Lessons from the anti-MAI and Zapatista struggles." *Theory and Society* 32: 39-91.
- Jones, Marc. 1996. "The Poverty of Corporate Social Responsibility." *Quarterly Journal of Ideology* 19(1-2):57--72.

- Jonker, Jan and Angela Marburg. 2007. "Corporate Social Responsibility *Quo Vadis?* A Critical Inquiry into a Discursive Struggle." *Journal of Corporate Citizenship*, 27, Autumn.
- Karl, Terry-Lynn. 1999. "The Perils of the Petro-State: Reflections on the Paradox of Plenty." *Journal of International Affairs*, Fall 1999, Vol. 53 Issue 1, pp 31-48.
- Karliner, Joshua and Ted Lewis. 2002. "World Social Forum Conference on Transnational Corporations." Retrieved May 4, 2005
http://www.corpwatch.org/print_article.php?&id=1728.
- Katz, Jack. 2004. "Commonsense Criteria. Paper presented to the 2003 Workshop on Scientific Foundations of Qualitative Research." In *Workshop on Scientific Foundations of Qualitative Research* edited by Charles C. Ragan, Joanne Nagel and Patricia White. Arlington, Virginia: National Science Foundation.
- Kellner, Douglas. No date. *Critical Theory Today: Revisiting the Classics*. At: <http://homepage.newschool.edu/~quigleyt/vcs/kellner.html>. Accessed: January 7, 2007.
- Kelly, Marjorie. 2001. *The Divine Right of Capital: Dethroning the Corporate Aristocracy*. San Francisco: Berrett-Koehler Publishers, Inc.
- Kimerling, Judith. 1993. *Crudo Amazónico*. Quito: Abya-Yala.
- , 2001. "The Human Face of Petroleum: Sustainable Development in Amazonia?" *Reciel* 10(1):65-81.
- Kincheloe, Joe L. and Peter MacLaren. 2002. "Rethinking Critical Theory and Qualitative Research." Chapter 5 in *Ethnography and Schools: qualitative approaches to the study of education* edited by Yali Zou and Enrique T. Trueba. Lanham, Maryland: Rowman & Littlefield Publishers, Inc.
- Kirk, Alejandro. 2002. "Business, Civil Society Face to Face in Prague." *Inter-Press Service*, October 15, 2002.

- Klein, Naomi. 2000. *No Logo: Taking Aim at the Brand Bullies*. Toronto: Vintage Canada.
- Kobrin, Stephen J. 2001. "Our Resistance is as Global as Your Oppression: Multinational Corporations, the Protest Movement and the Future of Global Governance." Presented at the 2001 meeting of the International Studies Association in Chicago.
- Korten, David C. 1995. *When Corporations Rule the World*. West Hartford, San Francisco: Kumarian Press, Inc. & Berrett-Koehler Publishers Inc.
- Korovkin, Tanya. 2002. "In Search of Dialogue: Oil Companies and Indigenous Peoples in the Ecuadorian Amazon." *Canadian Journal of Development Studies*. 23, (4) 632-63.
- Kretzmann, Stephen and Irfan Nooruddin. 2005. "Drilling into Debt: An Investigation into the Relationship Between Debt and Oil." Washington, D.C.: Oil Change International.
- Kretzmann, Stephen and S. Wright. 1998. *Drilling to the Ends of the Earth*. London: Survival International/Rainforest Action Network.
- Kuyek, Joan. 2006. "Legitimizing Plunder: Canadian Mining Companies and Corporate Social Responsibility." Pp. 203-221 in *Community Rights and Corporate Responsibility: Canadian Mining and Oil Companies in Latin America* edited by L.L. North, T.D. Clark and V. Patroni. Toronto: Between the Lines.
- Kvale, Steinar. 1995. "The Social Construction of Validity." *Qualitative Inquiry* Vol. 1 (1), pp. 19-40.
- Lamy, Pascal. 2004. "Messages from Commissioner Pascal Lamy to the 60 companies members of CSR Europe." Retrieved July 17, 2004 (http://trade-info.cec.eu.int/doclib/docs/2004/june/tradoc_117757.pdf).

- Latin American Press. 2007. "Defining the Left." *Latin American Press*, February 22, Latin America, Caribbean Available: Latin America Data Base
<http://www.lapress.org/ArticlePrint.asp?IssCode=0&lanCode=1&a...>
- Laxer, Gordon. 2005. "Popular National Sovereignty and the U.S. Empire." *Journal of World Systems Research* Volume XI, Number 2:317-352.
- Lertzman, David A. and Harrie Vredenburg. 2005. "Indigenous Peoples, Resource Extraction and Sustainable Development: An Ethical Approach." *Journal of Business Ethics* (56):239-254.
- Levy, David L. and Daniel Egan. 2000. "A Neo-Gramscian Approach to Business-Society Relations: Conflict and Accommodation in the Climate Change Negotiations." *Journal of Management Studies* Volume 40, Issue 4:803-829.
- Lock, Ineke C. 2006. "Corporate Social Responsibility and Codes of Conduct: The Fox Guarding the Chicken Coop?" In *Nature's Revenge: Reclaiming Sustainability in an Age of Corporate Globalization* edited by J. Johnston, M. Gismondi and J. Goodman. Peterborough, Ont.: Broadview Press.
- Lock-Hill, Lillian. 1999. *The Global consciousness of Human Resource Development Practitioners: A Phenomenological Study*. Unpublished Ph.D. Dissertation, University of Georgia.
- Lorenz, Andrea. 1998. "Industry 'Light Years Ahead' of Government in Native Relations." *Oilweek*, 06-08.
- Macas, Luis. 2001. "Foreword." Pp. i-xix in *Ethnopolitics in Ecuador: Indigenous Rights and the Strengthening of Democracy* edited by M. Selverston-Scher. Miami: North-South Centre Press at the University of Miami.
- MacKendrick, Norah, Colette Fluet, Debra J. Davidson, Naomi Krogman and Monique Ross. 2001. *Integrated Resource Management in Alberta's Boreal Forest: Opportunities and Constraints*. Edmonton: Sustainable Forest Management Network.

- Maiguashca, G. and E. Franklin. 1993. "The Role of State and Market in the Economic Development of Ecuador." *Journal of Economic Issues* 27(2):441.
- Malkiel, Burton G. 1997. "Go Where the Growth Is." *Bloomberg Personal* November, pp. 60-69.
- Manheim, Jarol B. 2004. *Biz-War and the Out of Power Elites: The Progressive-Left Attack on the Corporation*. Mahwah, NJ: Lawrence Erlbaum & Associates.
- Margolis, J. D. and J. P. Walsh. 2003. "Misery Loves Companies: Rethinking Social Initiations by Business." *Administrative Science Quarterly* 48:268-305.
- Marquez, Humberto. 2007. "Leaders Seek Regional Energy Sovereignty." *Inter Press Service News Agency*, Apr 16, South America. Retrieved April 27, 2007 <http://www.ipsnews.net/print.asp?idnews=37367>.
- Martinussen, John. 1997. *Society, State & Market: A Guide to Competing Theories of Development*. Halifax, N.S.: Fernwood Publishing.
- Marsh, James H., ed. 1988. *The Canadian Encyclopedia, 2nd. Edition*. Edmonton: Hurtig Publishers.
- Matten, D., A. Crane and W. Chapple. 2003. "Behind the mask: Revealing the true face of corporate citizenship." *Journal of Business Ethics* 45(1-2):109-120.
- May, Steve, George Cheney and Juliet Roper, eds. 2007. *The Debate Over Corporate Social responsibility*. Oxford: Oxford University Press.
- Mayer, Charles S. 1987. *In Search of Stability: Explorations in Historical Political Economy*. Cambridge: Cambridge University Press.
- McClearn, Matt. 2003. "Down the Tube: How Calgary's EnCana Bet Big on Ecuadorian Oil and made Plenty of Enemies - with the Best of Intentions." *Canadian Business Magazine*, March 17, 2003.
- McMillan, Jill J. 2007. "Why Corporate Social Responsibility? Why Now? How?" Pps. 15-29 in *The Debate Over Corporate Social Responsibility* edited by Steve May, George Cheney and Juliet Roper. New York: Oxford University Press.

- McMurtry, John. 1999. *The Cancer Stage of Capitalism*. Sterling, VA: Pluto Press.
- McWilliams, A. and D. Siegel. 2001. "Profit-maximizing corporate social responsibility." *Academy of Management Review* 26(4):504-505.
- McQuade, A. and P. Johnson. "Mapping the Terrain: Understandings of Corporate Social Responsibility." Working Paper No. 2003-06. Glasgow: University of Strathclyde School of Business.
- Melo, Mario. 2000. *Negociación del Código de Conducta Entre Occidental (Oxy) y La Organización Indígena Secoya del Ecuador (OISE)*. Quito, Ecuador: Centro de Derechos Económicos y Sociales - CDES.
- Melo, Mario, Paulina Garzón and Jorge Acosta. 2000. *Estudio de caso: Negociación del Código de Conducta Entre Occidental (Oxy) y La Organización Indígena Secoya Del Ecuador (OISE)*. Quito: Centro de Derechos Económicos y Sociales - CDES.
- Melo, Mario, Pablo Ortiz-T and Victor López. 2002. *Petróleo, Ambiente y Derechos en la Amazonía Centro Sur*. Quito: Centro de Derechos Económicos y Sociales; Organización de Rublos Indígenas de Pastaza; Instituto Amazanga; Oxfam América.
- Mendes, Erroll P. and Jeffrey A. Clark. 1996. "The Five Generations of Corporate Codes of Conduct and their Impact on Corporate Social Responsibility." Ottawa: Human Rights Research and Education Centre, University of Ottawa, Retrieved January 4, 2003 (http://www.cdp-hrc.uottawa.ca/index_e.html).
- Menguc, B. and L. K. Ozanne. 2005. "Challenges of the 'green imperative': a natural resource-based approach to the environmental orientation-business performance relationship." *Journal of Business Research* 58(4):430-438.
- Merino, Luis. 2006. "Unsustainable Non-Development: The Tragedy of Oil in Ecuador." Pp. 139-142 in *Community Rights and Corporate Responsibility: Canadian Mining and Oil Companies in Latin America* edited by L.L. North, T.D. Clark and V. Patroni. Toronto: Between the Lines.

- Mignolo, Walter. 2007. "Rafael Correa: It is 'Change of Epoch' rather than 'an Epoch of Changes'." *ALAI, Latin America in Movement*. Retrieved January 19, 2008 (<http://alainet.org/active/15179%26lang=en>).
- Mills, C. Wright. 1959. *The Sociological Imagination*. New York: Oxford University Press.
- MiningWatch Canada. 2005. "A Policy Framework for the Regulation of Canadian Mining Companies Operating Internationally." Retrieved January 9, 2006 (http://www.miningwatch.ca/updir/Policy_Framework.pdf).
- Ministry of Indian Affairs and Northern Development. 1998. *Gathering Strength - Canada's Aboriginal Action Plan*. Ottawa: Minister of Public Works and Government Services.
- Ministry of Indian Affairs and Northern Development and Federal Interlocutor for Métis and Non-Status Indians. 2009. *Federal Framework for Aboriginal Economic Development*. Ottawa. Retrieved Nov. 23, 2009 (<http://ainc-inac.net/ecd/ffaed1-eng.asp>).
- Mitchell, Lawrence E. 2001. *Corporate Irresponsibility: America's Newest Export*. New Haven & London: Yale University Press.
- Mitchell, Ronald K., Bradley R. Agle and Donna J. Wood. 1997. "Toward a Theory of Stakeholder Identification and Salience: Defining the Principle of Who and What Really Counts." *The Academy of Management Review* 22(4):853--886.
- Mittelman, James H. 2000. *The Globalization Syndrome: Transformation and Resistance*. Princeton, NJ: Princeton University Press.
- Monbiot, George. 2005. "Africa's New Best Friends." Retrieved 05/09, 2005 (<http://www.planetaportoallegre.net/publique/cgi/public/cgilua.exe/web/template/s/hm/214OP/printerview.htm?user=reader&editionsectionid=252&UserActiveTemplate=214OP&infoid=10976>).

- Montaigne, Fen. 2002. "The Great Northern Forest: Boreal." *National Geographic*, Jun2002.
- Moon, Jeremy. 2002. "The Social Responsibility of Business and Governance." *Government and Opposition* August:385-408.
- Moore, Jennifer. 2009. "Ecuador's Future for Canadian Transnationals: An Exchange of Indigenous Perspectives." Retrieved December 10, 2009
<http://upsidedownworld.org/main/ecuador-archives-49/1871-ecuadors-future-for-canadian-transnationals-an-exchange-of-indigenous-perspectives->
- Moreno Maldonado, Carlos. 1998. "Seeking Common Ground in Ecuador." *Environment* 40(5):42-46.
- Morrow, Raymond A. and David Brown. 1994. *Critical Theory and Methodology*. Volume 3, Contemporary Social Theory. London: Sage Publications.
- Morse, Edward L. 1999. "A New Political Economy of Oil?" *Journal of International Affairs*, Fall 1999, Vol. 53 Issue 1. pp 1-29.
- Mukherjee Reed, Ananya and Darryl Reed. 2004. *Corporate Social Responsibility and Human Development: Towards a New Agenda and Beyond*. Toronto: International Secretariat for Human Development York University.
- Multinational Monitor. 1994. "Fueling Destruction in the Amazon: An Interview with Luis Macas." *Multinational Monitor*, April. Retrieved June 21, 2005
<http://abyayala.nativeweb.org/ecuador/amazon/oil/macass.html>.
- Murphy, Brian. 2002. "Beyond the Politics of the Possible: Corporations and the Pursuit of Social Justice." 1-12. Ottawa: Interpares.
- 2005. "Knowledge and Action: Challenging the Limits." Speaking Notes for Keynote Address to Inter Pares 30th Anniversary Symposium on Citizen Action Tabaret Hall, University of Ottawa April 29, 2005. Retrieved June 26, 2005
http://www.interpares.ca/en/publications/pdf/30th_Keynote_Brian_Murphy.pdf

- NADC (Northern Alberta Development Council). 2006. "NADC Contribution Highlights." Peace River, Alberta: NADC, Retrieved May 23, 2007 (<http://www.nadc.gov.ab.ca/Publications/reports/NADC-Contribution-highlights.pdf>).
- Naylor, R. T. 1975. *The History of Canadian Business: Industrial Development*. Toronto: James Lorimer.
- Nelgadge, Jo. 2010. "BP Goes from Beyond Petroleum to Big Polluter in CSR Setback." Accessed June 7, 2010, from <http://news.suite101.com/article.cfm/bp-goes-from-beyond-petroleum-to-big-polluter-in-csr-setback-a235924#ixzz0pG89giDF>
- Newell, Peter. 2005a. "Citizenship, accountability and community: the limits of the CSR agenda." *International Affairs* 81(3):541-557.
- , 2005b. "The Planetary Bargain: Corporate Social Responsibility Matters." *Environmental Politics* 14(1):140-141.
- Newman, Peter C. 1975. *The Canadian Establishment*. Toronto: McClelland and Stewart-Bantam.
- , 1982. *The Establishment Man: A Portrait of Power*. Toronto: McLelland and Stewart.
- Nickle's Energy Group. 2002. "Creating a Legacy." *Nickle's Profiler: First Nations Issue*, December.
- North, Liisa, Timothy David Clark and Viviana Patroni (Eds.). 2006. *Community Rights and Corporate Responsibility: Canadian Mining and Oil Companies in Latin America*. Toronto: Between the Lines.
- NRTEE (National Roundtable on the Environment and Economy). 2002. *Aboriginal Communities and Non-Renewable Resource Development*. Ottawa: Government of Canada. Retrieved January 14, 2003. (http://www.nrtee-trnee.ca/eng/Publications/HTML/SOD_Aboriginal_E.htm).

- OECD. 2003. *Voluntary Approaches for Environmental Policy: Effectiveness, Efficiency and Usage in Policy Mixes*. Paris, France: OECD.
- O'Connor, James. 1988. "Capitalism, Nature, Socialism: A Theoretical Introduction," *CNS* 1, Fall.
- O'Faircheallaigh, Ciaran and Saleem Ali (eds.). 2008. *Earth Matters: Indigenous Peoples, the Extractive Industries and Corporate Social Responsibility*. Sheffield: Greenleaf Publishing Ltd.
- Ohmae, Kenichi. 1995. *The End of the Nation-State: How Region-States Harness the Prosperity of the Global Economy*. New York: Free Press, McMillan Inc.
- Oilwatch, 2001. "Globalization, Transnational Corporations and Oil." Position paper. Porto Alegre, January 2001.
- Orlitzky, Marc, Frank L. Schmidt and Sara L. Rynes. 2003. "Corporate Social and Financial Performance: A Meta-Analysis." *Management & Organization Studies* 24(3):403--441.
- Orion Magazine. 2005. "Editorial." May/June.
- O'Rourke, Dara and Sarah Connolly. 2003. "Just Oil? The Distribution of Environmental and Social Impacts of Oil Production and Consumption." *Annual Review Environmental Resource*. 28:587-617.
- Ostas, D. T. 2001. "Deconstructing corporate social responsibility: Insights from legal and economic theory." *American Business Law Journal* 38(2):261-299.
- O'Sullivan, Erin and Mindy McHardy. 2004. *The Community Well-Being (CWB) Index: Disparity in Well-Being Between First Nations and Other Canadian Communities over Time*. Ottawa: Ministry of Indian and Northern Affairs.
- Otero, Gerardo and Heidi A. Jugenitz. 2003. "Challenging National Borders from Within: The Political Class Formation of Indigenous Peasants in Latin America." *The Canadian Review of Sociology and Anthropology* 40(5):503-524.
- Overell, Stephen. 2002. "Morals Under the Microscope." *Personnel Today*.

- Palast, Greg. 2005. "Ecuador's Debt." *The Nation*, May 16.
- Panitch, Leo. 1994. "Globalization and the State." In *Between Globalism and Nationalism* edited by R. Miliband and L. Panitch. London: Merlin Press.
- Parkland Institute. 2002. "Advantaged No More: How Low Taxes Flattened Alberta's Future." Report, March 18, 2002. Edmonton: Parkland Institute.
- . 2006. *Fiscal Surplus, Democratic Deficit: Budgeting and Government Finance in Alberta*. Edmonton: The Parkland Institute.
- Partnerships for Change. No date. "Corporate Responsibility: Indigenous Rights." Retrieved: July 27, 2010
<http://www.partnershipsforchange.com/indigenous.html>
- Passelac-Ross, Monique. 2005a. *The Trapping Rights of Aboriginal Peoples in Alberta*. Calgary: Canadian Institute of Resources Law. Retrieved June 2, 2007 Website Canadian Institute of Resources Law (<http://www.cirl.ca>).
- . 2005b. "Treaty No. 8 and the Trapping Rights of Aboriginal Peoples: Empty Promises?" *Resources* 90.
- . 2008. *Access to Forest Lands and Resources: The Case of Aboriginal Peoples in Alberta*. Calgary: Canadian Institute of Resource Law. Retrieved May 23, 2008 (<http://www.cirl.ca>).
- Passelac-Ross, Monique and Verónica Potes. 2009. "The Duty to Consult and Accommodate: A Legal and Ethical Analysis." Presentation at the T8FNs Conference, Slave Lake, Alberta. March 29-31, 2009
- Petras, James. 2005. "Six Myths about the Benefits of Foreign Investment. the Pretensions of Neoliberalism." *CounterPunch*. February.
- Petroecuador and Pontifica Universidad Catolica del Ecuador. 2000. *Planificación Socioambiental Y Compañías Petroleras: Evaluación Y Diseño De Modelo Alternativo*. Quito: Petroecuador y Pontifica Universidad Catolica del Ecuador.

- Plischke, Helen. 1992. "Tackling the Problems of a Troubled Community." *Edmonton Journal*, Dec 19, E.
- Polanyi, Karl. 2001 (1944). *The Great Transformation: The Political and Economic Origins of Our Time*. Boston: Beacon Press.
- Post, James E., Lee E. Preston and Sybille Sachs. 2002. *Redefining the Corporation: Stakeholder Management and Organizational Wealth*. Bloomington, Ind.: Stanford University Press.
- Potes, Verónica, Monique Passelac-Ross and Nigel Bankes. 2006. "Oil and Gas Development and the Crown's Duty to Consult: A Critical Analysis of Alberta's Consultation and Practice." Paper No. 14 of the Alberta Energy Futures Project. Calgary: the Institute for Sustainable Energy, Environment and Economy.
- Prahalad, C. K. 2005. *The Fortune at the Bottom of the Pyramid: Eradicating Poverty Through Profits*. Upper Saddle River, N.J.: Wharton School Publishing.
- Prieto-Carrón, Marina, Peter Lund-Thomson, Anita Chan, Ana Muro and Chandra Bhushan. 2006. "Critical Perspectives on CSR and Development: What we Know, What we Don't Know and What we Need to Know." *International Affairs*, 82: 5, pp. 977-987.
- Princen, Thomas. 2002. "Distancing: Consumption and the Severing of Feedback." In *Confronting Consumption* edited by T. Princen, M. Maniates and K. Conca. Cambridge: The MIT Press.
- Ragan, Charles C., Joane Nagel and Patricia White. 2004. "Workshop on Scientific Foundations of Qualitative Research." Arlington, Virginia: National Science Foundation.
- Reed, Darryl. 2002. "Resource Extraction Industries in Developing Countries." *Journal of Business Ethics* 39(3):199-226.

- Reich, Simon. 2001. "Policy Domain, or Public Domain at a Time of Globalization." Pp. 114-114-128 in *Market or Public Domain? Global Governance and the Asymmetry of Power*, edited by D. Drache. London, New York: Routledge.
- Rheannon, Frances. 2010. "It's Time to Get Beyond Petroleum." CSRWire, Retrieved May 28, 2010 (http://www.csrwire.com/csrlive/commentary_detail/2218-It-s-Time-to-Get-Beyond-Petroleum).
- Richards, John and Larry Pratt. 1979. *Prairie Capitalism: Power and Influence in the New West*. Toronto: McClelland and Stewart.
- Richter, Judith. 2001. *Holding Corporations Accountable: Corporate Conduct, International Codes and Citizen Action*. New York: ZED Books.
- . 2003. "The Role of the United Nations in Corporate Accountability and International Regulation." Presentation to the UNRISD Conference on Corporate Social Responsibility and Development: Towards a New Agenda? 17 November 2003 - 8 November 2003. Salle XVI, Palais des Nations, Geneva.
- Rizvi, Haider. 2006. "UN Delays Vote on Native Self-Determination." *IPS News*, November 28, 2006. Retrieved March 13, 2007 (<http://www.ipsnews.net/news.asp?idnews=35638>).
- Robinson, M., and E. Ghostkeeper. 1987. "Native and Local Economies: A Consideration of Economic Evolution and the Next Economy." *Artic* 40 (2): 138 – 44.
- Rosenau, James N. 1990. *Turbulence in World Politics: a Theory of Change and Continuity*. Princeton, NJ: Princeton University Press.
- . 1997. *Along the Domestic Foreign Frontier: Exploring Governance in a Turbulent World*. Cambridge: Cambridge University Press.
- Ross, Monique. 2001. "The Dene Tha' Consultation Pilot Project: An 'Appropriate Consultation Process' with First Nations?" *Resources*, Fall, pp. 1.
- Rowland, Wade. 2005. *Greed, Inc.: Why Corporations Rule Our World and How We Let it Happen*. Toronto: Thomas Allen Publishers.

- Royal Commission on Aboriginal Peoples. 1996. *The Report of the Royal Commission on Aboriginal Peoples*. Report No. PRB 99-24E. Ottawa: Library of Parliament.
- Ruggie, John G. 2004. "Reconstituting the Global Public Domain - Issues, Actors and Practices." *European Journal of International Relations* 10(4):499-499-531.
- 2008. "Protect, Respect and Remedy: a Framework for Business and Human Rights." Report by the Special Representative of the United National Secretary-General on the issue of human rights and transnational corporations and other business enterprises to the United Nations General Assembly, 7 April 2008. Accessed 7 June 2008 at www.reports-and-materials.org/Ruggie-report-7-Apr-2008.pdf
- Sachs, J. and A. Warner. 1995. *Natural Resource Abundance and Economic Growth*. Cambridge, MA.: National Bureau Economic Resources.
- Sadler, David and Stuart Lloyd. 2009. "Neo-Liberalising Corporate Social responsibility: A political economy of corporate citizenship." *Geoforum* 40:613-622.
- Santoyo, Gladys Jimeno. 2001. "Indigenous Governance and Territory". FOCAL Policy Paper FPP-06-01. Retrieved January 12, 2004 (www.focal.ca/.../governanceanddemocracy/indigenous/publications_e.asp).
- Sassen, Saskia. 1997. "The Spatial Organization of Information Industries: Implications for the Role of the State." Pp. 33 in *Globalization: Critical Reflections* edited by J.H. Mittelman. Boulder, CO and London: Lynne Rienner Publishers.
- 2005. "A New Geography of Power?" *Global Policy*, Retrieved November 16, 2005 (<http://www.globalpolicy.org/nations/sassen.htm>).
- Sauvant, Karl and Hugo Hasenpflug. 1977. "Introduction." In *The New International Economic Order: Confrontation or Co-operation Between North and South?* edited by K. Sauvant and H. Hasenpflug. Boulder, CO: Westview Press.
- Sawyer, Suzana. 2004. *Crude Chronicles: Indigenous Politics, Multinational Oil, and Neoliberalism in Ecuador*. Durham and London: Duke University Press.

- Sawyer, S. and E. Gomez (2008). *Transnational governmentality and resource extraction: Indigenous peoples, multinational corporations, multilateral institutions and the state*. Geneva: UNRISD.
- Sayer, Andrew. 1992. *Method in Social Science*. 2nd Edition. New York: Routledge.
- SCFAIT (Standing Committee on Foreign Affairs and International Trade). 2005. *Mining in Developing Countries - Corporate Social Responsibility*. Ottawa: Government of Canada.
- Scheffer, David. 2010. "BP Shows the need for a rethink of regulation." *The Financial Times Limited*. May 27, 2010, Retrieved May 28, 2010 (<http://www.ft.com/cms/s/0/919f37fe-69c1-11df-8432-00144feab49a.html>).
- Schneider, Richard R. 2002. *Alternative Futures: Alberta's Boreal Forest at the Crossroads*. Edmonton: The Federation of Alberta Naturalists and The Alberta Centre for Boreal Research.
- Schofield Clark, Lynn. "Critical Theory and Constructivism: Theory and Methods for the Teens and the New Media @ Home Project." Retrieved March 22, 2010 (<http://www.colorado.edu/journalism/mcm/qmr-crit-theory.htm>).
- Scholte, Jan A. 2000. *Globalization: A Critical Introduction*. New York: St. Martin's Press.
- , 2004. "Civil Society and Democratically Accountable Global Governance." *Government and Opposition* 39(2):211-233. Retrieved May 13, 2006 Available: Blackwell Synergy.
- , 2005. *The Source of Neoliberal Globalization*. Geneva: UNRISD.
- Seabrook, Jeremy. 2002. "Sustainable Development is a Hoax: We Cannot Have It All." *The Guardian*, August 5, 2002.
- Seale, Clive (1999). *The quality of qualitative research*. London: Sage.

- Seck, Sara L. Oct 20, 2005. "Keynote Address for MiningWatch Canada conference: Regulating Canadian Mining companies Operating Internationally." Retrieved February 7, 2006 (www.miningwatch.ca/).
- Silverston-Scher, Melina. 1993. *Ethnopolitics in Ecuador: Indigenous Rights and the Strengthening of Democracy*. Boulder, CO: Lynne Rienner Publishers.
- Sethi, S. P. 2000. "Gaps in Research in the Formulation, Implementation and Effectiveness Measurement of International Codes of Conduct." In *Global Codes of Conduct: An Idea Whose Time Has Come* edited by O.F. Williams. Notre Dame, Indiana: University of Notre Dame Press.
- Shamir, Ronen. 2004. "The De-Radicalization of Corporate Social Responsibility." *Critical Sociology* 30(3):669-689.
- , 2005. "Corporate Social responsibility: A case of Hegemony and Counter-Hegemony" in *Law and Globalization from Below: Towards a Cosmopolitan Legality* edited by Boaventura de Sousa Santos and Cesar A. Rodriguez. Cambridge: Cambridge University Press, pp92-117.
- Sharvit, Cheryl, Michael Robinson and Monique Ross. 1999. "Resource Developments on Traditional Lands: The Duty to Consult." CIRL Occasional Paper #6. Calgary, Canadian Institute of Resources Law.
- Shmuell, Deborah, Sanda Kaufman and Michael Elliott. 2003. "Frames, Framing and Reframing." *Beyond Intractability*: September. Retrieved August 26, 2005 (<http://www.beyondintractability.org/m/framing.jsp>).
- Silverman, David. 2005. *Doing Qualitative Research. 2nd Edition*. London: Sage Publications.
- Simon, Paul. 1986. "The Boy in the Bubble." *Graceland*. Burbank CA: Warner Bros. Records Inc.
- Sklair, Leslie. 1991. *Globalization: Capitalism and its Alternatives*. Oxford: Blackwell Publishing.

- , 2002. *The Transnational Capitalist Class*. Oxford: Blackwell Publishing.
- Slowey, Gabrielle A. 2001. "Globalization and Self-Government: Impacts and Implications for First Nations in Canada." *American Review of Canadian Studies* 31(1/2):265.
- Smith, N. C. 2003. "Corporate Social Responsibility: Whether or How?" *California Management Review* 45(4):52-52-76.
- Solomon, Robert C. 1994. *Above the Bottom Line: An Introduction to Business Ethics*. 2nd ed. New York: Harcourt Brace.
- Standing Senate Committee on Aboriginal Peoples. 2007. *Sharing Canada's Prosperity-- A Hand Up, Not a Handout*. Ottawa: Government of Canada. Retrieved August 12, 2007 (www.parl.gc.ca) (Committee Business — Senate — 39th Parliament, 1st Session).
- Statistics Canada. 2006. "Study: The Alberta Economic Juggernaut." *The Daily*, September 14. Retrieved July 15, 2007 (<http://www.statcan.ca/Daily/English/060914/d060914c.htm>).
- Steele, Amy. 2004. "Ecuadorian Aghast Over EnCana Development Award." *Fast Forward Weekly: Calgary's News and Entertainment*, April 29.
- Steger, Manfred B. 2002. *Globalism: The New Market Ideology*. New York: Rowman & Littlefield Publishers Inc.
- Steiner, George A. and John F. Steiner. 2003. *Business, Government and Society: A Managerial Perspective*. Tenth ed. Montreal: McGraw Hill Irwin.
- Steverman, Ben and David Bogoslaw. 2008. "The Financial Crisis Blame Game." *Business Week*, October.
- Steyn, Maria S. 2003. "Oil politics in Ecuador and Nigeria: a Perspective from Environmental History on the Struggles between Ethnic Minority Groups, Multinational Oil Companies and National Governments." Ph.D. Dissertation.

Faculty of Humanities (Department of History), University of the Free State
Bloemfontein, South Africa.

- Stiglitz, Joseph E. 2002. *Globalization and Its Discontents*. New York, London: W.W. Norton & Company.
- Stolowicz, Beatriz. 2004. "The Latin American Left Between Governability and Change." *TNI Briefing 1*, January 2004, Retrieved May 27, 2004 (<http://www.tni.org/acts/madison.htm>).
- Stopford, John and Susan Strange. 1997. *Rival States, Rival Firms. Competition for World Market Shares*. New York: Cambridge University Press.
- Suter, Keith. 2000. "The Change of Power in Ecuador." *Contemporary Review*. July:23-26.
- Swyngedouw, Erik. 2005. "Governance Innovation and the Citizen: The Janus Face of Governance-beyond-the-State." *Urban Studies*, Vol. 42, No. 11 pp. 1991–2006.
- Taibbi, Matt. 2009. "The Great American Bubble Machine: How Goldman-Sachs blew up the economy." *Rolling Stone Magazine*. 13 July.
- Telegraph Staff. 2006. "Do-Gooders Feel the Pinch as Business and Profits Mix Badly." *Telegraph*, February 2.
- The Commission on Global Governance. 1995. *Our Global Neighborhood*. New York: Oxford University Press.
- The Fraser Institute. 2000. *The Fraser Institute 1974-1999*. Vancouver: The Fraser Institute.
- Thomas, William L. 2003. "Whither from Here? American Enterprise and the Journey Towards Environmentally Sustainable Globalization Following the WSSD." *Review of European Community & International Environmental Law* 12(1):39--53.
- Thorne, Sally. 2000. "Data Analysis in Qualitative Research." *Evidence-Based Nursing* Volume 3, pages 68-70.

- Tilston, Nick. 2005. "CSR doesn't matter - business profits do. The Changing Role of Business in Society: Shortlisted Essays From The Ashridge Best Mba Essay Award 2004 In Association With The Guardian." London: Certified Accountants Educational Trust.
- Timoney, Kevin and Peter Lee. 2001. "Environmental Management in Resource-rich Alberta, Canada: First World Jurisdiction, Third World Analogue?" *Journal of Environmental Management* 63:387-405.
- TRAC. 2000. *Tangled up in Blue: Corporate Partnerships at the United Nations*. Transnational Resource and Action Center.
- Treaty 8 First Nations of Alberta. 2005. *First Nations Consultation Guidelines Framework*.
<http://www.treaty8.ca/upload/documents/T8FNA%20FN%20Consultation%20Policy%20and%20Guidelines%20Framework.pdf>. Retrieved October 15, 2007.
- , 2006. *Economic Development: Environmental Scan*. Edmonton: Treaty 8 First Nations of Alberta.
- Trumpy, Alexa J. 2008. "Subject to Negotiation: The Mechanisms Behind Co-optation and Corporate Reform." *Social Problems*, Vol. 55, Issue 4:480-500.
- UNDP (United Nations Development Programme). 2006. *Human Development Report 2006*. New York: Oxford University Press.
- United Nations Economic and Social Council. 2003. *United Nations Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regards to Human Rights*. Geneva: United Nations Economic and Social Council.
- United Nations Human Rights Council. 2008. *Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development – Protect, Respect and Remedy: a Framework for business and Human Rights*. Report of the Special Representative of the Secretary-

- General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie. Geneva: United Nations.
- United Nations Office of the High Commissioner for Human Rights (UNOHCHR). 2003. *Responsibilities of transnational corporations and other business enterprises with regard to human rights*. E/CN.4/Sub.2/2003/L.8 7 August. Geneva: UNHCHR.
- UNRISD. 2003. *Corporate Social Responsibility and Development: Towards a New Agenda?* Geneva: United Nations Research Institute on Social Development.
- Utting, Peter. 2000. *Business Responsibility for Sustainable Development*. Geneva: UNRISD.
- Utting, Peter and UNRISD. 2004. "Corporate Social Responsibility and Business Regulation." Research and Policy Brief 1 (UNRISD/PB/04/1). Geneva: United Nations Research Institute for Social Development.
- Van der Pijl, Kees. 2009. "A Survey of Global Political Economy." Sussex: University of Sussex, Department of International Relations, retrieved June 29, 2010 (<http://www.sussex.ac.uk/ir/research/gpe/gpesurvey>).
- Verburg, Peter. 2002. "Land of the Giant." *Canadian Business*, April 15, 2002, pp. 27.
- Vernon, Raymond. 1971. *Sovereignty at Bay: The multinational spread of U.S. enterprises*. New York: Basic Books.
- , 1992. "Transnational corporations: where are they coming from, where are they headed?" *Transnational Corporations* 1(2):7-7-35.
- , 2001. "Big Business and National Governments: Reshaping the Compact in a Globalizing Economy." *Journal of International Business Studies* 32(3, Third Quarter):509-509-518.
- Vickers, W.T. 1989. *Los Sionas y Secoyas*. Quito: Abya-Yala.
- Vidich, Arthur J. and Stanford M. Lyman. 1994. "Qualitative Methods: Their History in Sociology and Anthropology." Chapter 2 in *Handbook of Qualitative Research*

- edited by Norman K. Denzin, Yvonne S. Lincoln. Thousand Oaks, CA: Sage Publications.
- Vogel, David. 2006. *The Market for Virtue: The Potential and Limits of Corporate Social Responsibility*. Washington, D.C.: The Brookings Institution.
- Voyageur, Cora J. and Brian Calliou. 2007. "Aboriginal Economic Development and the Struggle for Self-Government." Pp. 135-160 in *Power & Resistance: Critical Thinking About Canadian Social Issues* edited by L. Samuelson and W. Antony. Halifax: Fernwood Publishing.
- Vredenburg, Harrie. 2003. "Building corporate citizenship through strategic bridging in the oil and gas industry in Latin America: Pacalta Resources uses corporate social responsibility technique while in Ecuador." *The Journal of Corporate Citizenship*. Volume 10, Summer:41-54.
- Waddock, Sandra. 2007. "Corporate Citizenship: The Dark-Side Paradoxes of Success." Pps. 74-86 in *The Debate Over Corporate Social Responsibility* edited by Steve May, George Cheney and Juliet Roper. New York: Oxford University Press.
- Wallace, Ian and Rob Shields. 1997. "Contested Terrains: Social Space and the Canadian Environment." In *Understanding Canada: Building on the New Canadian Political Economy* edited by C. Wallace. Montreal & Kingston: McGill-Queen's University Press.
- Ward, Halina, Nicola Borregaard and Paul Kapelus. 2002. *Corporate Citizenship: Revisiting the Relationship between Business, Good Governance and Sustainable Development*. London: International Institute for Environment and Development.
- Warhurst, A. 2005. "Future roles of business in society: the expanding boundaries of corporate responsibility and a compelling case for partnership." *Futures* 37(2-3):151-168.
- Wasserfall, Rahel (1993). "Reflexivity, feminism and difference." *Qualitative Sociology* 16(1), 23-50.

- Waters, Malcolm. 1995. *Globalization*. London, New York: Routledge.
- Watts, Michael J. 2005. "Righteous Oil? Human Rights, the Oil Complex, and Corporate Social Responsibility." *Annual Review Environmental Resource*. 30:373-407.
- WBCSD. 1998. *Corporate Social Responsibility: Meeting Changing Expectations*. Geneva: World Business Council for Sustainable Development.
- . 2006. *From Challenge to Opportunity: The Role of Business in Tomorrow's Society*. Albany, NY: State University of New York Press.
- Weisbrot, Mark. 2007. "Political and Economic Changes in Latin America Likely to Continue." *ZNet Magazine*, March 20. Retrieved March 20, 2007 (http://www.zmag.org/content/print_article.cfm?itemID=12367§ionID=20).
- Weissman, R. E., S. Chakravarty, L. Cunningham, P. Clapman, T. Gallagher, T. Smith, F. Balotti, M. Blair, H. Butler, J. Fisch, M. Miller, J. R. Macey, M. L. Dinerstein, J. Taranto, A. T. Marlin and L. Kreisberg. 1999. "Transcript - Corporate social responsibility paradigm or paradox? The Cornell Club - New York City - November 6, 1998." *Cornell Law Review* 84(5):1282-1355.
- Welling, Bruce. 1995. "Corporate Law in Canada." In *The Legal Framework of Business Enterprises second edition* edited by R.L. Campbell. North York, Ont.: Captus Press.
- . 1996. *Canadian Corporate Law: Cases, Notes & Materials*. Toronto: Butterworths.
- Westell, Dan. 2000. "Best of a Good Lot." *Canadian Business Magazine*, March 20.
- Wheeler, D., H. Fabig and R. Boele. 2002. "Paradoxes and dilemmas for stakeholder responsive firms in the extractive sector: Lessons from the case of Shell and the Ogoni." *Journal of Business Ethics* 39(3):297-318.
- White, Allan L. 2006. "Redefining Corporate Purpose." *Corporate Social Responsibility Review* Winter.

- Whittaker, Martin. 1999. "Emerging 'triple bottom line' model for industry weighs environmental, economic and social considerations." *Oil and Gas Journal*, March.
- Windsor, D. 2004. "The development of international business norms." *Business Ethics Quarterly* 14(4):729-754.
- World Bank. 2002. "Business Partners for Development." Retrieved January 31, 2005 (<http://www.bpd-naturalresources.org/media/pdf/bro/generalbpd.PDF>).
- , 2004. "Ecuador Second Indigenous and AfroEcuadorian Peoples Development Project." *AB40*.
- , 2006. *World Development Report 2006: Equity and Development*. Washington, D.C.: Info Shop World Bank Group.
- World Bank Group. 2004. *Ecuador - Second Indigenous and Afro-Ecuadorian Peoples Development Project*. Washington, D.C.: Info Shop World Bank Group.
- World Commission on Environment and Development. 1987. *Our Common Future*. Oxford: Oxford University Press.
- Yardley, Lucy (2000). "Dilemmas in qualitative health research." *Psychology and Health* 15(2), 215-228.
- Yaron, Gil. 2000. "Awakening Sleeping Beauty: Reviving Lost Remedies and Discourses to Revoke Corporate Charters." Unpublished Ph.D. Dissertation. University of British Columbia.
- Yin, Robert. 1993. *Case Study Research*. London: Sage Publications.
- Zadek, Simon. 2000. *Ethical Trade Futures*. London: New Economics Foundation.
- , 2004. "On Civil Governance." *Development* 47(3):20-20-28.
- Zammit, Ann. 2003. *Development at Risk: Re-Thinking UN-Business Partnerships*. Geneva: The South Centre and United Nations Research Institute for Social Development.

APPENDICES

APPENDIX A

DOCUMENT REGISTER

D-ECA-01	EnCana Corporate Constitution
D-ECA-02	EnCana Corporate Responsibility Policy – 2004
D-ECA-03	EnCana Aboriginal Guideline
D-ECA-04	EnCana Ecuador Region: Environmental, Health, Safety (EHS) and Community Affairs (CA) Policy
D-ECA-05	EnCana Annual Report 2002
D-ECA-06	EnCana Corporate Social Responsibility Report 2005
D-ECA-07	EnCana Corporate Social Responsibility Report 2006
D-ECA-08	EnCana Annual Report 2004
D-DT-09	Alberta Court of Queen’s Bench, Judicial District of Edmonton: Between Dene Tha’ First Nation and Stephen Didzena
D-A-10	Aboriginal Resource Council Corporate Program Templates
D-DT-11	Letter February 6, 2004. Dene Tha’ (Councilor Cary Chonkolay) to Paddy Meade, Deputy Minister Aboriginal Affairs and Northern Development Alberta
D-DT-12	Letter November 24, 2004. Bob Freedman (Legal Council for Dene Tha’ First Nation) to Treaty 8 First Nations of Alberta, re: the Decision of the Supreme Court of Canada in the Haida Case
D-DT-13	Dene Tha’ Press Release, January 17, 2008

- D-DT-14 January 13, 2004. Factum of the Intervenor for the Dene Tha' First Nation before the Supreme Court of Canada in the case Haida Nation vs. Weyerhaeuser Company Limited
- D-DT-15 Letter September 7, 2004. Chief of the Dene Tha' First Nation to the Minister of Aboriginal Affairs and Northern Development Alberta. Comments on the Draft Consultation Guideline
- D-DT-16 E-mail November 1, 2004. Negotiations Team of Dene Tha' First Nation to Alexander Wilson, EnCana Corporation⁴
- D-DT-17 December 5, 2003. Dene Tha' First Nation Oil and Gas. Proposed Policies and Procedures for Referral of Oil and Gas Activity from Industry to the Dene Tha' First Nation
- D-E-18 2004. Elizabeth Pixley-Fink and Adolfo Maldonado. Report on oil and gas activity in Tarapoa Block, Ecuador.
- D-E-19 July 16, 2001. Convenio Para la Conservacion y Manejo Ecologico del Territorio Ancestral Siona en un Sector de la Reserva de Produccion Faunistica Cuyabeno Entre el Ministerio del Ambiente y la ONISE
- D-E-20 November 2002. Ministry of Environment, Ecuador. Application for seismic work in Tarapoa Block by AEC Ecuador
- D-E-21 November 2002. Ministerio del Ambiente, Ecuador. Licencia Ambiental para la Prospección Sísmica 3D en la Zona Este del Bloque Tarapoa.
- D-E-22 August 2002. Acción Ecologica. Los trabajos de exploración petrolera alejan al turismo
- D-E-23 February 2003. Comité de Defensa del Cuyabeno. Informe de la Visita a la Reserva Faunistica Cuyabeno

- D-E-24 Letter March 10 2003. Acción Ecológica to Dr. Edgar Isch, Ministry of the Environment, Ecuador.
- D-E-25 May 3 2003. La Hora: “Sionas y AEC del Ecuador firman acta.”
- D-E-26 May 4 2003. Expreso de Guayaquil. Fin a la prospección en la Reserva Cuyabeno
- D-E-27 May 2 2003. Expreso de Guayaquil. Indígenas firman acta con petrolera
- D-E-28 January 18 2003. El Comercio: “Cuyabeno arma un comité anti petrolero”
- D-E-29 March 27 2003. Panorama. AEC descarta daños en el turismo local
- D-E-30 January 2003. Press Release. Communities of Biaña and Orahueya declare AEC agreement with ONISE illegal and Arturo Proaña ‘persona non-grata’
- D-E-31 January 3 2003. Invitation to attend meeting on January 14 2003 in Lago Agrio, re: seismic prospecting in Cuyabeno Reserve
- D-E-32 Letter February 6, 2003. FIAN – International Human Rights Organization for the Right to Feed Oneself to Coronel Lucio Gutierrez; re: autorización para actividades petroleras y mineras en la Reserva Faunística de Cuyabeno
- D-E-33 Letter February 12, 2003. Acción Ecológica to Dr. Claudio Mueckay, Defensor del Pueblo
- D-E-34 Letter January 9 2003. Siona communities of Biaña and Orahueya to José Tonelo, Director Nacional del FEPP
- D-E-35 December 16 2002. Acta de Acuerdo de Dos Centros “Biaña y Orahueaya”
- D-E-36 Letter September 19, 2003. Hugo Chamba, Director Nacional de Protección Ambiental, Ministerio de Energía y Minas to Fernando

- Benalcázar, AEC Ecuador Ltd. Re: Spill of crude oil on September 16 2003 at Mariann Platform, Tarapoa Block.
- D-E-37 August 16 2001. Press Release. Comisión de Control Cívico de la Corrupción. Irregularities in contract modification of 1995 between City Investing and PetroEcuador
- D-E-38 Letter January 6 2003. Galo Sevilla, Representante Operadores Turístico. General invitation to attend meeting of Siona organization.
- D-E-39 Letter October 22 2003. Victor Olivares, Expresidente de la Precooperativa 24 de Marzo de Mariam 4 to Subsecretario de Protección Ambiental, Ministeria de Energía y Minas. Re: oilspill at Station Mariam BATY
- D-E-40 December 18 2002. Signature list. Nomina y Firmas de todas las personas que nos oponemos al ingreso de la compañía petrolera a nuestro territorio
- D-E-41 Letter October 22 2003. Victor Olivares, Expresidente de la Precooperativa 24 de Marzo de Mariam 4 to Calidad Ambiental Quito, Ministerio del Ambiente. Re: oilspill at Station Mariam BATY
- D-E-42 Letter 26 July 1996. William Criollo, Presidente de ONISE to Paulina Garzón, Acción Ecológica
- D-E-43 January 25 2003. El Comercio: “Los sionas aceptaron que se busque petróleo en sus areas”
- D-E-44 March 1 2003. La Hora: “Indígenas cuestionan a la petrolera Alberta”
- D-E-45 January 8 2003. ONISE. Acta de Acuerdo

- D-E-46 February 28 2003. Press Release. Congreso Nacional de Republica del Ecuador. Solicitan suspension de licencia ambiental a la compañía petrolera AEC Ecuador
- D-E-47 Letter May 8 2003. Luis A. Valarezo, Tarapoa to AEC Relaciones Comunitarias. Re: water supply and animal health problems related to AEC Platform Mahogany
- D-E-47b Letter May 14, 2003. As above, but addressed to Director de la DINAPA, Ministerio de Energía y Minas.
- D-E-47c Memo May 6 2003. Fundación Ñanpaz to Luis Valarezo. Recommendation to use anti-biotic for sick cow.
- D-E-48 Concejo Municipal del Cantón Cuyabeno. Resolución del Concejo Municipal del Cantón Cuyabeno No. 5 – 2003
- D-E-49 Letter November 13 2002. Ernesto Maniguaje, Presidente the Territorios Ecología y Turismo de la ONISE to Luis Bermeo, Prefecto Provincial de Sucumbíos
- D-E-50 May 15 2000. Documents submitted to Bolívar Beltrán, Asesor organización OISE from Ing Victor H. Arias, City Investing Company Ltd. containing information for study prior to consultation and negotiation over a Code of Conduct
- D-E-51 2001-2002. Assorted document copies. Convenios Empresa City Investing
- D-E-52 2002. Assorted document copies. Contratos y Convenios entre las Comunidades, Propietarios de las Tierras y la Operadora AEC Ecuador Ltd.
- D-E-53 October 2000. Convenio Entre el Ministerio del Ambiente, la Organización Indígena Secoya del Ecuador (OISE) y el Centro Secoya Siecoya Remolino para el Uso y Manejo del sector No

- Colonizado de las Cabeceras del Río Aguas Negras en la Reserva de Produccion Faunistica Cuyabeno
- D-E-54 March 2000. Centro de Derechos Económicos y Sociales – CDES. Negociacion del Codigo de Conducta Entre Occidental (Oxy) y la Organizacion Indígena Secoya del Ecuador (OISE)
- D-E-55 January 2005. Swing Kelly, Director of Tiputinin Biodiversity Station, Ecuador. Personal communication.
- D-ECA-56 July 30 2003. Fernando Benalcazar, vice-president EnCanEcuador. CD. Corporate Responsibility Presentation B2. Received November 2004.
- D-E-57 June 10 2002. Convenio Especifico de Cooperacion de Seguridad Militar entre el Ministerio de Defensa Nacional y la Compañia AEC Ecuador Ltd.
- D-E-58 July 2001. Convenio de Cooperación de Seguridad Militar Entre el Ministerio de Defensa Nacional y las Empresas Petroleras que Operan en la Region Amazonica
- D-ECA-59 EnCana Annual Report 2003.
- D-DT-60 Letter December 19 2003. Dene Tha' Negotiation Team to Andy Popko, vice-president Aboriginal Affairs, EnCana Corporation, re: consultation for work in Boyer area

APPENDIX B

INTERVIEW REGISTER

E-01	Researcher with human and social rights NGO, Quito, Ecuador
E-02	Professor and Researcher, Pontificia Universidad Católica, Quito, Ecuador
E-03	Community Relations Officer EnCana Corporation and community residents interviewed during guided tour of Ñanpaz Foundation and AEC community projects
E-04	President of the Paroquial Council of Aguas Negras, Ecuador
E-05	Female villager in Tarapuy, Ecuador
E-06	Canadian researcher and activist, Toronto, Canada
E-07	Program director Canadian-Ecuadorean Development Fund, Quito, Ecuador
E-08	General Manager, EnCanEcuador, Quito, Ecuador
E-09	Vice-President Environment, Health & Safety and Community Relations, EnCanEcuador, Quito, Ecuador
E-10	Community Relations Liaison, EnCanEcuador, Quito, Ecuador
E-11	Employee Environmental NGO, Quito, Ecuador
A-12	Trappers' Liaison Coordinator for the Dene Tha' First Nation, Chateh, Alberta
A-13	Communication Officer for the Dene Tha' First Nation, Chateh, Alberta
A-14	Past Band Councillor, Dene Tha' First Nation, Chateh, Alberta
A-15	Environment Officer for the Dene Tha' First Nation, Chateh, Alberta

- A-16 Office Employee, High Level Office, EnCana Corporation, Bushe, Alberta
- A-17 Board Member, National Aboriginal Business Association, Calgary, Alberta
- A-18 Economic Development Officer for the Dene Tha' First Nation, Chateh, Alberta
- A-19 Consultant to the Dene Tha' First Nation, Edmonton, Alberta
- A-20 Former Chief of the Dene Tha' First Nation, Bushe, Alberta
- A-21 Former employee of EnCana Corporation, Calgary, Alberta
- A-22 Resident, Dene Tha' First Nation Bushe Settlement, Alberta
- A-23 Resident, Dene Tha' First Nation Meander River Settlement, Alberta
- A-24 Former councilor and resident Dene Tha' First Nation Chateh settlement, Alberta
- A-25 Former councilor and resident Dene Tha' First Nation Meander River settlement, Alberta
- E-26 National Director Environmental Affairs, Ministry of Energy and Mines, Quito, Ecuador
- A-27 Researcher for the Pembina Institute, Canmore, Alberta
- A-28 Vice-President of Public Affairs and special advisor to the President, EnCana Corporation, Calgary, Alberta
- E29 Professor and Researcher, Universidad Andina Simón Bolívar, Quito Ecuador
- E-30 Professor and Researcher, Universidad Andina Simón Bolívar, Quito Ecuador
- E-31 Resident, Village of Tarapuy, Ecuador
- E-32 Tour guide in Cuyabeno Reserve, Ecuador

- E-33 Vice-President of ONISE, Puerto Bolivar, Ecuador
- E-34 Carpenter and settler, Aguas Negras, Ecuador
- E-35 Resident and former EnCanEcuador employee, Aguas Negras, Ecuador
- E-36 President, Frente de la Defensa de Amazonia (FDA), Aguas Negras, Ecuador
- E-37 Leader FOCAN, Aguas Negras, Ecuador
- E-38 Leader FOCAN, Aguas Negras, Ecuador
- E-39 First Mayor of Cuyabeno and School Principal, Tarapoa, Ecuador
- E-40 Former Environmental Director Cantón de Cuyabeno and environmental activist, Tarapoa, Ecuador
- A-41 Employee Western Lakota Drilling Services, Calgary, Alberta
- A-42 Journalist, Calgary, Alberta
- A-43 Employee Ben Calf Robe Society, Edmonton, Alberta
- A-44 Activist, Edmonton, Alberta
- A-45 Corporate Responsibility Lead for Ecuador, EnCana Corporation, Alberta
- A-46 Director Alberta Indian Affairs, Government of Alberta, Edmonton, Alberta
- A-47 Aboriginal Consultant, Stony Plain, Alberta
- E-48 President, Cooperativo Chonay, Ecuador
- E-49 Researcher, University of Miami, Florida, U.S.A.
- E-50 Senior Attorney, Environmental Defense Fund, Washington D.C., U.S.A.
- E-51 Legal Counsel, Retten die Regenwald, Environmental NGO, Germany
- E-52 Employee, Environmental NGO, Quito, Ecuador

- E-53 Researcher, anti-corruption commission, Government of Ecuador
- E-54 Deputy of Ecuadorean Member of Parliament
- A-55 CSR consultant to EnCana Corporation, Calgary, Alberta
- E-56 Professor, Universidad Andina Simón Bolívar, Quito, Ecuador
- E-57 Owner and operator, Ecotourism organization, Quito, Ecuador
- A-58 Counselor Dene Tha' First Nation, Chateh, Alberta
- A-59 Chair of Oil and Gas Negotiating Team, Dene Tha' First Nation,
Chateh, Alberta
- A-60 Spokesperson Alberta Oil and Gas, Government of Alberta
- A-61 Director of Biological Research Station, Ecuador
- E-62 Past President of Frente de Defensa Amazonia (FDA), Ecuador
- A-63 Former employee, EnCana Corporation, Calgary, Alberta

APPENDIX C

CONSENT FORM AND INTERVIEW INFORMATION

PROJECT TITLE: A comparative study of approaches to corporate social responsibility in northern Alberta and Ecuador.

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The primary purpose for the information I collect is the completion of a dissertation for the doctoral degree in Sociology at the University of Alberta. The possibility exists that the dissertation, or parts thereof, will be published at a later date. My research concerns the practice and implementation of corporate social responsibility. I will compare the activities of one Canadian oil and gas company in two different locations: northern Alberta and northern Ecuador; my focus is primarily on corporate responsibilities for the environment and on the company's relations with indigenous groups in the areas of operation. The results of the research may result in recommendations to the company and/or to public policy makers.

I plan to hold interviews with those who voluntarily wish to participate in this study. Place and time of the interview will be determined by the participant.

Participants are under no obligation to answer questions and retain the option to withdraw at any time. The interviews will be taped and later transcribed. Your name will only be used with your permission. Apart from the participant(s) in the interview and myself, a translator will be present when necessary. Your anonymity and confidentiality are assured at all times and will be protected by the separation of identifying information from interview material. Only the researcher will have access to both sets of information and methods to link the two.

CONSENT:

I, _____, hereby consent to participate in the research as described above.

I give permission to the researcher to identify me by name in any publications that result from this research.

Dated, this _____ day of _____, 200__.

APPENDIX D

PLANILLA DE CONSENTIMIENTO E INFORMACIÓN SOBRE LA ENTREVISTA

Título del Proyecto: Estudio Comparatio de los Enfoques de la responsabilidad Social Corporativa en el Noreste de Alberta y Ecuador.

Investigador: Ineke C. Lock

Candidata a Ph. D

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En principio el propósito de la información que estoy recabando es completar la disertación para el grado de Docotora en Sociología de la Universidad de Alberta. Existe la posibilidad de que ésta disertación, o parte de la misma, se publique en fecha posterior. Mi investigación se refiera a la práctica e implementación de la responsabilidad social corporative. Compararé las actividades de una compañía de petróleo y gas Canadiense en dos localidades diferentes: El Noreste de Alberta y el Noreste de Ecuador; mi objeto de studio es primeramente las responsabilidades corporativas para con el medio ambiente, y las relaciones de la compañía con los grupos indígenas en sus áreas de operación. El resultado de la investigación podría arrojar recomendaciones para la compañía y/o para los entes de toma de decisions.

Planeo llevar a cabo entrevistas con aquellos quienes voluntariamente deseen participar en este estudio. El lugar y la hora de la entrevista sera establecida por el participante. Los participantes no están en la obligación de responder preguntas y tienen la opción de retirarse cuando lo desee. Las entrevistas serán grabadas y luego transcritas. Su nombre solo sera utilizado si usted lo permite. Aparte del participante(s) en la entrevista y mi persona, un traductor estará presente cuando sea necesario. El anonimato y confidencialidad del entrevistado están aseguradas en todo momento y serán protegidas separando la información de su identidad, del material de la entrevista. Solo el investigador acceso a ambos juegos de información y a sus métodos para vincularlas.

Consentimiento:

Yo, _____, por medio de la presente estoy de acuerdo con participar en la investigación descrita arriba.

_____.

Yo autorizo al investigador para identificarme por mi nombre en cualquier publicación que resulte de ésta investigación.

_____.

Realizado, a los _____ día(s) del mes de _____, de ____.