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**From Silence to Constructive
Engagement:
A Framework for Corporate Human
Rights Strategies**

by

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A thesis submitted in partial fulfilment of the requirements for the degree of
Doctor of Philosophy in Business Studies

University of Warwick, Warwick Business School
September 2006

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Acknowledgements

Many people have helped me to complete this doctoral thesis. I am particularly thankful to Kiran whose friendship, encouragement, insight, and proofreading skills have been invaluable. I am also thankful to my parents for the understanding and support they have always provided. I would also like to thank Heather for making life in Leamington Spa fun, Camilla and Anupama for entertaining discussions on what corporate social responsibility really is, Paul and Sarah for being so flexible with work arrangements, Luz and Rogelio for welcoming me in Mexico when I needed a break from writing, JP for his help with everything French, and Bahar for useful discussions about business and human rights. I am also grateful for the supervision provided by Alyson and Keith. Finally, I would like to acknowledge the financial support given by Academy of Finland, Finnish Cultural Foundation, Economic and Social Research Council, and Warwick Business School.

Declaration of authenticity

This thesis is the candidate's own work. It has not been submitted for a degree in another university.

Abstract

This thesis sheds light on the range of strategies that companies can pursue in order to deal with human rights concerns in countries where the host government is responsible for systematic human rights violations. It does so by the comparative analysis of the policies and activities that four companies carried out in two countries: (i) Total and Premier Oil in Myanmar and (ii) Talisman and Lundin in Sudan.

The analysis of the cases shows that human rights issues do not only involve material conditions that prevent people from enjoying human rights or constitute a direct violation of their rights, but they may also pertain to the way in which stakeholders perceive or view a particular situation. The nature of the human rights issue is important because it affects the way in which the issue can be addressed. The analysis of the cases suggests that the activities carried out by the companies to address human rights issues can be separated into five different strategies: (1) *direct strategies* involving concrete action that companies take to influence the objective conditions that give rise to human rights issues, (2) *indirect strategies* pertaining to attempts to persuade other actors to take action over the conditions that give rise to issues, (3) *information strategies* involving attempts to affect stakeholder views through the provision of information, (4) *leveraging strategies* aimed at affecting stakeholder views through verification measures or appeals to authority, and (5) *stakeholder engagement strategies* concerned with attempts to affect stakeholder views by increasing mutual understanding between companies and their stakeholders through two-way communication.

The present thesis makes two main contributions. First, it sheds light on the little researched area of corporate approaches to human rights. More specifically, it makes a theoretical and practical contribution by classifying activities that companies have carried out to address human rights issues into five types of human rights strategies and identifying factors that affect the choice between the different strategies. No previous research exists on the action that companies have taken in response to human rights issues.

Second, the present research draws on and adds value to literature on issues management and stakeholder management by contributing to a better understanding of the ways in which companies address social issues and stakeholder demands. As Wood (1991) observed, there is a lack of research on the vehicles or methods of corporate response to society's changing conditions and expectations. Previous literature has focussed on the identification of issues and stakeholders rather than the behaviours that companies assume to deal with issues and stakeholder demands (e.g., Andriof & Waddock, 2002; Berman *et al.*, 1999).

Key words: business and human rights, corporate social responsibility, issues management

1 Introduction

1.1 Companies under spotlight

In 1996, the BBC aired a Saturday night prime time documentary on human rights violations associated with the presence of British Petroleum (BP) in Colombia. The programme suggested a connection between the company and extra judicial arrests, harassment, and killing of labour union activists. The alleged violations were perpetrated by the Colombian forces that were providing security for BP's operations in the country. The BBC programme replicated the views of the human rights activists who were arguing that BP bore responsibility for the violations because the company could not have operated in the country without the protection of the Colombian military and police. According to the human rights activists, the company should have done more to prevent the Colombian army and police from committing human rights violations (Human Rights Watch, 1998).

Since the mid-1990s, multinational companies operating in the extractive industries have found themselves in situations similar to that of BP in Colombia. As will be seen in Chapter 2, an increasing amount of pressure has been put on companies to either suspend their operations or to demonstrate constructive engagement for reducing their allegedly negative influence on human rights. This research investigates the ways in which companies have sought to address human rights concerns under such pressure. The literature review will show that little prior research exists in this area (see 3.2). The focus will be on extractive

companies operating in countries where the government has failed to protect the respect for human rights or has itself been involved with human rights violations.

1.2 Justification of research

1.2.1 Market-based incentives and regulatory pressure

Human rights have become increasingly relevant for companies. Companies from diverse industries have been named and shamed as to their association with human rights violations. The threat of consumer boycotts, under-valued share price, and reputational damage make companies sensitive to criticism presented in the public arena. Human rights activists have used this sensitiveness by scrutinising corporate behaviour and mobilising media coverage for pressuring companies to consider their effect on human rights.

Human rights considerations are also increasingly affecting investment decisions. In the United States, assets in ethically or socially screened mutual funds were 151 billion US dollars in 2003, an 11% increase from 2001 (Social Investment Forum, 2003). In the United Kingdom, the total value of socially responsible investment assets rose from £23 billion in 1997 to £225 billion in 2001 (Sparkes, 2002). The upward trend in socially responsible investment is also demonstrated by the launch of market indexes such as the Dow Jones Sustainability Index in 1999 and FTSE4Good in 2001. The indexes provide investment universes based on financial criteria and ethical considerations, including specific clauses on human rights.

In addition to market-based incentives, regulatory pressure with regard to the role of companies in the promotion and protection of human rights has been amounting. Several companies have been sued in the United States and Europe for human rights violations perpetrated abroad, as will be seen in Chapter 2. Moreover, a number of selective purchasing laws have been enacted by state and city governments in the United States and Australia (Amnesty International & the Prince of Wales International Business Leaders Forum, 2002: 81-82).¹ These laws prohibit or sanction business interactions between government bodies and companies that operate in countries in which gross human rights violations occur. Even though some of the purchasing laws have been disputed at the World Trade Organisation because they are seen to form a constraint to free trade, they have pushed companies to change their behaviour (Cooper, 1997).

Moreover, the United Nations has taken steps to identify and clarify standards of corporate responsibility with regard to human rights. Notably, it has drafted norms for transnational companies and other business enterprises on human rights. If approved, the norms will make companies directly accountable for complying with a set of human rights standards. The United Nations has also established an initiative, the Global Compact, that engages companies in ten principles on human rights, labour standards, environmental practices, and anti-corruption. By 2006,

¹ State and city governments in the United States and Australia have enacted purchasing laws that disfavour companies operating in certain countries such as apartheid-era South Africa and Myanmar/Burma. For example, the Massachusetts Burma law issued in 1996 gives a 10% preference for bids from companies that avoid investing in Burma, provided that the preference does not impair essential purchases or result in inadequate competition. This law was later judged unconstitutional by the Massachusetts federal district court, the US Court of Appeals, and the

more than 2,300 companies had subscribed. Another development that highlights the importance given to the topic within the United Nations was the appointment of secretary-general's special representative on the issue of human rights and business in 2005 (United Nations, 2006).

As a result of these developments, human rights have become an issue that is taken into account in managerial decision-making. According to a survey conducted by the Ashridge Centre for Business and Society, 36% of the largest 500 companies in the world have abandoned a proposed investment and 19% have disinvested from a country because of human rights issues (Wilson & Gribben, 2000). Preliminary results of another study suggest that many of the largest companies in the world are aware of their human rights responsibilities and think about them in a systematic manner (United Nations, 2006).

1.2.2 Significance of the extractive industries

Human rights have been viewed particularly important for companies operating in the extractive industries. For example, Daniel Yergin, the author of *Prize of Oil* (1991) and the Chairman of Cambridge Energy Research Associates, believes that one of the most important pressures on oil companies in the future will be the attention on human rights and ethics (Avery, 1999). Moreover, according to a study carried out by John Ruggie, the UN secretary general's special representative on business and human rights, extractive companies account for the

Supreme Court (Amnesty International & the Prince of Wales International Business Leaders Forum, 2002: 81-82).

two-thirds of alleged corporate human rights violations. They are also responsible for the worst violations including complicity in crimes against humanity. The extractive sector is therefore unique as to its impact on human rights: “no other has so enormous and intrusive a social and environmental footprint” (United Nations, 2006).

Furthermore, because the mobility of extractive companies is limited by the location of natural resources, they are more likely than companies in other industries to seek ways in which they can address concerns that arise in connection with their operations. Indeed, major companies in the oil, gas, and mining sectors have made a commitment and taken measures to respect human rights. Shell, for example, has expressed its support for human rights in its general business principles and introduced a management system to implement its commitment (Shell, 1997).

Despite the developments that have made human rights more relevant for companies, little research exists on the activities that companies have carried out for addressing human rights concerns. Previous literature has focussed on examining the relationship between foreign investment and the state of human rights in developing countries (Cragg, 2000; Reed, 2002; Spar, 1998; Spar, 1999) and the impact that individual multinational companies have had on human rights in a particular country (Idahosa, 2002; Manby, 1999; Wheeler *et al.*, 2002). The specific behaviours in the area of human rights have not been investigated. Little

is therefore known about the ways in which companies have sought to influence the condition of human rights.

1.3 Research topic and questions

This present thesis seeks to shed light on the range of strategies that companies can pursue in order to deal with human rights concerns in countries where the host government is responsible for systematic human rights violations. It does so by exploring the attributes and determinants of the activities that companies have carried out to address human rights concerns. It therefore aims, on the one hand, to identify and characterise activities that companies have adopted to influence human rights and, on the other hand, to explain why companies have chosen to perform particular activities. The research topic can be divided into the following three research questions:

1. What characterises human rights concerns encountered by companies?
2. What distinguishes the different strategies that companies have developed to manage these human rights concerns?
3. What are the factors that explain strategy selection?

The focus of the research is on the extractive companies operating in countries where the government has failed to secure the respect for human rights or has itself been involved in human rights violations. As will be seen in Chapter 2,

companies operating in different industries have encountered different types of human rights concerns. Because the nature of the human rights concern may affect the ways in which companies respond to it, corporate approaches to human rights may vary across industries.

1.4 Methodology

A case study research design was adopted to investigate the research topic that is in line with the main characteristics of case study research: (1) theory is developed in a new area of research, (2) *why* or *how* questions are asked, (3) the researcher holds little control over the events, and (4) the boundaries between the phenomenon studied and its context are unclear (Eisenhardt, 1989; Yin, 1994: 7-9, 13).

The main unit of analysis was defined as *the policies and activities carried out in response to human rights concerns* in a country in which the government is unable to secure the respect for human rights or itself perpetrates human rights violations. The approaches adopted by Total and Premier Oil in Myanmar² as well as Talisman Energy and Lundin Oil in Sudan were examined. The four companies met the following criteria: (1) they operate in the extractive industries, (2) they have attended to human rights concerns in a country in which the government perpetrates human rights violations, and (3) data about their behaviour is available from diverse sources so that it can be corroborated.

Three types of data were used: document material, semi-structured interviews, and observation. All the data was analysed in the same way based on the assumption that even though the material was acquired from different sources and through different methods, it involved subjective interpretations of external reality or more abstract ideas (see Ryan & Bernard, 2000; Tesch, 1990). The data was coded in line with the procedures recommended by Coffey and Atkinson (1996: 29-53). van Maanen's (1979) distinction between first-order and second-order concepts was also applied throughout the process of coding to separate the "facts" of the case from the process of interpretation and theorising. A variety of measures were taken to ensure the reliability of the research methods and validity of the findings (see 4.8).

1.5 Research findings and contribution

The present research makes two main contributions to existing literature. First, it sheds light on the little researched area of corporate approaches to human rights. More specifically, it makes a theoretical and practical contribution by classifying activities that companies have carried out to address human rights issues into five types of human rights strategies and identifying factors that affect the choice between the different strategies. As will be seen in the literature review (see 3.2), no previous research exists on the action that companies have taken in response to human rights issues.

² The military government changed the name of Burma to Myanmar in 1989. Many opponents of the military rule and the United States still refer to the country as Burma. Here, however, the new

Second, the present research draws on and adds value to literature on issues management and stakeholder management by contributing to a better understanding of the ways in which companies address social issues and stakeholder demands (see 10.2). As Wood (1991) observed, there is a lack of research on the vehicles or methods of corporate response to society's changing conditions and expectations. Previous literature has focussed on the identification of issues and stakeholders rather than the behaviours that companies assume to deal with issues and stakeholder demands (e.g., Andriof & Waddock, 2002; Berman *et al.*, 1999).

Taken as a whole, the findings of the present research provide support for the view that issues management and stakeholder management are complementary rather than conflicting ways of conceptualising the way in which companies accommodate their behaviour to society's values and expectations (Carroll & Buchholtz, 1999: 616-617; Wood, 1991). It therefore takes a different view to Clarkson (1995) who argued that the concept of stakeholders is superior to other concepts and frameworks in the area of corporate social responsibility. In contrast to Clarkson, the analysis of the cases shows that the concept of issues is useful in interpreting and organising stakeholder expectations because it brings together the views and expectations that different stakeholders have about some circumstances or developments.

1.6 Outline of the thesis

The thesis consists of ten chapters. Chapter one introduces and justifies the research topic and questions, explains the research design, and presents the key definitions and delimitations of the research.

Chapter two examines the context in which companies have begun to address human rights concerns. The concept of human rights is first introduced and defined as the standards enshrined in the United Nations Universal Declaration of Human Rights (Universal Declaration). Corporate responsibility for human rights is then discussed. Next, the scrutiny placed on companies with regard to their role in human rights violations is presented as a recent development relating to globalisation and the development of communication technologies that have enabled human rights activists to monitor corporate activities in faraway places. The chapter then establishes a focus on the extractive industry and identifies human rights concerns encountered by companies operating in this industry.

Chapter three reviews literature that is relevant for conceptualising corporate approaches to human rights. It first establishes that little research exists on the ways in which companies have addressed human rights concerns and shows that prior research in the area of business and human rights has investigated the impact of foreign investment on human rights rather than the behaviours that companies engage in to influence human rights. Because of the scarcity of research on business and human rights, other bodies of literature are examined for exploring how issues similar to human rights have been framed. Research in corporate

social responsibility, issues management, and stakeholder management are found particularly relevant and therefore examined in some detail.

Chapter four describes the research design and techniques employed for investigating the research topic. The reasons for adopting a case study research design are first explained. The components of the research design are then introduced before the unit and sub-units of analysis, case selection criteria, and the two cases selected for the research are presented. The data collection and analysis techniques are then described before the interpretation of research findings is discussed. The chapter concludes with the establishment of the reliability and validity of the research findings.

Chapter five describes the political, economic, and social situation in Myanmar and Sudan and introduces the case study companies and their projects in the two countries. The aim of the chapter is to provide a background against which the approaches that the case study companies have taken to attend to human rights issues in the two countries can be analysed. The chapter proceeds as follows. The political, economic, and social situation in Myanmar and Sudan is first described. The arrival of foreign investment and its role in the economy of the two countries is discussed after which the oil and gas projects under study are then compared and contrasted in terms of their physical characteristics, ownership structure, and development over time. Finally, a brief profile of the companies is provided.

Chapter six describes and explores the characteristics of the human rights concerns addressed by the case study companies in Myanmar and Sudan. It will be seen that they be categorised into two types of issues based on their ontological nature: (1) substantial issues involving material conditions and (2) symbolic issues pertaining to views or perceptions held by stakeholders. The chapter is structured along this categorisation. Substantial issues addressed by the companies are seen to include the behaviour of the army in the pipeline area, social and economic situation in the local communities near the pipelines, and high-profile human rights incidents in the country. Symbolic issues addressed by the companies include the perception held by certain stakeholders that the army still employs forced labour³ and commits other human rights violations in the pipeline region as well as the legitimacy of the investments.

Chapter seven investigates the activities that the case study companies assumed to address human rights issues in Myanmar and Sudan. Before examining the actual activities that the companies have undertaken, the companies' policies on human rights and related issues are reviewed for understanding how the companies approach to human rights has changed over time. The activities carried out by the companies are then categorised into substantial and symbolic approaches. It will be seen that substantial approaches can be further divided into direct and indirect strategies and symbolic approaches into information, leveraging, and stakeholder engagement strategies. Specific activities carried out by the companies are

³ The term "forced or compulsory labour" refers to all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily (Convention Concerning Forced or Compulsory Labour, ILO (No. 29), 1930).

described under these five categories. The chapter concludes with the examination of the interconnectedness of different approaches and strategies.

Chapter eight sheds light on the variables that affect the way in which companies address human rights concerns. Based on the analysis of the cases and existing literature on issues and stakeholder management, seven variables are proposed to influence the selection of human rights strategy: (1) the perceived ontological nature of a human rights issue, (2) the degree of control a company holds over a particular issue, (3) the company's intrusiveness into its external environment, (4) the power that stakeholders hold relative to the company, (5) the size of the company, (6) the availability of collaboration partners, and (7) the perceived fit with core activities.

Chapter nine discusses the relevance of the research findings in the context of what companies are generally doing in relation to human rights. It will be seen that companies at large have not engaged in the same variety and extent of activity as the companies studied for the present research. However, given that companies are increasingly recognising their commitment to human rights and showing their willingness to take action, the measures taken by the case study companies shed light on how a more important number of companies may be addressing human rights in the future.

Finally, chapter ten summarises the research findings and discusses them in the context of earlier research. The research findings are first summarised and

discussed in relation to previous research for each of the research questions. The meaning and contribution of the research findings is then discussed at a more general level in relation to the limitations of the power of companies and the relationship between companies and non-governmental organisations. The chapter concludes with a discussion of the directions for future research and implications for policy and practice.

1.7 Definitions

Human rights are generally understood as entitlements that one holds by virtue of being a human being (Donnelly, 1998: 18). Since this modern understanding of human rights emerged from the struggle for the right to property against the monarchic state, various lists of rights have been put forward. For the purpose of this research, *human rights* are defined as the standards specified in the United Nations Universal Declaration of Human Rights which is the most widely recognised collection of human rights standards in the world (see 2.3).

Strategy is defined as a way to achieve a specific objective (Mintzberg *et al.*, 1998: 9) rather than the positioning of the company in relation to its competitors (Porter, 1985). Strategy is defined in this way to emphasise that the proposed model applies to human rights concerns that companies wish to address. Accordingly, a human rights strategy is the way in which a company reaches its objective of addressing a particular human rights issue.

The term *issue* is used to refer to those human rights concerns that companies seek to address. In distinction to a number of issue definitions, it is not assumed that issues bear some impact on the company, are somehow controversial, or involve expectational gaps (e.g., Reichart, 2003; Wartick & Mahon, 1994; Zyglidopoulos, 2003). Issues have been defined in this way to distinguish them from more general trends and developments in the business environment or to prioritise certain issues to others. In contrast, because the focus of the present research is on the activities that companies adopt in the area of human rights, issues are seen as any human rights concerns that companies have decided to address.

1.8 Delimitations of scope and key assumptions

The research focuses on the extractive industries. Even though it is possible that companies assume similar approaches to human rights across industries, important differences exist between industries. As will be seen in the next chapter, different industries have encountered different types of human rights concerns. This is important because the nature of the human rights concern may determine the way in which a company attends to it. It is therefore possible that human rights approaches vary from one industry to another.

Prior research in the area of business and human rights has investigated the impact of foreign investment on human rights in a particular country (e.g., Spar, 1999; also see 3.2). The present thesis does not directly contribute to this earlier research. Instead, it identifies a set of approaches and strategies that companies

can deploy to attend to human rights concerns; the impact of these strategies is not examined.

The analysis of data was based on the assumption that data is a way to learn about human experience rather than the object of analysis (see Ryan & Bernard, 2000; Tesch, 1990; also see 4.6). It was therefore possible to analyse evidence obtained from document material, interviews, and observation in the same way as subjective accounts of reality. Data and method triangulation were applied to explore how accounts varied between different data sources (see 4.5.1).

1.9 Summary

This chapter provided a brief overview of the present thesis. It first justified the research topic and introduced the research questions. It then described the methodology used, outlined the structure of the present thesis, presented some key definitions, and gave the limitations of the research. In the following chapters, the research is described in more detail.

2 The role of companies in the promotion and protection of human rights

2.1 Introduction

This chapter examines the context in which companies have begun to address human rights concerns. The chapter unfolds as follows. The concept of human rights is first introduced and defined as the standards enshrined in the United Nations Universal Declaration of Human Rights (Universal Declaration). Companies are then found to be responsible for some aspects of the Universal Declaration indirectly through national legislation. The prospect of direct corporate liability is also discussed in relation to the extraterritorial application of national laws and initiatives advanced by the United Nations. The scrutiny placed on companies with regard to their role in human rights abuses is then presented as a relatively recent development relating to globalisation and the development of communication technology which have increased the reach of human rights activists. The chapter finishes with a review of the human rights concerns encountered by companies.

2.2 Concept of human rights

The word “right” has multiple meanings. When used by philosophers or legal theorists, it refers to an entitlement that one has for something and a corresponding duty of others to respect this entitlement (Donnelly, 1998: 18-19; Raz, 1986: 167; Waldron, 1984). Should someone not respect the entitlement, she is violating the right of x to y (Donnelly, 1998: 18). The idea of human rights is based on this meaning of the word “right”. Human rights are entitlements that one holds by virtue of being a human being (*ibid*). It is considered that rights empower the right-holder who may assert her rights; this is reflected by the language of “exercising” rights (Donnelly, 2003: 8).

The relationship between rights and duties has incurred some debate among philosophers. In his contribution to this debate, Raz (1986: 171) noted that rights may ground many duties, not just one corresponding duty. For example, a right to personal security is the foundation of several duties including the duty of not to harass, rape or torture the right-holder. Raz also observed that duties vary according to the circumstances and may change as the circumstances evolve. No closed list of rights and corresponding duties can therefore be drawn.

The philosophical foundation of human rights is subject to an ongoing debate. This is illustrated by the discussion on the universality of human rights. There are authors who argue that all human beings are entitled to human rights because they derive from the nature of man, not from particular society, history, or culture (Donnelly, 2003: 10; Sidorsky, 1979: 327). Others, however, take the opposite

view and assert that all rights arise in specific societal or historical circumstances and should therefore not be considered as universal (see Waldron, 1984). Similarly, the equality and alienability of human rights has been questioned (see, e.g., Crawford, 1988: 329). Even though there is a certain degree of agreement on the concept of human rights, the debate on the foundation of human rights is likely to continue:

To say that there is widespread acceptance of the principle of human rights on the domestic and international planes is not to say that there is complete agreement about the nature of such rights or their substantive scope – which is to say, their definition. Some of the most basic questions have yet to receive conclusive answers. Whether human rights are to be received divine, moral, or legal entitlements; whether they are to be validated by intuition, custom, social contract theory, principles of distributive justice, or as prerequisites for happiness [...] – these and kindred issues are matters of ongoing debate and likely to remain so as long as there exist contending approaches to public order and scarcities among resources. (Weston, 1992 in Steiner & Alston, 2000: 326)

2.3 Universal Declaration of Human Rights

The modern understanding of human rights emerged from the struggle between the individual property holder and the monarchic state (see, e.g., Muchlinski, 2001). The right to private property and other rights were subsequently documented in various declarations and constitutions such as the Declaration of

the Rights of Man and the Citizen (French National Assembly, 27 August 1789) that form the basis of the legitimacy of the modern state. In this present research, the term *human rights* refers to the rights enshrined in the United Nations Universal Declaration of Human Rights (Universal Declaration) which is the most widely accepted collection of human rights standards in the world. The Universal Declaration was unanimously⁴ adopted by the United Nations General Assembly in 1948 soon after the formation of the United Nations to protect individuals against state abuse of which the Nazi regime had been an example (see, e.g., Muchlinski, 2001). The Universal Declaration is therefore an essentially political document formed in the aftermath of the Second World War (Clohesy, 2004).

The Universal Declaration forms the basis of international human rights law together with the International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Cultural and Social Rights (1966). As a resolution of the United Nations General Assembly, the Universal Declaration is not legally binding and its ratification by states is not accompanied by any enforcement mechanisms. In contrast, the two covenants which translate entitlements listed in the Universal Declaration into specific rights have the force of international law as treaties through which states accept certain obligations (see Donnelly, 1998: 5). The three documents are together referred to as the International Bill of Human Rights. A host of other human rights treaties and resolutions or declarations of the General Assembly have further developed the content of the rights included in the Bill (Steiner & Alston, 2000: 141). These

⁴ Out of the 56 member states that the United Nations had in 1948, 48 voted in favour of the Universal Declaration and eight abstained (Saudi Arabia, South Africa, and the Soviet Union

include the Convention on the Prevention and Punishment of the Crime of Genocide (1951), the International Convention on the Elimination of all Forms of Racial Discrimination (1969), and the Convention on the Rights of the Child (1990). Regardless of the introduction of more specific and powerful human rights instruments, the Universal Declaration is still constantly invoked as the grand statement on human rights (Steiner & Alston, 2000: 143).

The Universal Declaration has been criticised for practical and political reasons, particularly with regard to the indivisibility of the rights. A number of governments have, for example, argued that economic and social rights should take priority over civil and political rights because the meeting of the latter requires a certain level of economic development (see, e.g., Donnelly, 1998: 7; Muchlinski, 2001). The indivisibility of the rights has also been questioned in the name of "Asian values" that are argued to prioritise community interests and public order to individual rights (Steiner & Alston, 2000: 334-5). Accordingly, the rhetoric of rights is inherently attached to the values and beliefs that underpin the Western liberal tradition which places particular emphasis on the individual, but is less relevant for cultures where the individual has a less prominent role.

Regardless of the criticism, the Universal Declaration is exceptional in that it represents consensus among states on a selection of rights that are seen as fundamental for the dignity and worth of human beings. This consensus was reinforced when the large majority of states renewed their commitment to the

together with four East European countries and a Soviet republic (Steiner & Alston, 2000: 138).

Declaration in the United Nations 1993 World Conference on Human Rights. No other document is evoked so regularly to apply pressure on governments and other actors to promote social progress and quality of life. The establishment of the International Criminal Court in 2002 also showed that there is an increasing willingness among states to bring the perpetrators of the worst human rights violations to justice.

2.4 Corporate responsibility under national and international human rights laws

States have traditionally regulated the behaviour of individuals and other actors within their territory in accordance with the principle of national sovereignty. Companies have been accountable for aspects of the Universal Declaration and other international human rights standards only indirectly through laws enacted by states. Even then the ultimate accountability for human rights violations has rested on states as the entities that have through international treaties made a commitment to protect and promote human rights in their territory. If they have failed to do so, they have been seen to violate human rights. Recently, however, national laws have been applied in such a way that national courts have had extraterritorial jurisdiction. Multinational companies have therefore encountered situations in which they have not only been bound by the laws of the country in which they operate, but also by those of other countries.

2.4.1 Regulation within borders

Companies do not have a direct duty to observe international human rights standards as expressed in the International Bill of Human Rights. It is states that are responsible for the promotion and protection of human rights within their territory in line with the principle of national sovereignty and international law. Companies are accountable for international human rights norms only indirectly through laws introduced at the national level. Similarly to other instruments of international law, the Universal Declaration and the Covenants are adopted by states that are then expected to implement their commitments to human rights standards by enacting and enforcing appropriate laws (Beyond Voluntarism, 2002: 45, 54; Muchlinski, 2001). Companies are therefore not in a position to violate human rights standards as expressed in the International Bill of Human Rights. Only states as the duty-bearers of human rights obligations can violate human rights under international law. Companies can only break national laws enacted by states to implement their human rights obligations.

The ways in which states interpret, implement, and enforce the rights enshrined in the International Bill of Human Rights can vary. As will be seen later in 2.5, this has led to a situation where complying with local laws and practice in one country may conflict with what is expected in other countries (Cragg, 2000). There is therefore an absence of common standards of behaviour for companies that operate in more than one country. The situation seems to be particularly challenging for multinational companies headquartered in Western countries. These companies are now expected to comply with the standards at home when

competing with local companies and multinationals from countries such as China, Ukraine, and Malaysia that may only adhere to local legislation placing lower and therefore less expensive standards on corporate behaviour.

As the only bearers of human rights obligations under international law, states are expected to control the activities of individuals and other non-state actors within their territory (Muchlinski, 2001; Ratner, 2001). With regard to companies, the role of governments is two-fold. First, governments have an obligation to protect individuals against human rights abuses perpetrated by companies. As will be seen in section 2.6 below, companies have been associated with human rights violations particularly in situations where host governments have neglected their responsibility to promote and protect human rights, which emphasises the controversial role of states as the principal protectors and violators of human rights. Second, governments have been held responsible for protecting companies against the violation of the rights that companies are seen to possess as legal persons. Such rights include the right to property, free speech, fair trial, and privacy (Muchlinski, 2001).

In general, governments have been unwilling to regulate multinational companies domiciled in their country. One reason for this unwillingness stems from the negative effect of regulation on the competitive position of companies (Forsythe, 2001; Joseph, 2000; see also Muchlinski, 2001). For example, anti-corruption legislation enacted in 1977 in the United States put companies incorporated in the country at a disadvantage in comparison to companies established elsewhere.

Governments have also been reluctant to apply national laws extraterritorially because of the possible political effects of such practice. As noted by Muchlinski (1999: 111), the extraterritorial application of laws can be seen as a violation of the sovereignty of other states or an attempt to impose policies upon other countries, practices that can result in diplomatic conflict and retaliation.

In place of binding regulation introduced at the country level, governments have encouraged companies to show their commitment to human rights through the adoption of business principles and voluntary codes. The most prestigious voluntary initiative focusing on human rights was based on the speech given by the secretary-general of the United Nations, Kofi Annan, in 1999. The following Global Compact invites companies to promote and protect human rights within their sphere of influence by subscribing to ten principles taken from existing U.N. documents in the area of human rights. By January 2006, more than 2,300 companies had joined the Global Compact (2006). Voluntary initiatives will be discussed in more detail in Chapter 9.

2.4.2 Regulation beyond borders

Since the early 1990s, an increasing number of lawsuits involving extraterritorial application of national laws have been brought against companies for human rights violations committed abroad. The largest number of these lawsuits has been brought forward in the United States in reference to the Alien Tort Claims Act (ATCA) which states that “[t]he district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of

nations or a treaty of the United States” (28 US Code para. 1350). Accordingly, foreign citizens can sue private individuals or non-state actors before US courts for violations of international law. The ATCA has been used to bring cases against companies as well as some individuals including the former president of the Philippines, Ferdinand Marcos. In terms of extractive companies, Shell, Chevron, Texaco, Freeport McMoRan, Unocal, and ExxonMobil among others have been sued in reference to the ATCA (Jägers, 2002: 184-194).

Most of the ATCA cases involve international crimes including slavery, forced labour as a modern form of slavery, genocide, war crimes, torture, rape, and summary executions (Beyond Voluntarism, 2002: 104; Clapham, 2006: 253, 255). There are also some cases (e.g., *Wiwa v Shell*) that are based on the participation of the company in the violation of international customary law by the host government (Clapham, 2006: 262). The cases typically involve situations where companies have allegedly aided and abetted a state in human rights violations rather than acted as perpetrators themselves (Clapham, 2006: 254). The cases therefore invoke the concept of accomplice liability or complicity. The emerging case law suggests that in order to be liable, companies have to take active steps in cooperating or participating in the alleged violations (United Nations, 2006). However, in the case brought against Unocal, the court of appeals ruled that “knowing practical assistance or encouragement that has a substantial effect on the perpetration of the crime” was a sufficient test for complicity (US Court of Appeals for the Ninth Circuit, filed in 18 September 2002, 14210, para 4). Companies can therefore be held liable for international crimes when they know

or should have known that their acts assist or encourage the perpetration of such crimes (Clapham, 2006: 258).

Despite the resistance and lobbying of the business community, the principle that companies can be held accountable in US law for human rights violations committed in another country has not been rejected. By 2006, altogether 36 ATCA cases involving companies had been brought forward. None of these had been decided in favour of the plaintiffs, twenty had been dismissed, three settled, and the rest were still ongoing (United Nations, 2006). The emerging case law still suggests that companies can be held liable for certain types of human rights violations.

In addition to the United States, lawsuits against multinational companies for human rights violations perpetrated abroad have also been filed in the United Kingdom (e.g., *Adams v. Cape Industries plc.*, 1990; *Connelly v. RTZ Corp. plc.*, 1996), Belgium, and France (Jägers, 2002: 203-209). In contrast to the traditional application of international human rights law, companies have in these cases been held directly liable for alleged human rights violations. Direct corporate liability may also be emerging under domestic criminal law. According to a recent study, countries that have integrated the provisions of the International Criminal Court into their domestic legislation may have opened a window for prosecuting companies registered in these countries for human rights violations perpetrated in another country (United Nations, 2006).

2.4.3 Specific forms of regulation

One form of regulation that has occurred particularly in the United States concerns selective purchasing laws enacted by state and city governments. These laws prohibit or sanction business interactions between public sector organisations and companies operating in certain countries where human rights violations occur. Their status has however been challenged in a variety of arenas, including U.S courts and the World Trade Organisation. In 1999, the US Court of Appeals found that a Massachusetts law on selective purchasing with regard to Burma was unconstitutional because (1) it interfered with foreign policy, (2) it impinged on Congress' power to regulate foreign trade, and (3) it was pre-empted by federal sanctions on Burma (Amnesty International & the Prince of Wales International Business Leaders Forum, 2002: 81-82). The same law has also been disputed at the World Trade Organisation because it can be seen to form a constraint to free trade (*ibid.*). Despite the challenge on the legal status of the selective purchasing laws, they have made a number of companies to change their behaviour. PepsiCo, for example, pulled out from Burma because of purchasing laws enacted in the United States (Cooper, 1997).

2.4.4 Future directions

There are commentators who believe that international law is moving towards a plurality of approaches where individuals and other private actors are accountable for human rights (e.g., Clapham, 2006: 26). According to Clapham, "to insist on the exclusive applicability of human rights law to governments generates a sense of impunity for those who are undermining people's rights" (Clapham, 2006: 54).

Also, the state-centric approach fails to echo the reality where human rights are observed as limitations on the power of companies and other non-state actors (*ibid.*: 56). There is still resistance to the treatment of companies as legal persons under international law. One reason for this is that “it has been assumed that increasing the categories of international legal persons recognized under international law will lead to an expansion of the possible authors of international law” (Clapham, 2006: 58; see also International Chamber of Commerce and International Organisations of Employers, 2006).

Since 1999, the United Nations Sub-Commission for the Promotion and Protection of Human Rights has been developing human rights norms that have the potential of developing into legally binding regulation on companies. The “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights” (the Norms) are written in a treaty-like language and bring together a variety of existing human rights standards into one document (Draft Norms, 2004). They include articles on international criminal and humanitarian law, civil and political rights as well as economic, social and cultural rights, consumer protection, environmental standards, and anti-corruption principles. They are expected to establish “a base line of conduct” which all companies irrespective of their location or size would meet “within their respective spheres of activity and influence” (United Nations, 2002b: para 23). The implications of this formulation have been discussed by legal commentators who have sought to identify the variables that determine the limits of corporate responsibility and to ensure that the boundaries between state responsibility and

corporate responsibility are clear (e.g., Clapham, 2006: 230-3; Ratner, 2001). According to the secretary-general's special representative John Ruggie, the term "spheres of activity and influence" is a fragile basis for binding standards on human rights as the "legal meaning of the concept remains elusive" (United Nations, 2006: 67).

The Working Group that drafted the Norms views them as 'soft law', similar to United Nations declarations, principles, guidelines, standards, and resolutions which interpret existing international law and reflect established international practice without introducing binding obligations on companies (Weissbrodt & Kruger, 2005). The Norms can also be seen as part of the process of consensus-building that will result in a treaty or customary international law (*ibid.*). They have however encountered strong resistance from the business community which opposes any moves from voluntary codes towards binding norms (Clapham, 2006: 233-4; United Nations, 2006). The debates about the proposed reparation payments to victims and monitoring of compliance have been particularly contentious (United Nations, 2006: para 59). A commentary by the International Chamber of Commerce and the International Organisation of Employers viewed the Norms as privatisation of human rights: "The essential problem with the draft Norms is that it privatises human rights by making private persons (natural and legal) the duty-bearers. Privatisation leaves the real duty-bearer – the State – out of the picture" (International Chamber of Commerce and the International Organisation of Employers, 2006: 4). Similarly, the secretary-general's special representative saw the Norms as problematic because they do not differentiate the

responsibilities of states from those of companies and in some instances impose higher obligations on companies than on states (United Nations, 2006: para 66). He also questioned the authority of the Norms:

What the Norms have done, in fact, is to take existing state-based human rights instruments and simply assert that many of their provisions now are binding on corporations as well. But that assertion itself has little authoritative basis in international law – hard, soft, or otherwise (United Nations, 2006: para 60).

The special representative concluded his commentary on the Norms by regretting the debate that the Norms have created: “[I]n the SRSB’s view the divisive debate over the Norms obscures rather than illuminates promising areas of consensus and cooperation among business, civil society, governments, and international institutions with respect to human rights” (United Nations, 2005: para 69). Other commentators have argued that the effectiveness of the Norms will be determined by their take-up by companies (Clapham, 2006: 235).

2.4.5 Universal Declaration calls on companies

The focus in the Universal Declaration is on the possession of rights by individuals and “references can be found to society, the state, groups, and individuals” (Clapham, 2006: 40). Even though international human rights law has focused on state action, human rights are not defined with regard to a specific duty-holder in the Universal Declaration (Clapham, 2006: 34). The Universal

Declaration calls on "every individual and every organ of society [...] to promote respect for these rights and freedoms" (Universal Declaration, 1948). As organs of society, companies are therefore invited to observe and advocate the human rights standards identified in the Universal Declaration.

2.5 Amounting pressure on companies

Since the mid-1990s, business organisations have been increasingly pressured to consider their role in the promotion and protection of human rights. The attention on companies has been driven by non-governmental organisations against the background of globalisation that has decreased the power of governments to regulate the behaviour of companies. The main reasons for this decrease in power are, on the one hand, the free trade agreements that prioritise trade to social and environmental concerns and, on the other hand, the principle of extraterritoriality that limits the capacity of states to apply their domestic law in foreign countries (Cragg, 2000; Forsythe, 2001). Furthermore, the opening of China and post-Soviet countries to foreign investment has given multinational companies more freedom to choose the countries and legal regimes in which they operate. As a result, companies operate in a situation where the markets are global, but human rights standards are not (Beyond Good Deeds, 2002: 5). The absence of common standards in the area of human rights has been referred to as a regulatory vacuum (Cragg, 2000). Accordingly, companies are left to set their own standards in accordance with international norms or to follow local practice which may conflict with what is expected from the company at home.

Parallel to the development of the regulatory vacuum, the progress in communication technology, particularly the Internet, has increased the reach and scope of the human rights groups that previously functioned locally without the means to communicate their concerns to larger audiences (Ratner, 2001; Spar, 1999). Today, the operations of companies are scrutinised by a network of activist groups that are in contact with each other and capable of mobilising media coverage for issues of their choice (Muchlinski, 2001). A British Petroleum manager stressed the extent of this scrutiny by saying that “there is nowhere to hide” (Rice, 2002).

Non-governmental organisations emerged in the 1960s as actors that have examined and publicised the condition of human rights in different countries. At first, they directed their attention on particular human rights issues in a small number of countries and mounted pressure on governments to honour their commitment to the respect of human rights. Amnesty, for example, was established in 1961 to defend the freedom of opinion and religion in countries such as Nigeria (Amnesty International, 2006). Many human rights organisations still focus on particular issues while the largest organisations have come to report on the state of human rights in a large number of countries (e.g., Amnesty International and Human Rights Watch).

Since the mid-1990s, non-governmental organisations have directed some of their attention on companies in which they found a vulnerable target that appeared to be more responsive to bad publicity than repressive regimes (Broadhurst, 2000;

Jungk, 1999; Muchlinski, 2001; Spar, 1999)⁵. Companies selling consumer products have been particularly sensitive to reputational damage caused by name-and-shame campaigns because of their highly visible brand names and the threat of consumer protests (Muchlinski, 2001; Spar, 1999). The attention of non-governmental organisations has centred on multinational companies that have been urged to bring their operations in foreign countries into conformity with internationally agreed standards and laws at home (Broadhurst, 2000; Ratner, 2001). Furthermore, the scrutiny exercised by non-governmental organisations has focussed on multinational companies registered in Western countries rather than on companies based in developing countries (Broadhurst, 2000).

The attention of non-governmental organisations and the media has focussed on a series of cases where multinational companies have allegedly aggravated the human rights situation in a particular country. The role of Shell in Nigeria is perhaps most often presented as an example of the negative influence of foreign investment on human rights. Shell has failed to satisfactorily address the calls for environmental responsibility and more equitable allocation of revenue derived from the extraction of oil in the Nigerian delta. As a result, local movements have sabotaged the company's assets in the country. The Nigerian government has reacted by setting up paramilitary forces responsible for securing the oil fields and company facilities against attacks. The forces have however exacerbated the situation by committing human rights violations including beatings, rapes, and

⁵ Amnesty International, for example, formalised its focus on companies in 1995 by adopting a resolution that set an objective for the organisation to reach business organisations "to motivate constructive action by them against the violations within AI's mandate" (Amnesty International Council Meeting, September 1995 cited in Chandler, 2000: 8).

killings. Moreover, in 1995, some leaders of the local movement calling for more responsible behaviour from Shell were executed as a result of a controversial trial. Shell was criticised for doing nothing to prevent the hanging of the activists among whom was Ken Saro-Wiwa, an internationally known author. Subsequent campaigns to boycott Shell have threatened the company's sales in the United States and Europe. Shell has consequently revised its approach to human rights and now seeks to proactively address human rights concerns in Nigeria and elsewhere (Manby, 1999; Wheeler *et al.*, 2002).

2.6 Human rights concerns vary by industry

Although most industries have been associated with some human rights concerns (see, e.g., Amnesty International & the Prince of Wales International Business Leaders Forum, 2002), extractive and labour intensive industries have been at the centre of the debate on business and human rights. The human rights concerns encountered by the companies that operate in these two industries have however differed. This is important because the nature of the human rights concern may affect the way in which companies respond to it. It is therefore possible that the approaches that companies assume to address human rights issues vary from one industry to another. As seen in Chapter 1, this present research focuses on the extractive industries.

In the labour intensive industries, particularly in the textiles and apparel sectors, companies have been linked to human rights violations in the work place including the minimum wage, freedom of association, and health and safety issues

(Human Rights Watch, 1999; Spar, 1999; United Nations, 2006). The violations reflect the important role that labour costs play when companies make decisions about the location of their investments and the following unwillingness of governments to respect their commitment to international labour standards. This phenomenon has been referred to as “the race to the bottom” (e.g., Spar, 1999). Accordingly, companies relocate from one country to another in the search of low labour costs, which makes governments unwilling to enforce human rights standards that are seen as incompatible with the comparative advantage of countries.

In the extractive industries, companies have often been accused of complicity in the human rights violations perpetrated by host governments (OECD, 2002a; Handelsman, 2001: 6; United Nations, 2006). This criticism stems from what is seen as a strong relationship between extractive companies and host governments. The relationship is strong because companies seek to foster and maintain relationships with host government authorities who control the access to natural resources that are located in a restricted number of countries (Spar, 1999; Winston, 2003). The relationship is also strong because foreign investment by extractive companies is in many countries the main source of income for the host government (Reed, 2002). As a result, the interests of the companies and host governments have been seen to collude and the companies have been associated with human rights violations committed by host governments or other connected groups. The violations have included forced labour, forcible relocation of people, the general repressive nature of the regime, large-scale corruption, and any human

rights violations perpetrated by government forces providing security for foreign companies (OECD, 2002a; Handelsman, 2001: 6; United Nations, 2006).

2.8 Summary

This chapter provided an overview of the role of companies in the protection of human rights. It first introduced the concept of human rights and defined human rights as the rights listed in the Universal Declaration. It then discussed corporate accountability for human rights and described the pressure placed on companies to promote and respect human rights. It then examined how human rights concerns vary from one industry to another.

3 Literature review

3.1 Introduction

This chapter reviews literature that is relevant for conceptualising corporate approaches to human rights. The chapter unfolds as follows. It is first established that little research exists on the ways in which companies have addressed human rights concerns. Prior research in the area of business and human rights has investigated the impact of foreign investment on human rights rather than the behaviours that companies have engaged in to influence human rights. Because of the scarcity of research in business and human rights, other bodies of literature are also examined. More specifically, research in corporate social responsibility, issues management, and stakeholder management are reviewed for exploring how issues similar to human rights have been previously framed. Each of these areas of research are examined in relation to the three research questions.

3.2 Business and human rights

Little research exists on the ways in which companies address human rights concerns. The connection between business and human rights has been previously investigated from three principal perspectives. First, a number of researchers have discussed the developments that have intensified the attention and pressure placed on companies with regard to human rights (e.g., Broadhurst, 2000; Cassel, 2001; Cragg, 2000; Forsythe, 2001; Spar, 1999). This literature was already reviewed in Chapter 2. Second, researchers have studied human rights as ethical principles

that should guide corporate behaviour (e.g., Arthaud-Day, 2005; Waddock, 2004). This research is not examined here as the focus of the present research is on corporate practice rather than the norms that guide or should guide this practice. Finally, researchers have investigated the impact of foreign investment on human rights and the circumstances in which companies have been associated with human rights violations in a particular country (e.g., Idahosa, 2002; Manby, 1999; Spar, 1999; Wheeler *et al.*, 2002). It is this last area of research that comes closest to examining corporate approaches to human rights, but as will be seen next, even then the focus is on the ways in which foreign investment affects the condition of human rights rather than on the characteristics of the approaches and behaviours that companies can employ to influence human rights.

Foreign investment has often been seen to have a negative influence on human rights in developing countries. Notably, Stephen Hymer argued in 1971 that multinational companies ally with repressive regimes to maintain their financial dominance and to keep the poorest groups in these countries in a position where they cannot challenge the prevailing system. Hymer's argument was supported by the behaviour of a number of multinational companies that colluded with repressive regimes in the 1970s and early 1980s: United Fruit assisted in overthrowing the government in Guatemala, ITT played a role in ousting the Allende government in Chile, and several oil and gas companies forged relationships with dictatorships in Africa (Spar, 1999).

The changes in the scope and nature of foreign investment since the 1970s have however made Hymer's argument outdated. Many companies now invest abroad in the search of new customers that have sufficient buying power to purchase their products. Such companies gain from the economic and social development of all segments of the society and Hymer's argument therefore becomes obsolete or reversed. (Spar, 1999) Moreover, a number of authors have argued that, in general, foreign investment has a positive impact on the condition of human rights. Debora Spar (1998, 1999), for example, contends that foreign investment in developing countries influences the local environment in a positive way because the working standards of Western companies are nearly always higher than those of the host country. Positive changes may also result from the public scrutiny exercised by human rights activists and the media.

In contrast to Spar (1998, 1999), a number of case studies on the impact of business on human rights suggest that companies need to take special measures to ensure that their influence on human rights is positive and even then foreign investment may worsen the condition of human rights. Manby (1999), for example, concluded on the basis of his study of how Shell and Chevron became associated with human rights violations in Nigeria that multinational companies need to adopt substantive measures to ensure that their presence enhances the respect for human rights. Wheeler *et al.* (2002) showed that even when companies take measures to address human rights concerns, their impact on human rights may be negative. Wheeler *et al.* based this conclusion on their study of the ways in which Shell has dealt with its stakeholders in the Ogoni area in Nigeria. They

argued that a discrepancy exists between the company's approaches to stakeholders at the corporate and local level. Shell has become sensitised towards stakeholders and human rights at the corporate level and in some countries in response to the public attention placed on its operations and impact in Nigeria, but its subsidiary in the country has been unable to successfully engage with local stakeholders and carry out community programmes in the Ogoni area. Idahosa (2002) went further by arguing that companies cannot make a meaningful contribution to development or human rights in the absence of democracy and conflict. His argument was based on the analysis of the effect of Talisman Oil on human rights violations in Sudan. He concluded that foreign investment can provide a repressive government with a reason and financial means to violate human rights.

To sum up, previous research has examined the impact that foreign investment has on human rights in developing countries. However, because of the complexity of human rights issues and the factors that affect them, "[w]e do not know what really happens to human rights as multinationals invest abroad" (Spar, 1999: 56). Existing research suggests that companies need to take special measures to ensure that their influence on human rights is positive (Manby, 1999). Even then foreign investment may exacerbate the state of human rights (Idahosa, 2002; Wheeler *et al.*, 2002). No previous research was found on the ways in which companies have sought to address human rights concerns. The present research will therefore contribute to the literature on business and human rights by investigating the

characteristics and determinants of the activities that companies have assumed to influence human rights.

3.3 Corporate social responsibility: Framing business-society relations

3.3.1 Introduction

Research in the area of business and society investigates the role and behaviour of companies in the context of changing societal demands and expectations. Literature in this area is relevant for the present research because it offers concepts and frameworks for analysing how companies can deal with issues that arise from their external environment.

This section provides an overview of the business and society field. The section starts with the establishment of corporate social responsibility as the central concept of the field. The emergence of corporate social responsibility as a business concern and an area of research is then briefly described before the concept is critically reviewed. In the end of the section, social responsiveness is identified as the main area of research to which this present research relates and therefore reviewed in more detail than the other areas.

3.3.2 Centrality of the corporate social responsibility concept

The concept of corporate social responsibility has been the main way of conceptualising business-society relations (Matten *et al.*, 2001). It was first introduced by Howard Bowen in 1953 and has since then served as the focus of discussion on the role of business in society. The definitional debate on corporate social responsibility peaked in the 1960s and 1970s (Carroll, 1999). Thereafter, other related concepts have appeared to capture the attention of the research community. In the 1980s, researchers focused on developing the notion of 'corporate social performance' (e.g., Carroll, 1979; Wartick & Cochran, 1985; Wood, 1991). In the late 1990s, the concept of 'corporate citizenship' (e.g. Matten *et al.*, 2003; Windsor, 2001; Wood & Logsdon, 2001) emerged to mark the renewed interest in the business and society field. However, despite the rise of the new concepts, the term corporate social responsibility is still widely used and serves as a reference point for the more recently introduced concepts.

3.3.3 Emergence of corporate social responsibility

First publications on the role of business in society have been traced to as early as the 1930s (Carroll, 1999), even though corporate social responsibility became an area of concern for companies only in the 1960s (Ackerman, 1975: 6-7; Preston, 1986; Vogel, 1996; Wood, 1991b). The emergence of the new field reflected the increasing pressures placed on companies to assume a greater responsibility for correcting the harmful impacts of business operations, a role traditionally performed by the society as a whole (Sethi, 1979). Companies, particularly in the United States, experienced public scrutiny regarding a variety of issues including

the support of repressive regimes in Southern America, discrimination of women and other minorities, and product safety (Vogel, 1986). Corporate social responsibility was one way in which companies responded to the pressures. It was seen as a method of self-regulation different from government legislation and individual ethics (Wood & Logsdon, 2001). Two new areas of management research consequently developed: business, government, and society; and business ethics (Vogel, 1996). The concept of corporate social responsibility has been explored in both of these areas. The present study relates primarily to the former area of business, government, and society as the research questions concern the study of corporate policy and practice rather than moral or ethical reflection.

By the 1980s, governments had introduced legislation on many of the issues that had led to the emergence of corporate social responsibility in the 1960s (Ackerman, 1975: 9; Marx, 1986; Vogel, 1986; Wood & Logsdon, 2001). At the same time, concern for corporate social responsibility seemed to be declining as the notion of shareholder value was rising in importance in the era of neo-liberal policies promoted by the Reagan and Thatcher administrations. During this period, uncertainty in the external environment was caused by de-regulation and foreign competition rather than social and political demands placed on companies (Vogel, 1986).

If attention on corporate social responsibility was comparatively modest in the 1980s and early 1990s, many factors have contributed to a renewed interest in the topic since the mid-1990s. This interest has been driven by the demands voiced by

civil society groups for the broader distribution of business benefits and corporate management of the effects of business operations in society (Warhurst, 2000). The demands have been increasingly placed on companies as governments have been under pressure to curb their expenses (Matten et al., 2003; Reich, 1998). Vulnerable to reputational damage, companies have provided a convenient target for pressure groups that have used modern communication technologies including the Internet to advocate their arguments (Spar, 1999).

Henry Mintzberg and his colleagues (2002) view the latest interest in corporate social responsibility as a way to criticise the priority given to shareholders at the expense of other stakeholder groups. Accordingly, corporate social responsibility is about arguing that corporations are not only economic entities; responsible companies also seek to contribute to the societies in which they operate. In contrast to Mintzberg and his colleagues (2002), Robert Reich (1998) was of the view that some recent developments in the area of corporate social responsibility endorse the importance given to shareholders. He argued that the movement for corporate governance, for example, seeks to ensure that managers act in the interest of shareholders rather than an array of stakeholder groups.

The most recent wave of interest in corporate social responsibility has been marked by some new developments. First, the debate is now more about how to make substantial commitments rather than whether to make them at all (Smith, 2003). This shift is illustrated by the concrete and specific initiatives on corporate social responsibility including ethical sourcing, social audits, stakeholder

dialogue, and listing of companies against socially responsible investing criteria (e.g., The Dow Jones Sustainability Index and FTSE4Good). Second, there has been an increasing interest in the topic in Europe where not only businesses but also governments have engaged in the debate and launched initiatives on corporate social responsibility. This is in distinction to the 1960s when corporate social responsibility was mainly a North American phenomenon.

3.3.4 Frustration regarding the lack of a common conceptual foundation

The definitional debate on corporate social responsibility peaked in the 1960s and 1970s (Carroll, 1999). No commonly accepted conceptual foundation was however established during this period. Instead, many researchers felt frustrated about the wide and non-specific use of the term. Sethi, for example, noted in 1975 that "[t]he phrase *corporate social responsibility* has been used in so many different contexts that it has lost all meaning" (p. 58). Similarly, Preston and Post (1975) observed that corporate social responsibility seemed to refer to some "vague and highly generalised sense of social concern that appears to underlie a wide variety of *ad hoc* managerial policies and practices" (p. 9). Zenisek (1979) described the multitude of meanings given to the concept as follows:

The term means something, but not always the same thing, to just about everyone. To some it conveys the idea of legal responsibility or liability; to others it means socially responsible behaviour in an ethical sense; to still others the meaning transmitted is that of 'responsible for' in a causal

mode; many simply equate it with 'charitable contributions'; many of those who embrace it see it as a mere synonym for 'legitimacy'; a few see it as a sort of fiduciary duty (p. 359).

As there has been few definitional contributions to the concept of corporate social responsibility since the 1970s (Carroll, 1999), the field still suffers from a lack of a shared conceptual basis. Clarkson highlighted this weakness in 1995 by stating that corporate social responsibility and its related concepts, social responsiveness and social performance, "carry no clear meaning and remain elusive constructs" (p. 92). As seen before, the conceptual debate has shifted to other related concepts such as corporate citizenship.

Despite the absence of a clear and widely accepted conceptual basis, two themes recur in definitions of corporate social responsibility. The two themes are: (1) accommodation of corporate behaviour to society's values and expectations and (2) the voluntary nature of corporate social responsibility. Even though a variety of views have been presented about both themes, they capture much of the definitional debate on corporate social responsibility and highlight the essence of the concept.

3.3.5 Accommodation to society's values and expectations

Already Howard Bowen, who has been acknowledged for providing the seminal definition of the modern concept of social responsibility (Carroll, 1999; Wartick & Cochran, 1985), defined corporate social responsibility as the accommodation

of corporate behaviour with society's values and expectations: "obligations of businessmen to pursue those policies, to make those decisions, or to follow those lines of action which are desirable in terms of the objectives and values of our society" (Bowen, 1953: 6, cited in Carroll, 1999: 270). According to Bowen, corporate social responsibility is an obligation that arises from the fact that corporate decisions and actions have an impact on the lives of people. Bowen argued that because of this impact, companies should conduct their business in line with the objectives and values of the societies in which they operate (Bowen, 1953, cited in Carroll, 1999).

Similarly to Bowen, other researchers have conceptualised corporate social responsibility with reference to society's values, objectives, and expectations of business. Carroll (1979), for example, defined corporate social responsibility in relation to the different types of expectations placed on companies: "The social responsibility of business encompasses the economic, legal, ethical, and discretionary expectations that society has of organisations at a given point in time" (p. 500). In the same way, Zenisek (1979) described corporate social responsibility as "the degree of 'fit' between society's expectations of the business community and the ethics of business" (p. 362). Wood (1991) similarly argued that "business and society are interwoven rather than distinct entities; therefore, society has certain expectations for appropriate business behaviour and outcomes" (p. 695). Other prominent researchers that have defined corporate social responsibility in relation to society's expectations include Murray and Montanari (1986), Schwartz and Carroll (2003), and Swanson (1995).

In line with these views, Wood provided further clarification on the levels of analysis with regard to society's expectations of business in her 1991 review of the literature in the area. She argued that expectations can be placed on companies at three levels: institutional, organisational, and individual. Accordingly, expectations can apply to all companies because of their role as economic institutions. Expectations can also be placed on particular companies in relation to their sphere of influence and activities. Finally, expectations can pertain to individual managers as moral actors. These three levels of analysis will be invoked later on in the methodology chapter (see 4.4.1).

The view that companies should accommodate their behaviour to society's values and expectations has been challenged by a number of researchers. Henderson (2001), for example, argued that not all demands placed on companies are reasonable and well founded. Wartick and Cochran (1985) similarly posited that "[b]eing responsive does not necessarily mean the same thing as being responsible" (p. 703). Indeed, being responsive to the expectations of certain groups can be deemed irresponsible by others as the experience of the German companies that complied with the policies of the Nazi regime demonstrates. This is why Wood (1991a) insisted that socially responsible corporate behaviour needs to rest on principles that "express something fundamental that people believe is true" (p. 695). Companies should hence be responsive to only those expectations and demands that are consistent with some commonly recognised moral principles. As seen in Chapter 2, human rights standards enshrined in the

Universal Declaration of Human Rights provide the most widely accepted list of rights and duties in the world. The Declaration can therefore be seen to provide principles with which socially responsible companies should comply.

3.3.6 Nature of corporate social responsibility

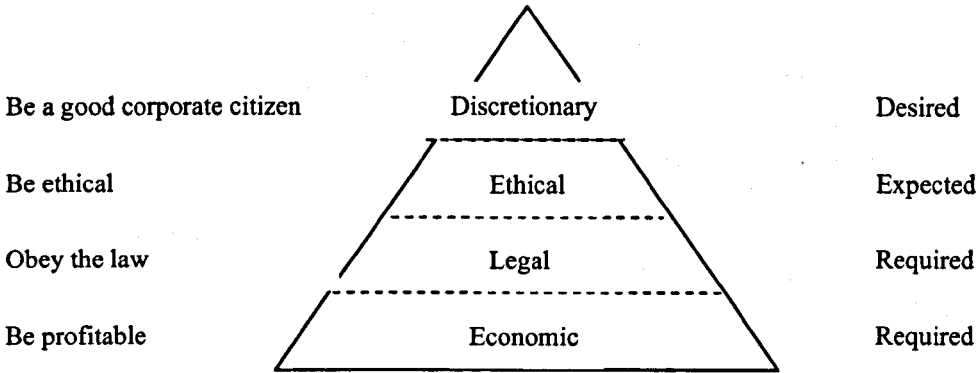
As just seen, despite the perceived lack of common conceptual ground, corporate social responsibility is often defined as the accommodation of corporate behaviour with society's values and expectations. No consensus however exists on the other theme that repeatedly appears in definitions of corporate social responsibility, the nature of the behaviour that should be considered as corporate social responsibility. The debate pertains to whether corporate social responsibility pertains to all corporate activity or only activity that is driven by other than economic interests and legal requirements.

Many prominent researchers are of the view that corporate social responsibility is more than seeking profits and complying with the requirements of the law and that it therefore concerns the acceptance of voluntary or additional responsibilities beyond those motivated by economic interests and the law. Sethi (1975), for example, noted that most conflicts between firms and other social institutions have arisen from the failure of companies to meet the changing social expectations placed on them. He further argued that in order to avoid crisis, firms should adapt their behaviour to prevailing norms, values and expectations in addition to fulfilling their economic and legal obligations. In the same way, Davis (1973) defined corporate social responsibility in what Wood (1991) has called a

classic definition as "the firm's consideration of, and response to, issues beyond the narrow economic, technical, and legal requirements of the firm" (p. 312). Similarly, McGuire (1963), Sethi (1975), and Jones (1980) asserted that a company's social responsibility extends beyond its economic and legal obligations. More recently, McWilliams and Siegel (2001) described the scope of their research in the area of corporate social responsibility as follows: "[W]e define CSR as actions that appear to further some social good, beyond the interests of the firm and that which is required by law" (p. 117).

Carroll's popular definition of corporate social responsibility from 1979 is inconsistent with the understanding of corporate social responsibility as the acceptance of voluntary or additional responsibilities. For Carroll, corporate social responsibility does not only concern the study of voluntary activity that he divided into ethical and discretionary responsibilities, but also activities motivated by economic interests and the law. This view stands in contrast to Davis (1973) and others who defined corporate social responsibility as something more than seeking profit and complying with existing laws.

GRAPH 3.1. Carroll's pyramid of corporate social responsibility



Sources: Carroll (1991) and Schwartz & Carroll (2003).

The popularity of Carroll's (1979) four-part definition of corporate social responsibility becomes clear in the context of the debates that took place in the 1960s and 1970s. At the time, a number of scholars made arguments against corporate social responsibility (for a summary of the arguments, see Davis, 1973). One of the most influential ones was presented by Milton Friedman (1970) who asserted that managers should "make as much money as possible while conforming to the basic rules of society, both those embodied in law and those embodied in ethical custom". This view was interpreted as an argument against corporate social responsibility, even though Friedman stated that companies should comply with "ethical custom" whilst seeking to make profit. Friedman was seen to challenge the idea of corporate social responsibility because he contended that the main social responsibility that companies had was the maximization of profits (Wartick & Cochran, 1985). Carroll's definition of corporate social responsibility addressed this challenge by recognising that profitability is one of the social responsibilities of companies, even though there are also others.

The distinction between voluntary and non-voluntary corporate action has not become a defining feature of the corporate social responsibility concept, which may be explained by the success of Carroll's definition in addressing some of the arguments made against corporate social responsibility in the 1970s. Many researchers have however used it as a starting point in their research. The advantage of defining corporate social responsibility as voluntary action is in separating corporate social responsibility from other corporate activity. It also mirrors the fact that corporate social responsibility issues faced by companies are often those that are not codified in law or directly attached to economic motivations.

3.4 Social responsiveness

As just seen, accommodation of corporate behaviour to society's values and expectations has been seen as an important element of the corporate social responsibility construct. The development of corporate responses to society's values and expectations has been conceptualised as social responsiveness (e.g., Carroll, 1979; Sethi, 1975). In what follows, the concept of social responsiveness is first briefly discussed. The way in which responsiveness has been included in the models of corporate social performance is then examined. In doing so, issues management and stakeholder management are introduced as areas of research that shed light on how society's values and expectations can be identified and responded to. Issues management and stakeholder management are found particularly relevant for the present research because corporate approaches to

human rights can be seen as processes by which companies identify and respond to society's values and expectations in the domain of human rights.

3.4.1 Concept of social responsiveness

The concept of social responsiveness appeared in the 1970s to highlight the shift in focus from the normative and conceptual study of corporate social responsibility to the study of social response processes. Social responsiveness has been defined as a process through which corporate behaviour is adapted to society's norms, values, and expectations (Sethi, 1975). It has been seen to complement the normative concept of corporate social responsibility by adding an action dimension to it (Carroll, 1979; Wood, 1991). Wartick and Cochran (1985) expressed the difference between the two concepts by describing social responsiveness as a verb in distinction to social responsibility that resembles a noun.

In distinction to the researchers who have viewed social responsibility and responsiveness as interconnected concepts, Carroll (1979) defined social responsiveness as separate from corporate social responsibility. He asserted that responsiveness carries "no moral or ethical connotations" that are inherent in definitions of corporate social responsibility (p. 502). This disintegration of the descriptive concept of social responsiveness from the normative concept of corporate social responsibility has been criticised by a number of researchers (e.g., Swanson, 1999; Wood, 1991). Swanson (1999), for example, argued that the disintegration of the two concepts has led to the segregation of research along

normative and descriptive lines. Attempts have been made to connect the two concepts to each other. Wood (1991), for example, defined corporate social performance as the extent to which a company makes use of processes of responsiveness to realise principles of corporate social responsibility. Social responsibility and responsiveness can therefore be seen as concepts that are inherently interconnected.

3.4.2 Responsiveness in the models of corporate social performance

Social responsiveness has been included in the models of corporate social performance as one of its main dimensions. Corporate social performance models organise earlier literature in the area around a variety of themes to provide a framework for assessing corporate behaviour against some criteria (e.g., Carroll, 1979; Sethi, 1975; Swanson, 1999; Wartick & Cochran, 1985; Wood, 1991). In this context, corporate social responsibility is viewed as a normative concept that provides a basis for the evaluation of corporate action and its outcomes and social performance can be described in relation to the degree or kind of the processes and activities that a company assumes to implement principles of corporate social responsibility (Wood, 1991).

It was Carroll (1979) who first presented responsiveness as an aspect of a company's social performance. Carroll defined responsiveness as "the managerial processes of response" (p. 502) and identified a number of processes of responsiveness that contribute to the degree of a company's overall

responsiveness: planning and social forecasting, social decision-making and social policy, and organising for social response. The extent to which companies engage in these processes and hence social responsiveness can be described on a continuum from doing nothing to doing much.

Similarly to Carroll, Wartick and Cochran (1985) defined social responsiveness as "the approach to realising social responsibility" (p. 767) and identified four such approaches: (1) reactive, (2) defensive, (3) accommodative, and (4) proactive. Wartick and Cochran hence viewed responsiveness as a company's general approach towards corporate social responsibility without specifying the actual processes and activities involved in responsiveness. Instead, they put forward social issues management as the method for operationalising social responsiveness.

Wood (1991) made a further contribution to the concept of social responsiveness in her work on corporate social performance. She defined responsiveness through three organisational processes that a company can assume to implement corporate social responsibility: environmental assessment, social issues management, and stakeholder management. Each of the processes involves specific behaviours that companies can engage in.

TABLE 3.1. Responsiveness in the models of corporate social performance

Author(s)	Definition of responsiveness	Categories of responsiveness
Carroll 1979	Managerial processes of response	From "do nothing" to "do much"
Wartick and Cochran 1985	Approach to realising social responsibility	Reactive, defensive, accommodative, proactive
Wood 1991	Processes for handling information, people, and issues	Environmental assessment, issues management, stakeholder management

Social responsiveness has hence been viewed as an essential component of corporate social performance models. There is however a lack of empirical research and knowledge about actual corporate behaviours of social responsiveness (Clarkson, 1995). Much of the empirical research relating to social responsiveness has been carried out in the areas of issues management (Ackerman, 1975; Arrington & Sawaya, 1984; Dutton & Duncan, 1987b; Dutton & Ottensmeyer, 1987; Greening & Gray, 1994; King, 1982; Mahon & Wartick, 2003; Wartick & Rude, 1986) and stakeholder management (Clarkson, 1995; Hillman & Keim, 2001; Mitchell et al., 1997; Post et al., 2000; Savage et al., 1991), which is why the rest of the chapter will focus on reviewing research in these two areas.

3.5 Issues management

3.5.1 Introduction

Issues management concerns a company's attempt to detect and produce systematic responses to threats and opportunities arising from the external environment or from within the organisation. In the issues management literature,

important conditions and changes in the environment or inside the organisation are conceptualised as issues that a company can identify, assess, and respond to (e.g., Greening & Gray, 1994; Johnson, 1983; Mahon & Wartick, 2003; Wartick & Heugens, 2003; Wartick & Rude, 1986). Literature on issues management is relevant for the present research because human rights concerns can be understood as issues that companies anticipate and respond to.

This section is organised around the three research questions. It proceeds as follows. The emergence of issues management as a corporate activity and a field of research is first described. The ways in which issues have been characterised are then examined for shedding light on how human rights concerns can be conceptualised (Research Question 1). Next, research on responses to issues is reviewed for exploring how activities that companies carry out for addressing human rights concerns can be categorised (Research Question 2). Finally, the factors that are proposed to affect the way in which companies respond to issues are examined for identifying variables that could determine the selection of the activities that companies carry out in response to human rights concerns (Research Question 3).

3.5.2 Overview of issues management

Issues management appeared in the 1970s as a corporate activity from the formalisation of the *ad hoc* approaches that a number of companies in the United States had used to respond to topical society-wide issues of the time. By the early 1980s, larger companies in more mature industries were most likely to carry out

activities that could be regarded as issues management (Wartick & Rude, 1986). Some years later, following the recession and the less turbulent external environment of the 1980s, issues management was in many companies downsized and integrated into more established corporate functions (Wartick & Rude, 1986). As a result, the status of issues management is presently fragile both as a professional field and a topic of academic study (Wartick & Heugens, 2003).

The term issues management is to some extent misconceiving because it implies that a company somehow manages its external environment (Arrington & Sawaya, 1984; Wartick & Rude, 1986). Issues management "is not intended to be a vehicle for creating social change or for controlling societal events" (Wartick & Rude, 1986: 124), nor can issues be managed to some desired resolution with regularity (Arrington & Sawaya, 1984). Rather, issues management is concerned with the process of anticipating and contributing to the shaping and resolution of issues (Arrington & Sawaya, 1984).

Research in issues management investigates how companies detect and deal with concerns arising from their external environment or from inside the organisation (Arrington & Sawaya, 1984; Dutton & Duncan, 1987b; Dutton & Ottensmeyer, 1987; King, 1982; Mahon & Wartick, 2003; Wartick & Rude, 1986). The process of issues management has often been conceptualised as the identification, analysis, and response to issues (e.g., Greening & Gray, 1994; Johnson, 1983; Mahon & Wartick, 2003; Wartick & Heugens, 2003; Wartick & Rude, 1986). These three phases correspond to the execution of the practical activities of (1) the

scanning of the external environment for identifying issues that may affect the company, (2) the interpretation or assessment of issues, and (3) the development of a response to selected issues (Wartick & Heugens, 2003).

The study of issues encompasses *strategic* issues that have an impact on a company's performance or strategy (Ansoff, 1975; King, 1982; Dutton, 1993; Dutton & Duncan, 1987b; Dutton & Jackson, 1987), *public policy* issues demanding collective public policy solutions (Arcelus & Schaefer: 1982; Buchholtz, 2003; Eyestone, 1978; Marx, 1986), and *social* issues representing projections of collective sentiments in society (Hilgartner & Bosk, 1988). The term *corporate* issue refers to all three types of issues. It has been used to highlight the focus on companies and managerial decision-making in the study of issues (Aram, 1989; Hilgartner & Bosk, 1988).

3.5.3 Characterising issues

Previous research in the area of issues management has focussed on distinguishing issues from other developments and conditions in society and within organisations. As Wartick and Rude (1986) wrote, "[t]he most fundamental question in IM [issues management] is 'What is an issue?'" (p. 139). Based on a thorough review of relevant literature, Wartick and Mahon (1994) argued that the issue construct comprises three elements: (1) the impact of issues on the company, (2) the controversy surrounding issues, and (3) the expectational gaps between the behaviour of the company and the way in which this behaviour is perceived by one or more stakeholder groups. In what follows, these three elements and another

two issue characteristics stemming from the literature on issue evolution are discussed for shedding light on how human rights concerns can be conceptualised. It will be seen that extant research in the area of issues management has sought to define how issues differ from other phenomena in society; little attention has been paid on the issue characteristics that explain the way in which companies respond to issues.

3.5.3.1 Impact on the company

Issues have been distinguished from more general developments in society or within the company by their impact on the company's performance, objectives, or strategy (e.g., Ansoff, 1975; King, 1982; Dutton, 1993; Dutton & Duncan, 1987b; Dutton & Jackson, 1987; Dutton & Ottensmeyer, 1987; Zyglidopoulos, 2003). Issues have been defined in this way particularly in the strategic management literature (Wartick & Mahon, 1994). It was Igor Ansoff, a well-known author in the field of strategic management, who first conceptualised issues in relation to their impact on the company. He defined issues as "major environmental trends and possible events that may have a major and discontinuous impact on the firm" (Ansoff, 1975: 24-25). Accordingly, only some of the many concerns, events, and developments in the society demand managerial attention depending on whether they are "felt somewhere within the organisation" (Wartick & Mahon, 1994: 295).

Other researchers have similarly to Ansoff asserted that developments, whether internal or external to the company, become issues requiring managerial attention when they have a potentially significant impact on the company. King (1982), for

example, stressed that strategic issues involve "possible outcomes that are important to, or of possible high impact on, the organisation's overall performance" (p. 45). More recently, Bigelow, Fahey, and Mahon (1993) stressed that issues are developments that affect "an organisation's performance and ability to meet its objectives" (p. 18).

The nature and degree of the impact that issues have on the organisation has not been elaborated upon in the extant literature, except for Dutton and Duncan (1987b). These authors defined impact through how issues are perceived by managers. Accordingly, strategic issues are "internal or external developments, events, and trends viewed by decision-makers as consequential to the organisation" (p. 104). Dutton and Duncan therefore suggested that it is managerial judgement that determines whether societal developments and conditions become issues that companies pay attention to. Their definition is useful in predicting which issues are taken into account by managers, but it falls short in recognising that managers may fail to pay adequate attention to the developments that have important consequences for their company.

3.5.3.2 Controversy arising from expectational gaps

A number of researchers have viewed controversy as a key element of the issue construct. Issues have been associated with a degree of controversy particularly in the public policy literature (Wartick & Mahon, 1994). Cobb and Elder (1972 in Wartick & Mahon, 1994), for example, defined public policy issues as conflicts between two or more stakeholder groups over the allocation of resources.

Accordingly, issues arise from seemingly controversial and incompatible demands in the context of scarcity. Similarly, Eyestone (1978) explained the emergence of public issues as follows: "An issue arises when a public with a problem seeks or demands governmental action, and there is public disagreement over the best solution to the problem" (p. 3)⁶.

In the area of issues management, controversy surrounding issues has been seen to stem from inconsistencies between stakeholder expectations and corporate behaviour. For example, Post (1978 cited in Wartick & Mahon, 1994) defined an issue as "a gap ... between what the organisation's relevant publics expect its performance to be and the organisation's actual performance" (p. 283). Similarly, Nigh and Cochran (1987) put more emphasis on the role of perceptions in the emergence of issues and defined an issue as "a gap between the expectations of a stakeholder regarding corporate behaviour and the same stakeholder's perceptions of actual corporate behaviour. An issue is thus the difference between 'what ought to be' and 'what is' from the perspective of a stakeholder" (p. 6).

Wartick and Mahon (1994) suggested that the gap between stakeholder expectations and corporate performance results from three types of change: (1) change in corporate performance, (2) change in stakeholder expectations, or (3) change in both corporate performance and stakeholder expectations in such a way that a gap between the two widens. A change in stakeholder expectations is often

⁶ Public policy issues have been defined as controversial matters requiring public policy solutions (Wartick & Mahon, 1994). They involve multiple stakeholders and a form of collective action that may take place within the political system or another public arena (Mahon & Bigelow, 1992 in Bigelow et al. 1993).

triggered by some development in society (Nigh & Cochran, 1987), even though stakeholder expectations do not necessarily reflect a change in the underlying set of societal norms and values (Wartick & Mahon, 1994). Issues, regardless of the type of change that underpins them, become more acute as stakeholders begin to make their concerns known either in a public forum or by confronting other actors and demand for change in order to close the gap between their expectations and corporate behaviour (Nigh & Cochran, 1987; Wartick & Wood, 1998: 176). It is hence stakeholders who through their actions create issues, a view put forward by Reichart (2003).

There are situations where issues can arise from the expectations of a single individual, as noted by Wartick and Mahon (1994) in reference to an example presented by Ackerman (1973). Ackerman illustrated his article on social responsiveness with an example of a president of a large company who wished to close the gap between his public statements on hiring minorities and the actual performance of the company in this area. An issue existed because one person, the company president, saw a discrepancy between what he believed the company should have been doing and its actual behaviour.

Expectational gaps have been categorised in a variety of ways (e.g., Reichart, 2003; Wartick & Mahon, 1994; Zenisek, 1979). One categorisation was provided by Wartick and Mahon (1994) who organised expectational gaps into three groups based on Zenisek's (1979) earlier conceptualisation of gaps. Accordingly, factual gaps concern incompatible perceptions of what the company is doing by two or

more of the company's stakeholders. Conformance gaps pertain to inconsistencies between what a company is doing and what a particular stakeholder believes the company should be doing. Finally, ideals gaps entail disagreement between two or more stakeholders over how companies should behave. Reichart (2003) later noted that the different types of gaps are not mutually exclusive; an issue may be underpinned by more than one type of gap.

TABLE 3.2. Types of expectational gaps

Gap type	Description	Focus
Factual gap	What is v. what is	Facts, as viewed by two or more groups
Conformance gap	What is v. what should be	Conformance, as viewed by one or more groups
Ideals gap	What should be v. what should be	Ideals, as viewed by two or more groups

Source: Wartick and Mahon (1994).

3.5.3.3 Public attention

Issues have also been depicted as to the nature and amount of public attention that they attract. The fluctuation of public attention has been a particularly important variable in the models that depict the evolution of public issues (e.g., Arcelus & Schaefer, 1982; Buchholtz, 2003; Marx, 1986). For example, Arcelus and Schaefer (1982) identified five stages in the development of public issues. The first stage concerns an emerging public awareness of an undesirable state of affairs in society. In the second stage pressure groups are formed. In the next stage the issue becomes a topic of political debate and receives attention in the policy-making bodies and the media. In the fourth stage the issue goes through the

legislative process. In the fifth and final stage, relevant regulation is imposed on companies. Similarly to Arcelus and Schaefer, Buchholtz (1992: 510-511) suggested that public issues evolve at stages from issues of little importance to issues attracting significant public attention and enactment of legislation or other regulation. Buchholtz identified four stages in this process: (1) the changing expectations of the public, (2) the political stage where the issue is debated, (3) the legislative stage, and (4) the litigation stage.

Some researchers have presented reservations about the role of public attention in issue evolution. These researchers have argued that a decline in public attention does not necessarily mean that an issue has been resolved (Hilgartner & Bosk, 1988; Lamertz et al., 2003). Instead, as argued by Hilgartner and Bosk (1988), specialised institutions may hold an interest in the issue even when the issue has lost its drama and novelty factor that has appeals for certain types of institutions (e.g. the media).

3.5.3.4 Issue specificity

Another theme that occurs in the issue development models concerns the specificity of the demands placed on companies. Ackerman (1973), for example, described the emergence and development of issues in relation to the specificity of the links made between a social concern and a particular company. Accordingly, in the first phase, a social concern exists without attendant demands connecting it to a company. In the second phase, links between the social concern and a

company become clearer. In the third and final phase, expectations regarding company behaviour are made specific and the probability of sanctions increases.

In line with Ackerman (1973), Arcelus and Schaefer (1982) described the development of issues in four stages in relation to the specificity of stakeholder demands. During the public awareness stage, an awareness of an undesirable state of affairs in society develops. Demands may be made for change, but they remain vague and unspecified. In the next stage, pressure groups are formed. During this stage, the demands made on companies become more specific as groups advocate their views and positions. In the political debate stage, the demands become increasingly specific through a debate that takes place within political institutions. Finally, in the legislative process stage, the demands are addressed through concrete regulatory measures.

Similarly, Ansoff (1973) depicted the development of strategic issues in relation to the degree of information that is available for a company on a particular issue. This description of the issue life-cycle differs from the ones presented before because it focuses on the awareness and knowledge of managers rather than those of the actors external to the company. Accordingly, in the beginning of an issue's life cycle, managers may sense that some change is about to occur, but they have no specific information about the source or type of change available. In due course, the source of change becomes clearer and the characteristics of the issue begin to crystallise. This stage is followed by the development of corporate responses to the issue of which the impact can finally be assessed and computed.

To summarise, the specificity of issues has been discussed by a number of researchers, but they have taken different positions as to its role in the development of issues. Ackerman (1973) described it as the clarity of the links made between a company and a particular social concern, whereas Arcelus and Schaefer (1982) saw it as the clarity of stakeholder demands. Somewhat differently, Ansoff (1973) focused on managers as decision-makers and defined specificity as the degree of information that is available for managers about a particular issue.

3.5.4 Dimensions of responses to issues

Researchers have previously identified a number of dimensions along which responses to issues vary. Based on a review of existing literature, these dimensions will be discussed under the following four main themes: (1) the organisational focus of responses (Ansoff, 1975; Buchholtz, 1992: 508, 510; Dutton & Jackson, 1987; Nigh & Cochran, 1987), (2) the response target (Mahon & Waddock, 1992), (3) the response magnitude (Ansoff, 1975; Dutton & Jackson, 1987; Dutton & Ottensmeyer, 1987) and (4) the approach to the organisational environment (Daft & Weick, 1984).

3.5.4.1 Organisational focus

Responses to issues can be divided into internal and external responses depending on whether they involve activities within or outside the organisation. Accordingly,

internal responses are directed at changing the structure of a company whereas external responses are aimed at affecting the environment in which the company operates (Buchholtz, 1992: 508, 510; Dutton & Jackson, 1987b; Nigh & Cochran, 1987). Responses to issues are typically aggregations of both internal and external activities: "A firm's response to an issue needs to be a co-ordinated set of actions, some of which may be internally directed while others may be externally directed" (Nigh & Cochran, 1987: 9).

3.5.4.2 Response target

Responses to issues have also been characterised on the basis of the response target. Notably, Mahon and Waddock (1992) divided responses to issues into substantial and symbolic action. Accordingly, substantial action involves "definitive moves that attempt to actually change or deal with the existing situation in specific, identifiable ways" (p. 27). Substantial action therefore concerns change in corporate behaviour or an attempt to influence the objective conditions that underlie an issue. In contrast, symbolic action pertains to the framing of an issue from the viewpoint of the organisation or its key constituents: "this is fundamentally a process of reinterpretation of the interpretation of events proposed by other actors" (p. 27). Symbolic action is hence concerned with affecting the perceptions that stakeholders have about corporate behaviour or some other tangible phenomena.

Similarly to Mahon and Waddock's distinction between substantial and symbolic action, Buchholtz (1992: 510) categorised responses into those that aim to impact

the issue in question and those that attempt to influence stakeholder perceptions and expectations. Also Strand (1983) classified responses to social demands into four classes that involve either changing the environment or affecting the constituent demands placed on them. In the same way, Sethi (1979) classified strategies for narrowing the gap between corporate performance and societal expectations into four classes that resemble the distinction between substantial and symbolic action. Sethi's strategies are presented in the table below. The first three of them relate to attempts to influence the perceptions and expectations of business performance or what Mahon and Waddock called symbolic action. The final and fourth strategy concerns change in corporate behaviour and therefore substantial action.

Table 3.3. Sethi's (1979) strategies

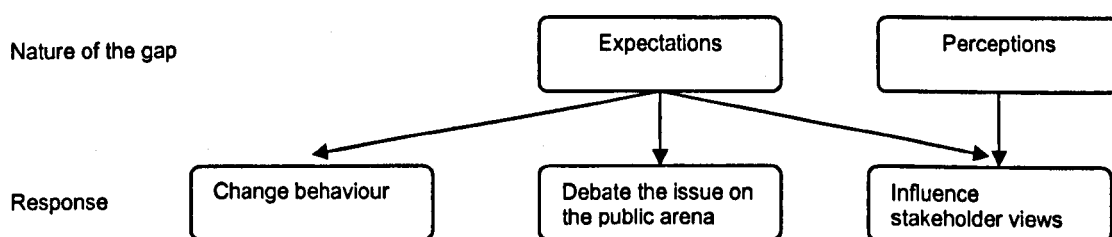
Strategy	Target of strategy
Education and information	Public perceptions of corporate performance
Changing of symbols used to describe corporate behaviour	Public perceptions
Education and information	Societal expectations
Change corporate behaviour	Corporate behaviour

The distinction into substantial and symbolic action is also implicit in the way in which Dutton and Ottensmeyer (1987) described the main two functions of strategic issues management systems in organisations. They argued that, on the one hand, strategic issues management can be instrumental in aiding the organisation to adapt to its environment. This instrumental function resembles substantial action because it involves concrete behaviours aimed at accommodating corporate behaviour with the requirements of the external

environment. On the other hand, strategic issues management systems can perform a symbolic function aimed at forming and communicating meanings to different audiences or what Mahon and Waddock called symbolic action.

The distinction into substantial and symbolic action can also be applied to the way in which Nigh and Cochran (1987) categorised responses to issues. They identified three distinct responses to issues that differ from each other in terms of the substantive or symbolic nature of the action and the arena in which the action is assumed. The first response involves altering corporate behaviour for the purpose of bringing it in line with stakeholder expectations. Because this response type concerns actual changes in corporate behaviour, it can be regarded as substantive action. The second response type concerns attempts to influence stakeholder expectations so that they are consistent with corporate behaviour; this represents symbolic action directed at affecting the views of other parties. The last response type pertains to contesting the issue in a public forum. This response type also represents symbolic action because it is aimed at influencing the views of others. It is distinct from stakeholder influence, the second response type, because the behaviour takes place in a specific arena.

TABLE 3.4. Relationship between expectational gaps and issue responses



Source: Nigh and Cochran (1987).

The response types put forward by Arcelus and Schaefer (1982) can also be described in terms of substantial and symbolic action. Arcelus and Schaefer identified four different responses to issues, first of which pertains to a *status quo* where the company ignores a social demand made upon it. The second response type involves a *pro-active adaptation* to a social demand in the expectation of future regulation. This response involves actual changes in corporate behaviour and therefore represents substantial action. The third response type concerns a *public stance* on the social demand. With this response strategy, the company attempts to influence the evolution of the demand through the public opinion and the public policy process. A public stance response pertains to symbolic action as it is aimed at influencing the views of other parties about the issue. Finally, the company can combine the previous two response approaches to adopt a *pro-active public stance* and react to the social demand before legislation is enacted and, at the same time, engage in the public debate about the demand. As a combination of the previous two responses, this response type involves both substantial and symbolic action.

Finally, some researchers have only focused on what Mahon and Waddock (1992) called symbolic action. Bigelow, Fahey and Mahon (1991), for example, put forward four different responses: containment, control, bridging, and influence. All of these involve attempts that are aimed at affecting the way in which different stakeholders frame a particular issue (see 3.5.5.1 below). Similarly, Husted's (2000) four response strategies concern the re-alignment of corporate values or

stakeholder expectations and therefore what Mahon and Waddock (1992) regarded as symbolic action.

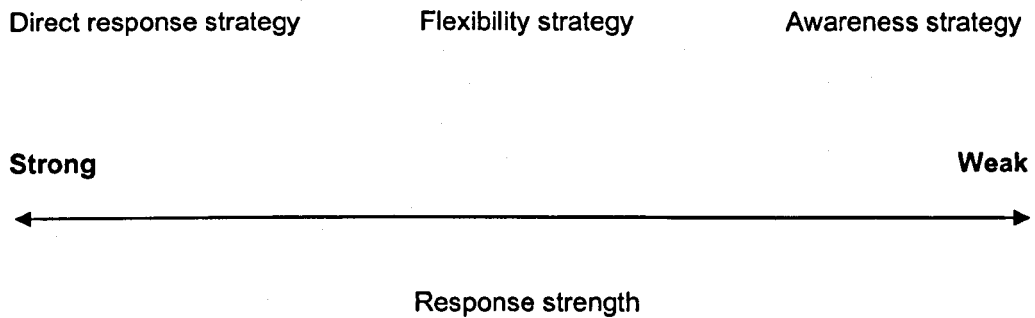
3.5.4.3 Response magnitude

In addition to the organisational focus and target of responses, researchers have described issue responses as to their magnitude (e.g., Ansoff, 1975; Dutton & Jackson, 1987; Dutton & Ottensmeyer, 1987). Dutton and Jackson (1987), for example, identified response magnitude as one of the main dimensions along which responses to issues vary. They defined it as the extent of changes and activities that an organisation needs to take in order to respond to an issue. Similarly, Dutton and Ottensmeyer (1987) categorised strategic issues management systems on the basis of the scope of relevant activities. Accordingly, systems may involve little or considerable effort directed at altering external conditions or internal strategy and processes.

Also Ansoff (1975) classified responses to issues according to what he called the response strength. He identified three strategies that can be presented on a continuum that depicts responses with regard to their magnitude. The first type of strategy that Ansoff labelled the direct response strategy is the strongest as it involves external action from the company. The second type of strategy, called the flexibility strategy, concerns the positioning of the company in such a way that the company's potential for the future is enhanced. This strategy is less strong than the direct response strategy because it involves less action. The third and final type of strategy is concerned with the collection of information about the organisational

environment for the purpose of improving the company's understanding of it. Ansoff saw this strategy as the weakest of the three strategies.

TABLE 3.5. Ansoff's (1975) response strategies



Finally, Dutton and Duncan (1987a) identified four response types that can be characterised as to their magnitude. The first type involves no responses in a situation where an issue is assessed as not urgent and infeasible to resolve. The second type concerns opportunistic responses. As the trigger for action stems from the feasibility of addressing the issue rather than the issue's urgency, responses pertain to opportunity rather than threat and do not entail major changes for the organisation. The third response type involves a variety of tactics that vary in their strength from coping with the situation to ousting the top management. These actions are typical in a crisis where the issue is considered as urgent, but infeasible to resolve. The fourth and last response type involves radical changes in the organisation's strategy and goals. This response type occurs when the issue is regarded as urgent and feasible to settle. The four response types put forward by Dutton and Duncan can be seen to vary as to the extent of changes and activities they imply.

3.5.4.4

Approach to the organisational environment

Responses to issues have also been characterised as to the general approach that the organisation has towards its environment. Notably, Daft and Weick (1984) identified four interpretation modes that characterise the way in which organisations interpret their environment. The modes are based on two variables: (1) management's beliefs about the analysability of the external environment and (2) the extent to which the organisation intrudes into the environment to comprehend it. Daft and Weick associated the four interpretation modes to the strategy types proposed by Miles and Snow (1978): prospector, analyser, defender, and reactor. Accordingly, when the management assumes that the environment is unanalysable and the organisation has a passive approach to organisational intrusiveness, the organisation reacts to changes in the environment rather than takes initiative. Second, when the management regards the environment analysable and the organisation is passive about intruding its environment, the company is a defender that is concerned with maintaining its markets and focuses on efficiency within the organisation rather than on external relationships. Third, when the management perceives the environment as unanalysable and actively intrudes the environment, it becomes a prospector that sees the environment as opportunities and takes initiative with regard to the changes in the environment. Finally, when the management views the environment as analysable and actively intrudes its environment, it is an analyser that focuses on its core activities, occasionally taking initiative regarding the environment on the basis of careful assessment.

TABLE 3.6. Relationship between interpretation modes and strategy formulation

Assumptions about environment	Unanalysable	Mode: Undirected viewing Strategy: Reactor	Mode: Enacting Strategy: Prospector
	Analysable	Mode: Conditioned viewing Strategy: Defender	Mode: Discovering Strategy: Analyser
		Passive	Active
Organisational Intrusiveness			

Source: Adapted from Daft & Weick (1984).

3.5.5 Variables affecting responses to issues

Previous research suggests that diverse variables affect which activities companies carry out in response to issues. In what follows, these variables are reviewed in three groups: issue related variables, organisational factors, and institutional pressures.

3.5.5.1 Issue related variables

Nature of the expectational gap

Some researchers (Husted, 2000; Nigh & Cochran, 1987) have suggested that responses to issues are affected by the nature of the gap that underlies issues because "[d]ifferent types of gaps require different types of managerial responses" (Nigh & Cochran, 1987: 8). The responses put forward by Nigh and Cochran (1987) are based on a distinction between issues that arise from stakeholder *expectations* and those that emerge from stakeholder *perceptions*. A wider variety of responses are available for addressing issues that stem from stakeholder expectations than those arising from stakeholder perceptions.

In the same way, Husted (2000) argued that expectational gaps that underpin issues determine the strategy that companies assume in response to issues. More specifically, Husted suggested that there is a connection between expectational gaps as defined by Wartick and Mahon (1994) and issue strategy as conceptualised by Thompson and Tuden (1959). For example, companies assume a discovery strategy to respond to issues which arise from the expectational gaps that are based on incompatible perceptions over “what is”. The different types of expectational gaps and corresponding issue strategies are illustrated in the table below.

TABLE 3.7. Connection between expectational gaps and strategy towards issues

Expectational gap	Issue strategy	Specification of strategy
Nonissue	Computation	Routine monitoring for the opening of any gaps
What is v. what is	Discovery	Search for solutions to achieve agreed-upon goals
What is v. what should be	Inspiration	Re-alignment of corporate behaviour to expectations by questioning old values
What should be v. what should be	Bargaining	Re-alignment of expectations through negotiation

Source: Husted (2000).

Husted’s assumption that responses can be connected to specific expectational gaps has been criticised. According to Reichart (2003), Husted ignored that issues may involve more than one gap: “[I]t might be difficult to see how some of these strategies and structures can symbiotically exist”.

Issue evolution stage

A number of researchers (Arcelus & Schaefer, 1982; Buchholtz, 1992; Bigelow, Fahey & Mahon, 1991; Marx, 1986) have described responses to issues in connection to the stage an issue occupies on the issue life cycle. They therefore imply that the issue evolution stage has an impact on the response a company assumes to address an issue.

In general, researchers have suggested that a company's discretion to affect an issue decreases as the issue evolves and interpretations and positions are adopted by the interested parties (Ansoff, 1975; Bigelow, Fahey & Mahon, 1991). Companies therefore face a paradox when responding to issues: if they wait until adequate information is available, they have less discretion in planning and undertaking their responses than if they had acted upon vague information. Researchers have offered different solutions to this paradox. Ansoff (1973), for example, was of the view that that at the early stage of issue evolution, responses should be relatively unfocused and aimed to increase the flexibility of the company to deal with the issue later on when more information becomes available. Arcelus and Schaefer (1982) proposed that earlier responses should be altered and more concrete responses formulated as issues move on along the life cycle from a high degree of uncertainty to a situation where government imposed regulation may be pending.

Bigelow, Fahey and Mahon (1991) suggested a slightly different connection between issue evolution and responses to issues. They put forward four types of responses based on a conceptualisation of the phases of the issue life cycle. At the

emergence of an issue where the issue is still vaguely defined, the most appropriate response strategy is *containment* which is aimed at either preventing the further escalation of the issue or controlling the evolution of the issue towards a particular resolution. At the interpretation phase where different actors assign the issue with meanings, an issue is best dealt with by *controlling* the way in which different stakeholders frame it. At the positioning phase where stakeholders' stances on the issue become clear, a company should aim to *bridge* the interest gaps among the most important stakeholders. Finally, at the resolution stage, a company should use its *influence* to reach a solution that is desirable to it. In a later article, Bigelow et al. (1993) noted that companies may need to employ different response strategies simultaneously in order to deal with stakeholders that may be at different stages of the life cycle at a particular point in time.

TABLE 3.8. Stages and responses to issues

Issue evolution stage	Response strategy
Emergence	Containment
Interpretation	Control
Positioning	Bridging
Resolution	Influence

Source: Adapted from Bigelow, Fahey and Mahon (1991).

To summarise, the issue evolution stage has been argued to affect responses to issues. Typically, the issue life cycle is divided into separate stages and each stage is linked to a particular response strategy. Researchers generally assume that companies can exert most influence on issues at the early stages of issue evolution. Also, responses are expected to be more specific or focused at the later stages of issue evolution.

Interpretation of issues

A number of researchers (Daft & Weick, 1984; Dutton, 1993; Dutton & Duncan: 1987a; Dutton & Jackson, 1987) have linked the interpretation of the developments in the external environment to the actions carried out by companies in response to these developments. Argued Daft and Weick (1984): "Almost all outcomes in terms of organisation structure and design, whether caused by the environment, technology, or size, depend on the interpretation of problems or opportunities by key decision makers. Once interpretation occurs, the organisation can formulate a response" (p. 293). Accordingly, the way in which issues are interpreted affects how companies respond to them because "different interpretations of issues engage different individual and collective processes for dealing with them, resulting in different organisational outcomes" (Dutton, 1993: 340). What is more, the range of alternative interpretations over an issue and the scope of managerial discretion diminish as issues evolve (Mahon & Waddock, 1992).

The process of translating interpretations into action has been described by Dutton and Jackson (1987) as follows. Individuals first attach meanings to some selected developments in society or within the organisation by assigning linguistic labels to them. Linguistic labels denote categories that organise physical and social objects into groups. For example, Dutton and Jackson argued that the label 'threat' has been used by decision-makers in business organisations to imply "a *negative* situation in which *loss* is likely and over which one has relatively *little* control" (p.

80). The resulting action relates to the attributes of the category. For example, "[t]he low control implied by the threat label should lead decision makers to focus attention on changing internal organizational processes in order to adapt, because internal activities are easier to access and manipulate" (p. 83). Dutton and Jackson stressed that in order to study the process of translating interpretations into action, the actual categories used by decision-makers to assign meanings to issues need to be identified. They also argued that issue interpretations are affected by the structure and culture of the organisation to which individuals making the interpretations belong; this is why interpretations and subsequent actions differ among organisations.

Daft and Weick (1984) provided further clarification on the way in which interpretation of environmental conditions and developments affects strategy formulation within organisations. They argued that two dimensions explain differences in how organisations make interpretations of their environment: (1) management's beliefs about the analysability of the external environment and (2) the extent to which the organisation intrudes into the environment to comprehend it. Based on these two dimensions, Daft and Weick put forward a model of four interpretation modes and strategy types as already discussed before (see 3.5.4.4). Dutton and Duncan (1987a) offered another set of propositions about how interpretation affects responses to issues. They argued that responses to issues vary on the basis of the assessments that managers make about the urgency and feasibility of taking action. Based on the assessments, they identified four types of organisational responses to strategic issues can be identified; these responses are

portrayed in the table below (see also 3.5.4.3). Dutton and Duncan also proposed that the assessments that managers make about urgency and feasibility are affected by organisational beliefs and resources.

TABLE 3.9. Urgency and feasibility of organisational responses

		Assessment of feasibility	
		Low	High
Assessment of urgency	Low	No responses	Opportunistic responses
	High	Coping, ousting responses	Reorienting responses

Source: Dutton and Duncan (1987a).

In summary, researchers have suggested that the ways in which changes and conditions in society and within the organisation are interpreted translate into particular responses to issues. The way in which issues are interpreted is however affected by the organisational context in which the interpretations are made. From this follows that responses between organisations vary and that managers belonging to the same organisation tend to make similar decisions about how to respond to an issue

3.5.5.2 Organizational factors

In addition to issue characteristics, organisational factors have been argued to affect the way in which companies respond to issues. Responses to the same issue should therefore vary among organisations. Ideologies (Meyer, 1982), structures (Meyer, 1982), organisation of the issues management function (Wartick & Rude, 1986), corporate strategy (Arcelus & Schaefer, 1982), top management

commitment (Greening & Gray, 1994), and size (Greening & Gray, 1994) have been proposed to affect issue responses.

Research conducted by Meyer (1982) suggests that reactions to issues are affected by organisational ideologies and structures. Meyer studied organisational adaptation to environmental jolts defined as "transient perturbations whose occurrences are difficult to foresee and whose impacts on organisations are disruptive and potentially inimical" in 19 hospitals that encountered an unexpected doctor's strike (p. 515). His analysis suggested that organisational ideologies defined as sets of beliefs shared among people about cause-and-effect relations determine the way in which jolts are perceived. In particular, hospitals according importance to environments, fostering strategic reorientations, embracing organisational change, valuing member's capabilities, and encouraging participation had the smallest amount of decline in measures for performance after the doctor's strike. Moreover, Meyer found that organisational structure may constrain responses to environmental jolts. For example, a divisionalised structure localised the impact of the doctor's strike whereas in a functionally structured hospital the effects of the strike were felt throughout the organisation.

In addition to organisational ideologies and structure, the organisation of the issues management function has been found to affect responses to issues. Wartick and Rude (1986) established in their study of eight companies in the United States that in companies where the issues management function was a separate unit, the focus of the issue management function was externally orientated and strategic.

By contrast, in companies where the issues management function was integrated into the public relations department, issues management concerned internal communication rather than external activities. Even though the number of companies studied was low, these findings suggest that the administration and organisation of the issues management function affect whether companies engage in internal or external activities in response to issues.

Further, corporate strategy has been related to responses to issues. Arcelus and Schaefer (1982) argued that "[t]he selection of responses to social demands cannot be made in isolation from other strategic decisions facing the firm" (p. 352). Similarly, Dutton and Duncan (1987b) argued that responses to issues can only be understood in the context of strategic issues facing the organisation.

Finally, in their study of 103 companies, Greening and Gray (1994) found a relationship between the development of the issues management function and two organisational factors: company size and the commitment of the top management. They discovered that larger companies are more likely to have formal issues management structures and to assign resources to issues management. Moreover, organisations where the top management was committed to issues management were likelier to formalise the issues management function. Greening and Gray based their hypothesis on the positive relation between organisation size and issues management structures on resource dependency theory which suggests that large organisations have more resources to alter their environments than smaller organisations. This argument also applies to a connection between company size

and external responses to issues, even though Greening and Gray focused on internal issues management structures.

3.5.6.3 Institutional factors

Besides issue-related and organisational factors, researchers have examined the impact that institutional factors have on how companies respond to issues. Greening and Gray (1994) examined the relationship between three institutional factors and the development of companies' issues management structures in their study of 103 companies: issue-related media exposure, interest group pressure, and the severity of the crises experienced. They found no support for the relationship between media exposure and the development of issues management structures. In contrast, they found some support for the relationship between developed issues management structures and the two other variables, interest group pressure and the severity of crises. Even though the research focused on issues management structures, the findings suggest that organisations that experience interest group pressure and issue-related crises are likely to take action in response to issues.

3.6 Stakeholder management

3.6.1 Introduction

In this section, literature on stakeholder management is examined to shed further light on the three research questions. Research in stakeholder management is pertinent for the present research because it conceptualises the way in which

companies take action with regard to society's values and expectations, including those related to human rights.

Like the previous section on issues management, the following section is organised around the three research questions. A brief overview of stakeholder theory and management is first provided. The stakeholder concept is then examined for understanding how it has been used to frame society's values and expectations of which human rights are an example (Research Question 1). Next, the nature and type of action that companies have been proposed to take in response to stakeholder pressures are reviewed for exploring the ways in which activities that companies assume to address human rights concerns can be categorised (Research Question 2). Finally, the factors that have been suggested to affect the ways in which companies respond to stakeholder pressures are discussed for understanding what explains the selection of activities that companies assume in response to human rights concerns (Research Question 3).

3.6.2 Overview of stakeholder management

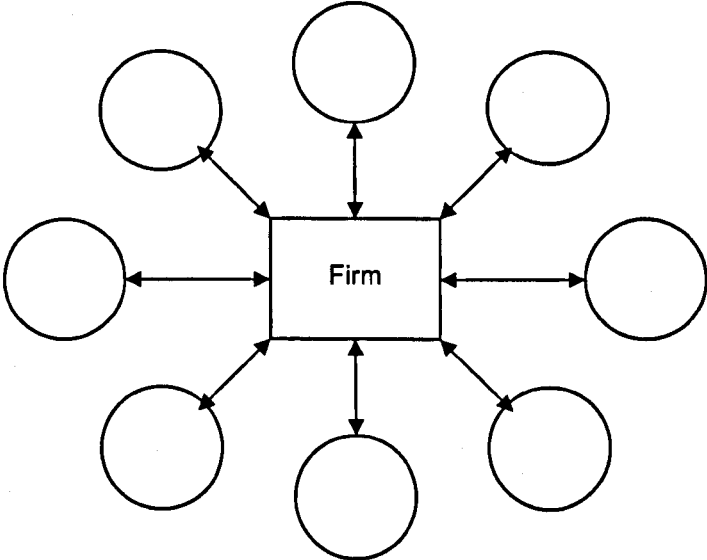
The stakeholder concept was popularised by Freeman in his landmark book, *Strategic Management: A Stakeholder Approach* published in 1984. Freeman defined stakeholders as individuals or groups of individuals who can affect or are affected by the achievement of an organisation's objectives (p. 46). According to Freeman, "[s]takeholders include employees, customers, suppliers, stockholders, banks, environmentalists, government and other groups who can help or hurt the corporation" (Freeman, 1984: vi). A number of researchers in the business and

society field had already earlier considered the role of constituent groups in the management of organisations. Johnson (1971: 50 cited in Carroll, 1999: 273), for example, defined responsible corporate behaviour as follows: "A socially responsible firm is one whose managerial staff balances a multiplicity of interests. Instead of striving only for larger profits for its stockholders, a responsible enterprise also takes into account employees, suppliers, dealers, local communities, and the nation". Jones (1980) similarly asserted that companies have an obligation to their constituent groups including customers, employees, suppliers, and communities. Freeman conceptualised these groups as stakeholders that have similar interests with regard to a company.

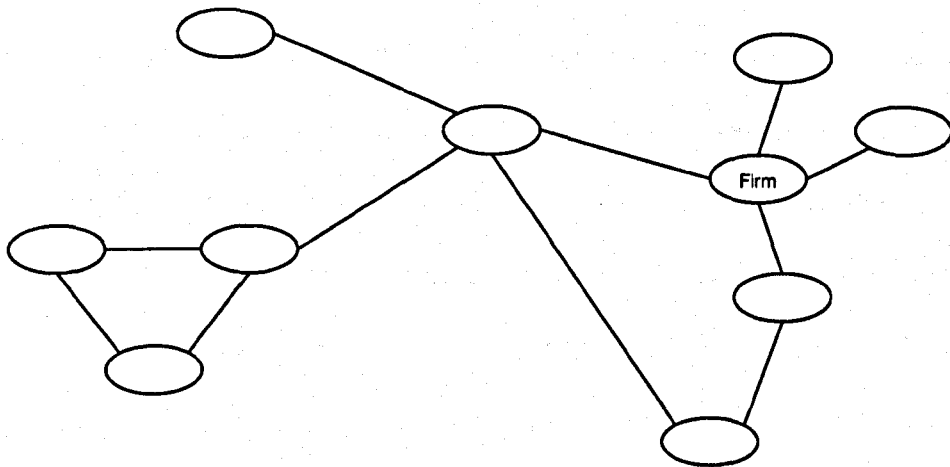
Stakeholder theory is concerned with the processes and outcomes of stakeholder relationships for both the company and its stakeholders (Jones & Wicks, 1999). It posits the company as a hub of relationships between stakeholders. Freeman (1984: 25, 58) initially portrayed these relationships as two-way influence between the company and particular stakeholder groups although he recognised that stakeholders are interconnected and that coalitions of stakeholder groups may emerge to help or oppose a company on a particular issue (see Graph 3.1). More recently, researchers have viewed stakeholder relationships as more complex and interrelated, not just a collection of one-to-one relationships between the company and its various stakeholders (Key, 1999; Post et al, 2002; Rowley, 1997). As seen in Graph 3.2, the company can therefore be regarded as part of a stakeholder network in which the company's position in the centre of the net is not taken for granted (Rowley, 1997). In this network, each stakeholder possesses its own

stakeholders and relationships may exist between the company's various stakeholders. In the field of management studies, the focus is on companies as entities through which diverse actors pursue multiple purposes that may not necessarily be congruent (Donaldson & Preston, 1995). Research in the area has focussed on managerial decision-making (e.g., Freeman, 1984; Hill & Jones, 1992; Jones & Wicks, 1999) although it has also included the study of the behaviour of stakeholders other than the company (e.g., Frooman, 1999) and the examination of the entire network of relationships between stakeholders without a particular emphasis on the role of the company or the manager (e.g., Rowley, 1997).

GRAPH 3.1. The company and its stakeholders according to Freeman (1984)



GRAPH 3.2. Company in a network of stakeholder relationships according to Rowley (1997)



Stakeholder theory has been viewed as a normative rather than explanatory or predictive theory of management. Donaldson and Preston (1995) argued in their influential article that because there is no guarantee that managers consider stakeholder interests other than those of critical stakeholder groups, stakeholder theory is mainly a normative theory that promotes the consideration of all stakeholder interests because of the intrinsic value that each stakeholder possesses. Key (1999) further argued that because stakeholder theory has not been able to identify the causal laws that explain relationships between stakeholders, it mainly has descriptive and prescriptive value. Also Clarkson (1995) and Jones and Wicks (1999) view stakeholder theory as mainly a normative theory.

The stakeholder concept has been advanced in a number of research fields. First, it has been presented as a theory of the firm. Donaldson and Preston (1995), for example, saw stakeholder theory as an alternative to the neoclassical theory of the firm. According to them, companies have conventionally been viewed as organisations that managers control for the benefit of the owners or as black boxes

that transform inputs provided by investors, employees, and suppliers into outputs for the benefit of customers. In stakeholder theory, companies are in contrast presented as organisations “through which numerous and diverse participants accomplish multiple, and not always congruent, purposes” (Donaldson & Preston, 1995: 70). Other researchers have sought to integrate stakeholder theory with other theories of the firm. Freeman and Evan (1990), for example, combined the contractual theory of the firm with stakeholder theory. They argued that modern business organisations are series of multilateral contracts among stakeholders: “the interests of a multiplicity of stakeholders interact to form the modern corporation”. Similarly, Hill and Jones (1992) incorporated the stakeholder concept into agency theory to present the firm as a nexus of contracts between stakeholders and managers.

Stakeholder theory has also been advanced as an alternative approach to strategic management (e.g., Freeman, 1984; Post et al., 2002). Researchers in this field have argued that in contrast to other theories of strategic management, stakeholder theory takes into account the social and political environment in which companies operate (Post et al., 2002). This is important because in addition to the company’s base of resources and competitive position within a particular industry, strategic threats and opportunities arise from the claims and expectations placed on the company by various social and political actors. It is therefore the management of relationships with critical stakeholders, in conjunction with the accumulation of conventional assets, that determines the company’s capacity to survive and create wealth in the long term (Post et al., 2002). The stakeholder view provides

managers with a framework that allows them "to more effectively handle turbulent external environments" (Freeman, 1984: 8).

Finally, within the business and society field, stakeholder theory has been advanced as an increasingly popular way of conceptualising corporate social responsibility (e.g., Carroll, 1991; Clarkson, 1995; Whetten et al., 2002; Wood & Jones, 1995). Carroll (1991: 43), for example, saw "a natural fit between the idea of corporate social responsibility and an organisation's stakeholders". More recently, Clarkson (1995) made an argument for approaching corporate social responsibility as stakeholder management on the basis of a 10-year research programme. Clarkson used both Carroll's (1979) and Wartick and Cochran's (1985) models of corporate social performance to organise and analyse the data that he had collected through empirical research. He found that the models did not provide clear categories under which he could have classified the empirical material because the models "were not grounded in the realities of corporate practice" (p. 97). Clarkson found that corporate social responsibility could be better analysed through the relationships that companies had to different groups in society. He also found that managers understood the concepts of stakeholder management whereas they "do not think or act in terms of the concepts of corporate social responsibilities and responsiveness, nor of social issues and performance" (p. 98).

This current research is primarily concerned with stakeholder theory as the process of stakeholder management by which managers reconcile the objectives

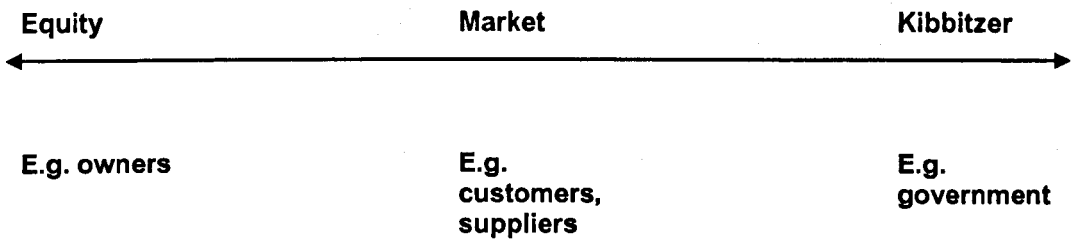
of a company with the claims and expectations of various stakeholder groups (Alkhafaji, 1989: 104; Carroll, 1991; Post et al., 2002). Stakeholder management encompasses the identification and analysis of stakeholders and the development of strategies on how to deal with different stakeholder groups (Carroll, 1991; Clarkson, 1995; Donaldson & Preston, 1995; Post et al., 2002). In practice, it involves “the development and implementation of organisational policies and practices that take into account the goals and concerns of all relevant stakeholders” (Post et al., 2002: 9). Relatively little research however exists on the policies and practices relating to stakeholder management. Research in the area has rather centred on the development of the stakeholder concept and the identification and classification of stakeholders and their influence on companies (Andriof & Waddock, 2002).

3.6.3 Characterising stakeholders

Stakeholder theory is underpinned by the assumption that society’s values and expectations of business can be framed through the stakeholder concept. It is assumed that the values and expectations are expressed by stakeholder groups that are composed of individuals with similar interest in a particular company (Clarkson, 1995; Donaldson & Preston, 1995; Key, 1999). In spite of the important role that stakeholder interests are seen to play in the definition and categorisation of stakeholders, they have rarely been analysed in further detail. Freeman (1984: 60-63) is one of the few authors who examined stakeholder interests or expectations in any detail. He grouped stakeholders by their interest into three categories that can be placed on a continuum from having an equity in a

company to being a stakeholder that is being affected by the organisation's operations. He positioned a middle category between these two extremes to capture market-based interests other than those based on equity.

TABLE 3.10. Nature of stakeholder interests



Source: Freeman (1984).

Freeman (1984: 92-95) also defined interests as effects that can be grouped into technological, social, political and managerial effects. The effects can be understood as the effect that a particular stakeholder has on the company, but also as effects that the company has on the stakeholder. The purpose of the classification is to underscore that stakeholders may have other than their main interests in organisations. For example, a consumer advocate may have other than economic interests in the company even though these other interests are less important than the primary interest.

A variety of groups including shareholders, employees, customers and suppliers are typically identified as stakeholders. They are often divided into groups on the basis of their salience for a particular organisation. The distinction between primary and secondary stakeholders, for example, is based on how essential a stakeholder group is for the achievement of the organisation's objectives (e.g.,

Clarkson, 1995; Savage et al., 1991). Primary stakeholders are stakeholders without whose participation an organisation would cease to exist. Such stakeholders include employees, shareholders, and customers. Secondary stakeholders are individuals or groups that are not essential for a firm's survival. They are not engaged in transactions with the firm, but may still be in a position to interfere with and damage a company's business. These groups include competitors and the media. (Clarkson, 1995)

In an influential article, Mitchell et al. (1997) went beyond the basic categorisations of stakeholders and offered a range of criteria for narrowing down the universe of stakeholders and determining the salience of different stakeholder groups. Mitchell et al. proposed that three stakeholder attributes as perceived by managers characterise stakeholders and their salience for a company. The three attributes are: (1) the stakeholder's power to influence the organisation, (2) the legitimacy of the stakeholder's relationship with the organisation, and (3) the urgency of the stakeholder's claim on the organisation. The three attributes are socially constructed and vary over time and circumstances. The possession of one or more of the attributes determines the type of the stakeholder and its salience to a particular organisation. A highly salient stakeholder possesses all three attributes and a nonstakeholder holds none of them. Stakeholders may gain and lose attributes and therefore become more or less salient for a firm. Based on statistical tests, Agle et al. (1999) later confirmed the positive relationship between stakeholder attributes and the degree to which managers prioritise stakeholders as described by Mitchell et al. (1997).

Stakeholders have also been categorised with regard to different theoretical approaches to strategic management. Post et al. (2002) divided stakeholders into three groups based on the “three dimensions of the strategic setting” (p. 9). The first group stems from the resource-based view and involves what Post et al. call the company’s resource base. This group includes three stakeholder groups: investors, employees, and customers. These groups constitute the company’s core stakeholders. The second group relates to the company’s position in relation to its competitors within a particular industry and market. This group of stakeholders includes business partners, unions, and regulatory authorities. The third and final group springs from the stakeholder view and comprises stakeholders in the company’s social and political environment including governments, communities, and private organisations. Any stakeholder in any of the three groups may be the most critical one at a particular time or on a particular issue.

In addition to the categorisations of stakeholders on the basis of their salience, a distinction has been made between social and non-social stakeholders (e.g., Wheeler & Sillanpää, 1997: 168). The non-social stakeholders include the physical environment, nonhuman species, and future generations and they differ from social stakeholders because they cannot be communicated with directly (*ibid.*). Non-social stakeholders can be considered through groups that advocate issues that relate to these stakeholders. Such issues include climate change and the protection of wildlife.

Previous research has hence focussed on categorising stakeholder groups and their importance to companies rather than the issues that may be of concern to stakeholders: “little has been done to identify which stakeholder interests should be attended to and what managers should do to address them” (Berman et al., 1999: 488). This focus reflects the assumption that society’s values and expectations are expressed through stakeholders and that is therefore stakeholders and relations with them rather than issues that companies should manage (e.g., Clarkson, 1995). More research is needed on the type of issues that become critical in relations between stakeholders and companies and the ways in which companies can address these issues.

3.6.4 Strategies and activities involved in stakeholder management

Researchers have emphasised the relational nature of stakeholder management (e.g., Andriof & Waddock, 2002; Post et al., 2002; Savage et al., 1991; Wheeler & Sillanpää, 1997: 168). Accordingly, the development and maintenance of stakeholder relationships is essential for successful stakeholder management, and organisations should develop capacity for doing this (Savage et al., 1991). Little research has however been carried out on the resources and competences required for interacting with stakeholders, although Freeman (1984: 73) broadly defined stakeholder management capability as the organisation’s understanding of its map of stakeholders, the processes of dealing with these stakeholders, and the transactions which take place between the organisation and its various stakeholders. Researchers have instead identified various strategies that

companies can pursue with regard to groups of stakeholders (e.g., Friedman & Miles, 2002; Harrison & St. John, 1996; Rowley, 1997; Savage et al., 1991). These strategies are generic in the sense that they do not specify the exact nature of the attached activities. For example, collaboration, a strategy suggested by Savage et al. (1991) may involve an array of arrangements from informal and occasional information sharing to profit-seeking ventures with considerable investment from the parties.

As will be seen, the stakeholder management strategies put forward by different authors share few characteristics except that they can be described with regard to the degree of involvement with stakeholders. Some of the strategies assume a high degree of cooperation with stakeholders whereas others are characterised by the avoidance of interaction with stakeholders.

Savage et al. (1991) proposed four different strategies for managing stakeholders. These strategies are essentially generic approaches that organisations can have towards a particular stakeholder on a particular issue. The four strategies are: (1) involvement, (2) monitoring, (3) defence, and (4) collaboration. Involvement concerns the inclusion of stakeholders into decision-making and other activities in organisations. Monitoring refers to the monitoring of particular stakeholder groups for ensuring that their interests do not conflict with those of the organisation. Defence involves the reduction of the dependence that constitutes the stakeholder's interest in the organisation and collaboration refers to partnerships and other collaborative ventures established between the organisation

and the stakeholder. Selection between strategies is determined by the stakeholder's potential for threat and opportunity to the organisation (see 3.6.5.1).

Harrison and St. John (1996) suggested that companies can choose from two basic postures to manage stakeholder relationships. One posture involves the buffering of the company from environmental uncertainty through traditional stakeholder management techniques that are aimed at stabilising and predicting environmental changes. These techniques include market forecasting and public relations efforts. The other posture pertains to bridging or boundary-spanning that companies can use to increase their control over the activities of the stakeholder with the overriding objective of reducing environmental uncertainty. Harrison and St. John called these activities proactive partnering techniques. The posture that the company should employ depends on the role that the stakeholder plays in influencing environmental uncertainty (see 3.6.5.1).

Friedman and Miles (2002) suggested in reference to Archer (1995) that companies can engage into four types of behaviour with regard to a particular stakeholder. First, they may defend a relationship they have to a stakeholder. Second, they may behave opportunistically to form a relationship to a stakeholder. Third, they may seek a compromise to reconcile interests that diverge. Finally, they may seek to eliminate a stakeholder with which they compete in some way or with which their interests conflict. The behaviours depend on the nature of the relationship between the organisation and a stakeholder and the compatibility of their interests (see 3.6.5.2).

Finally, Rowley (1997) identified four roles that companies may have in a network of relationships between stakeholders: (1) compromiser, (2) commander, (3) subordinate, and (4) solitarian. Unlike the strategies and postures described before, the roles do not relate to any particular stakeholder relationship; instead, they characterise the general role that a company tends to have vis-à-vis its stakeholders. A compromiser negotiates with stakeholders for an arrangement that satisfies all parties; a commander attempts to control stakeholder behaviours and expectations; a subordinate complies with established norms and expectations of stakeholders with more power; and a solitarian avoids stakeholder pressures through buffering and concealing. The four roles are determined by the density of the stakeholder network and centrality of the company in the network (see 3.6.5.3). A company may therefore exist in several stakeholder networks and have a different role in each of them depending on the two variables.

In addition to generic stakeholder management strategies, researchers have examined a number of more specific tools involved in stakeholder management. These include stakeholder audits depicting the organisation's stakeholders and its current strategies and practices for managing relationships to these stakeholders (Freeman & Gilbert, 1987; Wheeler & Sillanpää, 1997: 170), stakeholder surveys aimed at mapping out the opinions of particular stakeholder groups (Wheeler & Sillanpää, 1997: 172), and stakeholder consultation or dialogue as a process by which the organisation engages with its stakeholders to exchange views with them (Wheeler & Sillanpää, 1997: 171).

3.6.5 Variables affecting the selection of strategies and activities

Researchers have identified a number of variables that affect the selection of stakeholder management strategies. These variables can be divided into three groups: (1) stakeholder attributes, (2) nature of the stakeholder relationship, and (3) characteristics of the network of stakeholder relationships. As will be seen below, most of the variables are stakeholder attributes. This mirrors the focus of extant research on the characteristics and classification of stakeholders.

3.6.5.1 Stakeholder attributes

A number of researchers have identified the relative power of the stakeholder as a variable that affects the way in which companies approach stakeholder relationships (Freeman & Gilbert, 1987; Frooman, 1999; Hill & Jones, 1992; Mitchell et al., 1997; Rowley, 1997; Savage et al., 1991). Stakeholder power has been defined in diverse ways. Freeman and Gilbert (1987) identified three sources from which stakeholders derive their power. Formal power stems from the power of certain stakeholders to affect corporate policies and behaviour. Investors have such power because they can, for example, cast their vote in the election for corporate directors. Also government has formal power to regulate corporate behaviour. Economic power concerns the ability of customers and suppliers to influence the company's performance. Political power derives from the civil society where groups express and forward their interests. Rowley (1997) defined

power in relation to the network structure and the company's position in the network whereas Mitchell et al. (1997) defined it as to the extent to which the company can impose its will in the company-stakeholder relationship.

In addition to power, a number of other stakeholder attributes have been argued to affect the way in which companies manage relations to stakeholders. Savage et al. (1991) argued that strategies for managing stakeholders should be based on two assessments: (1) the stakeholder's potential to threaten the organisation and (2) the stakeholder's potential to cooperate with the organisation. These assessments depend on the stakeholder's control of resources needed by the organisation, power, likelihood of taking action, and likelihood of forming a coalition with other stakeholders. Savage *et al.* did not examine these stakeholder attributes further, but they identified four types of strategies that companies can employ for managing stakeholders (see 3.6.4).

TABLE 3.11. Typology of stakeholder management strategies

		Stakeholder's potential for threat to the organisation	
		High	Low
Stakeholder's potential for cooperation with the organisation	High	Collaborate	Involve
	Low	Defend	Monitor

Source: Savage et al. (1991).

Harrison and St John (1996) regarded environmental uncertainty as a key determinant of stakeholder management strategies because they viewed

stakeholder management as a way through which uncertainty can be controlled, at least to a certain degree. Because stakeholders can increase and reduce environmental uncertainty, the selection of stakeholder management strategy is affected by on the one hand, the contribution of the stakeholder to environmental uncertainty and, on the other hand, the ability of the stakeholder to influence environmental uncertainty. Moreover, in addition to the stakeholder's relationship to uncertainty, the way in which companies approach particular stakeholders is affected by the importance of these stakeholders for the company's general strategy.

Finally, Rowley (1997) argued that individual stakeholder relationships cannot be used as a basis for developing theory that predicts corporate responses to stakeholder pressures because companies respond to the multiple influences stemming from the entire net of stakeholder relationships. He argued that the way in which companies respond to stakeholder pressures depends on the variation of two factors: (1) the density of the stakeholder network surrounding the organisation (see 3.6.5.3 below) and (2) the centrality of the company in this network. Rowley defined centrality as the extent to which the company can control the flow of information between different stakeholders. He argued that the company's ability to resist stakeholder pressures increases as the company's centrality in the stakeholder network becomes higher.

3.6.5.2

Nature of the stakeholder relationship

Friedman and Miles (2002) suggested in reference to Archer (1995) that strategic actions taken by organisations and their stakeholders depend on two variables that characterise relations between the two: (1) the compatibility of interests and (2) the nature of the connections between organisations and their stakeholders. Friedman and Miles gave two values for both of the variables. Interests can be compatible or incompatible. For example, the interests of shareholders and the organisation are typically compatible because the top management is expected to manage the organisation in the interest of the shareholders. Connections between organisations and their stakeholders can be necessary or contingent depending on whether the two parties recognise that a formal relationship exists between them. If both parties recognise that such a relationship exists, the connection is necessary. If it is not recognised or only exists momentarily in special circumstances, the connection is contingent. Based on the two variables, stakeholder relations can be grouped into four categories, as can be seen in the table below. Each category corresponds to a particular type of strategic action (see 3.6.4).

TABLE 3.12. Nature of stakeholder relationships

		Connections between stakeholders	
		Necessary	Contingent
Stakeholder interests	Compatible	Defend: Shareholders Top management Partners	Form relations: The general public Companies connected through trade associations
	Incompatible	Compromise: Trade unions Customers Suppliers Some NGOs	Eliminate: Some NGOs Aggrieved/criminal members of the public

Source: Friedman and Miles (2002).

3.6.5.3 Characteristics of the stakeholder network

As seen before, Rowley (1997) argued that one of the variables that affects the way in which companies respond to stakeholder pressures depends on the variation of the density of the stakeholder network surrounding the organisation. Rowley defined density as the number of ties that link actors in a stakeholder network. The maximum number of ties can be calculated on the basis of the total number of ties that exists if each actor in the network is tied to every other actor. Rowley argued in reference to earlier research that as network density increases, the ability of stakeholders to constrain the company's actions increases as the ties between stakeholders result in shared behavioural norms and communication links that can be used to monitor the company's behaviour.

3.7 Relationship between issues management and stakeholder management

Issues management and stakeholder management can be seen as somewhat alternative approaches to how society's values and expectations are framed. In the issues management literature, society's values and expectations are conceptualised as issues that companies can anticipate, assess, and respond to. The focus is on issues that may involve various stakeholders. In the literature on stakeholder management, more emphasis is put on relations to stakeholders and it is stakeholders who represent and express society's values and expectations of business. The quality of relationships to particular stakeholders and the overall network of stakeholder relations is taken into account in decisions about particular issues.

Over time, the focus has shifted from issues management to stakeholder management that has become increasingly popular among business and society scholars following the publication of Freeman's book on the stakeholder approach to strategic management in 1984. Indeed, the role of stakeholders has been considered so central in the development of issues that some researchers believe that the main challenge for issues management is "to bring a more coordinated, proactive, and sustained approach to the management of an organisation's relationships with its stakeholders" (Nigh & Cochran, 1987: 4).

Many researchers regard issues management and stakeholder theory as complementary rather than alternative ways of identifying and addressing

society's values and expectations. Researchers in both fields have sought to establish links between the issue and stakeholder concepts. Freeman (1984), for example, viewed the identification and prioritisation of issues for each stakeholder group as an essential element of stakeholder analysis (p. 113-114) and Carroll and Buchholtz (1999: 616-617) saw the mapping of the groups that are or may get involved with issues as an important aspect of issue analysis. There is still some disagreement about where the focus of analysis should lie. Savage et al. (1991), for example, argued that the relevance of stakeholders for the organisation is issue-specific and that the willingness and opportunity of stakeholders to act relates to particular issues. Conversely, Wood (1991) put the focus on the stakeholder concept by arguing that stakeholder management emphasises the role of actors, whereas issues management focuses on assessing the various interests of these actors.

3.8 Summary

This chapter reviewed literature that is relevant for conceptualising corporate approaches to human rights. It was first found that little research exists on the ways in which companies have addressed human rights concerns. Prior research in the area of business and human rights has investigated the impact of foreign investment on human rights rather than the behaviours that companies have engaged in to influence human rights. Because of the scarcity of research in the area of business and human rights, literature on corporate social responsibility, issues management, and stakeholder management were also reviewed for

exploring how issues similar to human rights have been framed. It was found that literature in issues management and stakeholder management are particularly relevant for the present research because corporate approaches to human rights can be seen as processes through which companies identify and respond to social issues and stakeholder demands. Previous research in issues management and stakeholder management therefore provide useful insight for examining each of the three research questions as summarised in Table 3.13.

TABLE 3.13. Summary of literature review

Variable		Author(s)
RQ1 What characterises human rights issues?		
Issue attributes	Impact on the company	Ansoff, 1975; King, 1982; Dutton, 1993; Dutton & Duncan, 1987b; Dutton & Jackson, 1987; Dutton & Ottensmeyer, 1987; Zyglidopoulos, 2003
	Controversy arising from an expectational gap	Nigh & Cochran, 1987; Reichart, 2003; Wartick & Mahon, 1994; Zenisek, 1979
	Public attention	Arcelus & Schaefer, 1982; Buchholtz, 2003; Marx, 1986
	Issue specificity	Ackerman, 1973; Arcelus and Schaefer, 1982; Ansoff, 1973
Stakeholder attributes	Interest	Clarkson, 1995; Donaldson & Preston, 1995; Key, 1999
	Saliency	Mitchell et al., 1997
RQ2 What distinguishes the different strategies that companies have developed to manage human rights concerns?		
Issues management	Organisational focus	Buchholtz, 1992: 508, 510; Dutton & Jackson, 1987b; Nigh & Cochran, 1987
	Response magnitude	Ansoff, 1975; Dutton & Jackson, 1987; Dutton & Ottensmeyer, 1987
	Response target	Arcelus & Schaefer, 1982; Buchholtz, 1992; Dutton & Ottensmeyer, 1987; Mahon & Waddock, 1992; Nigh & Cochran, 1987; Sethi, 1979; Strand, 1983;
Stakeholder theory	Degree of involvement with stakeholders	Friedman & Miles, 2002; Harrison & St. John, 1996; Rowley, 1997; Savage et al., 1991
RQ3 What explains the selection of strategies?		
Issue characteristics	Expectational gap	Husted, 2000; Nigh & Cochran, 1987
	Issue evolution stage	Arcelus & Schaefer, 1982; Buchholtz, 1992; Bigelow, Fahey & Mahon, 1991; Marx, 1986
	Interpretation	Daft & Weick, 1984; Dutton, 1993; Dutton & Duncan: 1987a; Dutton &

		Jackson, 1987
Organisational factors	Ideology	Meyer, 1982
	Approach to organisational environment	Daft & Weick, 1984
	Structure	Meyer, 1982
	Organisation of the issue management function	Wartick & Rude, 1986
	Corporate strategy	Arcelus & Schaefer, 1982; Dutton & Duncan, 1987b
	Top management commitment	Greening & Gray, 1994
	Size	Greening & Gray, 1994
Institutional factors	Interest group pressure	Greening & Gray, 1994
	Severity of the crisis	Greening & Gray, 1994
Stakeholder attributes	Power	Freeman & Gilbert, 1987; Frooman, 1999; Hill & Jones, 1992; Mitchell et al., 1997; Rowley; 1997; Savage et al., 1991
	Influence on environmental uncertainty	Harrison & St John, 1996
Stakeholder network	Density of stakeholder network	Rowley; 1997
	Centrality of company in the stakeholder network	Rowley; 1997
	Connections between stakeholders	Friedman & Miles, 2002
	Compatibility of stakeholder interests	Friedman & Miles, 2002

4 Research design and methods

4.1 Introduction

This chapter describes the methodology that was used to investigate the research questions. The chapter is organised as follows. The reasons for adopting a case study research design are first explained. The components of the research design are then introduced before the unit and sub-units of analysis, case selection criteria, and the cases selected for the research are presented. The data collection and analysis methods are then described. The chapter concludes with the discussion of the generalizability, reliability, and validity of the research findings.

4.2 Justification for case study design

Case studies have been found particularly useful for developing theory in new areas of research (Eisenhardt, 1989). As seen in the literature review, the role that companies play in the promotion and protection of human rights has been examined at a general level and through a small number of case studies, but no systematic model has yet been developed to categorise and explain the policies and behaviours that companies engage in to address human rights concerns. The topic of the present research can therefore be seen as a new area of research, suitable for the case study method.

The case study method is distinguished from other research strategies because it lets the researcher to focus on the context that may be pertinent to the

phenomenon under examination (Yin, 1994: 13). This openness to contextual factors seems particularly suitable for the business and society field in which topics are typically broad in nature and evade proxy measures and the development of narrow constructs (Post, 1990: 90). Similarly to other topics in the business and society field, corporate approaches to human rights are likely to be influenced by a variety of political, social, and economic conditions that can be investigated through a case study research design.

4.3 Research design

The adopted research design is a combination of the procedures suggested by Yin (1994) and Eisenhardt (1989) for building theory from case study research. The main difference between the processes put forward by these two authors relates to the role of theoretical propositions in the research design. Eisenhardt argued that in order to reduce bias stemming from theoretical expectations, the researcher should avoid reviewing previous literature prior to data collection and analysis. In contrast, Yin recommended the formulation of theoretical propositions before data collection so that the propositions can be used to focus and guide the gathering of data (1994: 21, 28).

The design of the present research followed Yin's (1994: 21, 28) suggestion of using theoretical propositions or similar theoretical devices in theory generation. A clean theoretical slate advocated by Eisenhardt was not even attempted as the research was underpinned by the assumption that any research is susceptible for bias stemming from human subjectivity (see Mintzberg, 1979). This bias was

reduced and made transparent through the validity and reliability measures discussed in section 4.8 below.

Instead of research propositions, themes were identified for facilitating the collection and analysis of data. Themes are looser topics than theoretical propositions and they typically evolve as data is being interpreted. They may be based on previous literature or arise from the examination of the cases (Ryan & Bernard, 2000; Stake, 1995: 20). In this present research, major themes were first derived from the research questions and used to guide the review of previous literature and collection of data. Minor themes were then generated from the analysis of data and examined in relation to the concepts and frameworks identified in the literature review. The research design therefore followed the procedures suggested by Yin (1994).

The research design consisted of the following five components: (1) formulation of the research questions and the definition of the 'case', (2) literature review, (3) data collection, (4) data analysis, and (5) interpretation of the research findings in relation to previous literature. These components are outlined as sequential steps involving specific activities in Table 4.1 below and discussed in greater detail in the remaining of the chapter. As will be seen, the research did not proceed one step at the time; instead, it involved moving back and forth between different steps.

TABLE 4.1. Outline of the research design

Step	Activity
Formulation of research questions and definition of the case	<ul style="list-style-type: none"> ▪ Formulation of research questions ▪ Definition of the 'case' and units of analysis ▪ Establishment of case selection criteria
Literature review	<ul style="list-style-type: none"> ▪ Exploration of how similar topics have been conceptualised before
Data collection	<ul style="list-style-type: none"> ▪ Semi-structured Interviews ▪ Document review ▪ Observation
Data analysis	<ul style="list-style-type: none"> ▪ Iterative coding and development of themes through the comparison of cases and previous literature
Interpretation of the findings	<ul style="list-style-type: none"> ▪ Identification of contribution to different areas of literature ▪ Comparison with conflicting literature ▪ Comparison with similar literature

4.4 Case definition and selection

The way in which the case is defined determines the focus and boundaries of case study research. It also has implications for the generalizability of the research findings as discussed later in section 4.7. In what follows, the case is defined through the identification of the main and sub-units of analysis. The number of cases examined and case selection criteria are then discussed in reference to relevant literature on qualitative research.

4.4.1 Units of analysis

This present research concerns the organisational level of analysis as defined by Wood (1991). She argued that corporate social responsibility and performance can be examined at three levels of analysis: institutional, organisational, and individual. The institutional level pertains to all firms by virtue of their role as economic institutions and the study of the role and impact of business in society

(e.g., Preston & Post, 1975; Sethi, 1975). The organisational level, and the level of this research, concerns particular firms and their activities. Research at this level examines firms as organisations that exist in a specific environment (e.g., Ackerman, 1975; Clarkson, 1995; Fischer et al., 2003; Graafland et al., 2003; Kapelus, 2002; Sethi, 1979; Werre, 2003). The individual level focuses on managers as moral actors and decision-makers. This level of analysis is based on the assumption that the values of managers have an impact on the organisation and that managers can exercise discretion in their decision-making (e.g., Swanson, 1999).

The main unit of analysis was defined as *the policies and activities carried out in response to human rights concerns* in a country in which the government is unable to secure the respect for human rights or itself perpetrates human rights violations. The policies and activities are often referred to as the company's *approach to human rights*. The focus is on the policies and activities of a single company even though business operations in the extractive sector are typically joint ventures consisting of an operator that is responsible for the day-to-day management of the venture and a number of other companies holding an interest in the project. The analysis centres on the operator of the joint venture as the organisational entity that has a presence in a particular country and is therefore likely to carry out activities targeted at addressing human rights concerns. However, because some of the other joint venture partners may also take action to attend to human rights issues, their policies and behaviour are also examined.

Nonetheless, the policies and activities adopted by the operator of the joint venture remain the principal unit of analysis.

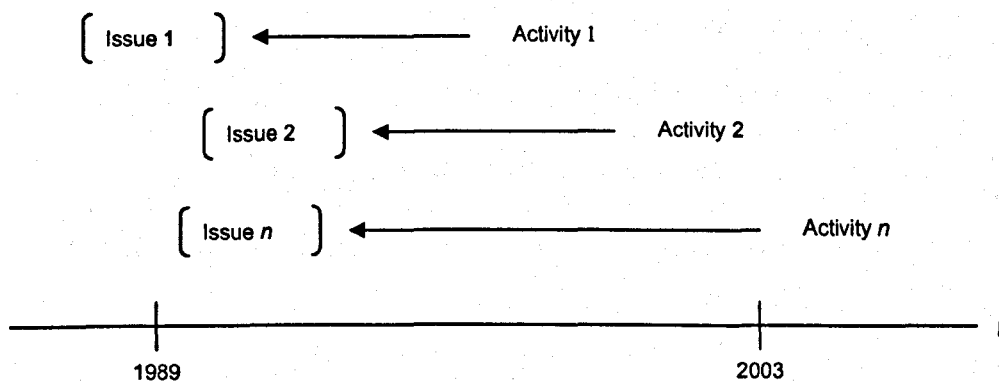
The sub-units of analysis in this research pertain to categories of data rather than theoretical categories (for a distinction of categories, see Ragin, 1987: 7). The sub-units were derived from the three research questions to direct the collection and analysis of data. They are: (1) activities employed by companies to address human rights issues, (2) human rights issues addressed by these activities and (3) factors that affect the selection of the activities. Taken as a whole, the sub-units of analysis are assumed to constitute a company's overall approach to human rights.

A research design that includes sub-units of analysis has been referred to as an embedded case study in distinction to a holistic case study in which the global nature of the case is examined (Yin, 1994: 41-42). The pitfall of embedded studies is the possible shift of focus from the main unit of analysis to the sub-units of analysis (Yin, 1994: 44). In this research, a conscious effort was made to move the analysis from the level of sub-units of analysis to the main level of analysis for considering the whole of a company's policies and activities in the area of human rights after particular instances were identified and explored. This analytical move is described as part of the process of data analysis in section 4.6 below.

Most definitions of the unit of analysis concern boundaries of time (Yin, 1994: 24). In this research, no time boundaries were set at the outset of the research. Instead, the period of study was determined through the investigation of the

activities that the case study companies had assumed to address human rights issues in a particular country until the end of year 2003. Even though the emergence of issues can be rarely related to a particular event or point in time, the development of each activity and issue was traced back in time as illustrated in Figure 4.2. Consequently, the research became to cover a period of fourteen years from 1989 to 2003 for Total and Premier Oil in Myanmar and a period of seven years from 1997 to 2003 for Talisman and Lundin in Sudan.

FIGURE 4.1. Period of study



4.4.2 Number of cases

Researchers have held differing views on the ideal number of cases that should be studied for building theory. The main thrust of the discussion has been on whether a single case is preferable to multiple cases. A number of researchers, including Stake (1978) and Dyer and Wilkins (1991), have advocated the use of a single case. These researchers are of the view that the central aim in case study research is to describe the dynamics of the research topic in such a way that the reader understands the operation of a construct in a social context. Providing such an

understanding requires a rich description of the research topic through the telling of stories that are typically long and detailed.

In contrast to the proponents of the single case study design, a number of key authors in case study research have preferred the use of multiple cases for developing theory. Yin (1994: 38-40, 45), for example, argued that the evidence from multiple cases is more persuasive than from a single case. According to Yin, a single case study design should only be adopted when the case is critical for testing a theory, in some way unique, or particularly revelatory providing an opportunity to study something that has been previously inaccessible to scientists (Yin, 1994: 45). Similarly to Yin, Eisenhardt (1989) preferred the use of more than a single case. She was of the view that with less than four cases, it may be difficult to build theory that is convincingly founded on empirical evidence. In an article written in response to Dyer and Wilkins (1991), she argued that a multiple case study design makes the elimination of chance associations easier and enables the researcher to generate more elaborate theory by triangulating propositions (Eisenhardt, 1991). Researchers have also argued that multiple cases are useful for developing theory on topics that are particularly complex (Amaratunga & Baldry, 2001).

In line with Eisenhardt (1989) and Yin (1994: 36), a multiple rather than a single case study design was adopted for this present research for the purpose of developing more elaborate theory through the comparison of cases. However, due to the complexity and sensitivity of the topic, only two cases were examined in

depth. Two further cases were investigated to check the validity of the findings, as suggested in the literature on case study research (Gomm, Hammersley, & Foster, 2000). Examples of all four cases are still given throughout the following three chapters that present the findings of the case study analysis.

4.4.3 Case selection

The companies selected for the research met the following three criteria:

- (1) they operated in the extractive industries,
- (2) they had sought to address human rights concerns in a particular country, and
- (3) data about their behaviour was available from diverse sources so that it could be corroborated.

The first criterion reflects the focus of the research on the extractive industries. As seen in Chapter 2, companies operating in different industries have encountered different types of human rights issues, and since the nature of the issue may affect the way in which it is addressed, approaches to human rights may vary by industry. The second criterion on studying only companies that have sought to address human rights issues in a particular country was adopted for including cases that are critical for generating theory on corporate approaches to human rights. Such a purposive case selection criterion has been recommended by a

number of researchers (e.g., Eisenhardt, 1989; Silverman, 2000: 102; Yin, 1993: 33-34). The third and final criterion was employed to improve the quality and validity of the data by ensuring that corroboration of data acquired from different sources was possible, as suggested by a variety of researchers (e.g., Denzin, 1978: 291; Jick, 1979; Yin, 1994: 92).

Two cases were consequently selected: Total and Premier Oil approaches to human rights in Myanmar. Premier Oil was initially selected because access to the company became available at the early stages of the research. It is usual, though not ideal, to select cases on the basis of access (Silverman, 2000: 102). In this research, access to information was a major consideration in the selection of cases because of the sensitivity of the topic. Total was selected because it also operates in Myanmar and because a relatively large amount of information from different sources was available about the company's policies and activities in the country.

The examination of the approaches of two different companies in the same country environment allowed the study of the impact of organisational factors on corporate approaches to human rights. For verifying the validity of the findings based on the analysis of corporate behaviour in one country, the approaches of two other companies operating in another country were investigated. These two further cases were however researched in less detail than the main cases (see Gomm, Hammersley, & Foster 2000). All four cases are listed in Table 4.2.

TABLE 4.2. Case study countries and companies

Country	Company
Myanmar	Total
	Premier Oil
Sudan	Talisman Energy
	Lundin Oil/Lundin Petroleum

4.5 Sources of data

One key characteristic of case study research is the use of multiple sources of evidence (Eisenhardt, 1989; Hamel, 1993: 45, 1994: 13, 91; Yin, 1994: 79). Yin (1994: 79-80), for example, listed six sources of evidence for case study research: documentation, archival records, interviews, participant observation, direct observation, and physical artefacts. Three of these sources were used in this research: document material, semi-structured interviews, and observation. The evidence used for the main two cases is summarised in Table 4.3 below.

A significantly larger amount of document material was available on Total than Premier Oil. As can be seen from the table below, in addition to the material also available on Premier Oil, information about Total's activities in Myanmar was accessible through (1) Myanmar-focused publications produced by the company, (2) court documents on the *Doe v. Unocal* case which concerns human rights violations allegedly carried out by the Myanmar army in furtherance of the Yadana project operated by Total, and (3) several reports by independent organisations about the impact of Total on human rights in Myanmar. This imbalance in the amount of document material was compensated by observation

and interviews at Premier Oil. Because data was viewed as a way to learn about human experience rather than the object of analysis, it was possible to analyse evidence obtained from different sources in the same way (see section 4.6 below).

TABLE 4.3. Main sources of data for Total and Premier Oil

Type of data	Total	Premier Oil
Document material		
General company publications	Annual reports 1989-2003	Annual reports 1989-2003
	Corporate Social Responsibility Reports 2002 & 2003	Corporate Social Responsibility Reports 2001 & 2003
Myanmar-focused publications	A report about the Yadana project in Myanmar 2002	
	Total's website dedicated to its operations in Myanmar	
Internal company documents		The company's CSR management system 2003
Court documents	Doe v. Unocal case material 1996-2003 ^a	
Reports by independent organisations	Report on the situation in the pipeline area by Commission for Justice and Peace 1998	
	Report on the role of French companies abroad by a French Parliamentary Commission 1999 ^b	
	Reports on Total's operations in Myanmar by CDA 2002, 2003 ^c	
	Report on the role of Total in Myanmar by Bernard Kouchner 2003	
Interviews	Jean du Rusquec Head of mission in Myanmar 22 January 2004, & 10 December 2003 By Marion Cohen ^d	Richard Jones CSR manager 7 February 2003, & 11 August 2003 Tom Sorrell Consultant to Premier Oil 8 September 2003
Observation	n/a	CSR Committee meetings 30 November 2001 14 March 2002 23 May 2002

^a A case was filed against Total and Unocal in a Californian court for human rights violations in Myanmar. More than 70,000 pages of documents were subsequently delivered to the court.

^b The report includes information on Total's operations in Myanmar based on transcripts of interviews with Total staff.

^c Collaboration for Development Action (CDA) was commissioned by Total to examine the company's impact in Myanmar. It has interviewed more than 100 people in Myanmar including Total staff, government officials, and villagers from the pipeline area.

^d Interviews were conducted by Marion Cohen, a French journalist, for Terra Nova, a French non-profit organisation. They were checked by the interviewee before being published.

4.5.1 Data and method triangulation

As recommended by authors on qualitative and case study research (e.g., Denzin, 1978: 291; Jick, 1979; Yin, 1994: 92), data and method triangulation were performed when possible with the purpose of obtaining a better understanding of the research topic. Data triangulation involved the search of additional evidence for the corroboration of research findings. For example, in order to verify the accounts of particular interviewees, further evidence was sought from other interviews, document material, or observation notes. Method triangulation concerned the corroboration of research findings by the use of data obtained through other data collection methods. Denzin (1978: 302) referred to this type of triangulation as between-method triangulation. It is employed to ensure that the research findings reflect the object of study rather than a particular method (Jick, 1979).

A number of inconsistencies were identified in the data through data and method triangulation. The analysis of the inconsistencies often led to clear progress in the development of concepts and theory. For example, the conflicting views that different actors have had about the human rights situation in the region in which Total and Premier Oil operate in southern Myanmar implied that human rights issues do not only involve concrete circumstances but also perceptions about these circumstances – a central distinction in the proposed model.

4.5.2 Document material

A variety of documents were obtained for examining the cases. They can be grouped into five categories according to their source: (1) material by the case study companies, (2) reports by organisations commissioned by Total to investigate its impact in Myanmar, (3) court documents on the Doe v. Unocal case, (4) reports and other material by non-profit organisations on the role and impact of Total and Premier Oil in Myanmar, and (5) official documents by government and inter-governmental bodies on Myanmar. Each category is discussed in more detail below. The focus is on the material used to examine the main two cases: Premier and Total in Myanmar.

Company documentation

A variety of documents produced by the case study companies were examined. The annual reports of both companies were analysed from the year they entered Myanmar in 1989 until 2003. In general, the annual reports of Total provide little information on the operations in Myanmar whereas some of Premier Oil's reports – particularly the one from 2000 when the United Kingdom government asked the company to consider withdrawing from the country – contain information on the company's investment and reasons for staying in Myanmar. In addition to annual reports, the companies' corporate social responsibility reports were examined; both companies had published two such reports by 2003. These reports contain useful information on the companies' policies and activities in Myanmar. Total's report on the Yadana project and website on Myanmar operations were also reviewed (Total, 2002d; Total, 2003b). The latter was launched only in 2003; it

still provides detailed information about incidents and activities in Myanmar from Total's viewpoint. Finally, internal documents on Premier Oil's corporate social responsibility management system were examined. These documents shed light on the company's overall policies and procedures in the area of corporate social responsibility, but provide little insight on the situation in Myanmar.

Reports by external organisations

A number of reports published by organisations that have visited the pipeline area as guests of Total were also examined. These include a report by Bangladesh-based Commission for Justice and Peace that visited Myanmar in 1998 (Commission for Justice and Peace, 1998). The report was based on the observations that the representatives of the organisation made during their visit to Myanmar. The representatives, Father Timm and Justice Subhan, spent five days in the country, including two days in the villages in the pipeline region. Their report provides information on the human rights situation near the pipelines and a positive assessment of Total's contribution to the economic and social conditions in the area. The findings of the report have however been criticised because an employee of MOGE, the state-owned oil and gas company, accompanied and acted as an interpreter for Fathers Timm and Subhan during their visit to the pipeline area. EarthRights International has argued that "[g]iven the pervasive human rights abuses perpetrated by the Burmese military government, no villager can be expected to talk freely through a Burmese government interpreter; nor is it likely that they would be inclined to criticize the pipeline" (EarthRights International, 2000: 135). The information contained in the report was therefore

not used to corroborate information about the human rights situation in the pipeline area, but analysed as a way in which Total has responded to the allegations made about the impact of its operations in the country (see Chapter 7).

The examined reports also included publications by Collaborative for Development Action, a consultancy that Total asked to investigate the situation in Myanmar. Researchers from the consultancy subsequently visited Myanmar on several occasions. While doing so, they interviewed more than a hundred people including Total staff, government officials, foreign diplomats, non-governmental organisations, and villagers in the pipeline region. The findings of the visits are described in three reports that have been made publicly available (Anderson et al., 2002; Zandvliet & Fraser, 2003; Zandvliet & Fraser, 2004). The reports provide detailed information about Total's activities, management structures, and views about operating in Myanmar. They also include information about the human rights situation in the pipeline area. This information was considered as relatively reliable because the researchers from the organisation took measures to ensure that their findings were substantiated by examples and consistent repetition (see Anderson et al., 2002). Moreover, the fact that the reports contain evidence of human rights violations in the pipeline region suggests that Collaborative for Development Action has sought to present its findings in a fair manner.

The report written by Mr. Bernard Kouchner on the role and impact of Total in Myanmar was also reviewed. Total invited Mr. Kouchner, founder of Médecins sans Frontières, to visit the Yadana project in 2003. In his subsequent report (BK

Conseil, 2003), Mr. Kouchner assessed arguments about the impact of Total's investment in Myanmar and gave a positive evaluation about the company's social and economic activities in the pipeline region. He also expressed his support for Total's presence in Myanmar, but urged the company to take clear steps to promote democracy and human rights in the country. The launch of the report was well covered by the French media which criticised Mr. Kouchner for being paid to whitewash the company (e.g., *Libération*, 10 December 2003). The report and the media's response to it offer useful information about Total's activities in Myanmar and differing views about the company's role and impact in the country.

Court documents on the *Doe v. Unocal* case

Material available through the *Doe v. Unocal* case was also examined. *Doe v. Unocal* is a class action that a group of Myanmar peasants filed in 1996 against Total and Unocal in a district court in the United States. It concerns alleged human rights violations committed by the Myanmar army in furtherance of the Yadana project operated by Total. The company was dismissed for lack of personal jurisdiction in 1999, but the case went forward against Unocal until the company agreed to compensate the plaintiffs and thereby settle the case in 2005. Material submitted to the court includes testimonies by Unocal employees and other relevant people which can be considered as reliable because they were given under oath. The documents also include correspondence between Total and Unocal on the situation and operations in Myanmar. Overall, the documents

provide a rich source of data on Total's activities and policies in Myanmar from early to mid-1990s.

Reports by non-profit organisations

Reports and other material published by a number of non-governmental organisations that have investigated the human rights situation in the pipeline area without the facilitation of Total and Premier Oil were also examined (e.g., EartRights International, Karen Human Rights Group). These organisations call for the withdrawal of the companies, which is why both Total and Premier Oil have been critical about the information supplied by them (du Rusquec, 2003; Jones, 11 August 2003; Total, 2003b: 26). The material produced by the organisations was useful for identifying the controversial issues with regard to Total's and Premier Oil's investment in Myanmar. Similarly to the other sources of data, an attempt was made to either corroborate or critically discuss the information provided by the organisations (see section 4.5.1 on data and method triangulation).

Official documents by government and inter-governmental bodies on Myanmar

Documents relating to Myanmar were also obtained from the United Nations, the International Labour Organisation, and the European Union as well as the governments of United States, Britain, France, Australia, and Japan. These documents provide little information on the case study companies and their

activities, but they shed light on the broader context in which Total and Premier Oil have operated in Myanmar.

4.5.3 Semi-structured interviews

Interviews were used to corroborate evidence collected from other sources of data and to access information that was not otherwise available. In total, ten interviews were carried out by the author. These included interviews with company managers, experts, and representatives of NGOs in the United Kingdom and France. In addition, two interviews conducted by a French journalist for a French non-profit organisation with Total's general manager in Myanmar were analysed (du Rusquec, 10 December 2003 & 22 January 2004). The interviews were checked by the interviewees before being published. The author's own attempts to arrange interviews at Total were unsuccessful. In addition to the interviews, the researcher had discussions with various organisations to fill in gaps in data. These discussions are referred to as *personal communication* as they did not constitute in-depth interviews.

Semi-structured rather than structured interviews were carried out in order to maintain flexibility, an advantage of semi-structured interviews (Kvale, 1996: 84, 97; Rubin & Rubin, 1995: 44). A list of themes and pre-prepared questions were developed for each interviewee based on their position and expected knowledge. Yet, the sequence of the themes and questions was left open to change so that the answers given by the interviewees could be pursued, as suggested in the literature

on qualitative interviewing (Kvale, 1996: 124; Mason, 2002: 69; Rubin & Rubin, 1995: 44).

Interviewees were at times asked to give their view on sensitive or critical information obtained from another source of evidence. This practice served three purposes: (1) it produced insight into the reliability of other sources of data, (2) it invited interviewees to analyse certain issues further, and (3) it was a useful way of introducing critical views on company behaviour. This third purpose was important because companies are wary of what they view as unfounded allegations of human rights violations (e.g., du Rusquec, 2003, Jones, 2003b). It was important to be able to raise issues for which the companies have been criticised without being seen to side with these views.

All interviewees were told that the purpose of the research was to learn from their experiences rather than to criticise or assess how they had performed. This statement was made to ensure that the interviewees would feel comfortable to talk about human rights, a sensitive topic for the companies studied. Kvale (1996: 125) views the creation of such an atmosphere as essential for interviews. The interviewees were also told that they could remain anonymous though no one wished to do so. Anonymity was offered to improve the interview atmosphere through the establishment of trust, as suggested in the relevant literature (e.g., Fontana & Frey, 2000).

The interviews were carried out face-to-face in the office of the interviewee or over the phone. Only some of the interviews were taped and transcribed. In a number of occasions, the interviews were not taped because of the circumstances. For example, in one instance an opportunity to interview a busy expert over the phone arose suddenly without enough time to make arrangements for taping the interview. In these types of situations, notes were taken and archived.

4.5.4 Observation of CSR committee meetings at Premier Oil

Data also included the observation of three meetings of the corporate social responsibility committee at Premier Oil. This observation was originally designed to be part of participant observation that would have involved participation to company meetings, contribution to some projects, and a visit to Myanmar. The plan was however abandoned before the researcher had a possibility to visit Myanmar due to the sudden restructuring of the company.

The meetings of the corporate social responsibility committee concerned discussion of Premier Oil's policies and activities in all the countries of operation including Myanmar. The meetings were attended by company staff from different departments including human resources and the management committee. Even though the observation contributed little to the development of the model on corporate approaches to human rights, it enhanced the researcher's overall understanding of Premier Oil's approach to human rights and activities in Myanmar in the wider context of the company's corporate social responsibility policies and management systems.

4.5.5. Implications of a sensitive research topic for access and reliability

The role businesses play with regard to human rights is a sensitive topic for both companies and other actors. Sensitivity of research topics has been defined as a quality that is attached to the topic by people who are involved in or affected by the research process (Stanko & Lee, 2003). This quality seems to be attached to topics that pose a substantial threat to those affected by the research process (Lee, 1993: 4). As will be seen below, the topic of the present research posed a different threat to the various actors that were affected by what is said about corporate operations in Myanmar and Sudan.

Sensitivity of research topics can impact every stage of the research process from their framing to the dissemination of research findings (see Lee, 1993: 2). In the present research, the sensitivity of the topic gave rise to a number of challenges relating to access and reliability of the collected data. In what follows, these challenges are discussed in more detail.

4.5.5.1 Access to primary data

The sensitivity of research topics makes access to primary data problematic (Lee, 1993: 2, 119; Stanko & Lee, 2003). In the context of the present research, problems of access related to primary material, particularly interviews, as people had different reasons for declining requests for interviews. First, corporate

managers were not willing to give interviews in a situation where any information could become evidence in the legal proceedings that all but one of the case study companies were engaged in with regard to their activities in Myanmar and Sudan (for reluctance stemming from exposure to lawsuits, see Adler & Adler, 2002). Corporate managers may also have been concerned about the effect that association to human rights violations potentially has on corporate reputation and financial performance. Other actors, particularly the NGO community, were also reluctant to speak to the researcher. Even when the researcher was introduced to the NGOs by a third party that they knew through work, several NGOs declined an interview request. At a more general level, as explained in section 7.8.4, the NGO community has been reluctant to engage with other actors with regard to corporate investments in Myanmar and Sudan as they have been concerned about providing legitimacy for such investments. In addition to corporate managers and the NGO community, it was problematic to gain access to people located in Myanmar and Sudan due to the political and security situation in these countries (see 5.2.4). Given that contact with foreigners often leads to a questioning by the security services, interviews could have had a detrimental effect on the personal safety of any interviewees from the two countries.

Problems with access often shape the research agenda and deter researchers from investigating certain sensitive topics (Stanko & Lee, 2003). In the present research, despite the lack of access to primary data, meaningful research was possible because preferential access was gained for one of the case study companies (see 4.5.4) and relevant secondary material was available on all

companies and their operations in the case study countries (see 4.5.2). Furthermore, as explained next, the reliability of interviews with corporate managers and other actors was questionable in the context of a sensitive research topic.

4.5.5.2 On the reliability of primary and secondary data

In addition to complicating access to data, the sensitivity of the research topic gave rise to concerns about the reliability of data. These concerns became manifest at the early stages of the research process when information derived from different sources of data turned out to be contradictory. The contradictions were built in the theoretical framework (see 6.4), but particular attention was also paid to the reliability and triangulation of data. This is why the trustworthiness of different sources of information was discussed in section 4.5.2 above. In what follows, the relationship between primary and secondary sources of information is discussed further and the reasons for prioritising the latter are made explicit.

Qualitative interviews are viewed as a way to get access to subjective experiences and attitudes (Peräkylä, 2005; Warren, 2002). Even so, the reliability of interviews as a way to collect data has been contested due to the subjective nature of the interaction that takes place in the interview event (Frontana & Frey, 2005; Kvale, 1996: 287). Many researchers have acknowledged this and, as a result, interviews are often viewed as “negotiated text”, particularly by ethnographers (Frontana & Frey, 2005). Accordingly, the outcome and interpretation of interview material is affected by the interviewer, the interviewee, and the

relationship between them (Spradley, 1979). What is more, the context and situation in which interviews are carried out affect all the parties to the interview and therefore the content and interpretation of what is communicated in the interview situation (Frontana & Frey, 2005; Gubrium & Holstein, 2002). The reliability of interviews is therefore a complex matter and a challenge to this data collection technique (for a thorough discussion on the subjectivity and reliability of interviews, see Kvale 1996: 281-295).

Interviewing people on sensitive topics gives rise to particular challenges. First, interviewees may seek to present or conceal information in order to prevent the findings of the study from casting the interviewee or his/her organisation in a bad light (Adler & Adler, 2002; Schwandt, 2001: 155; Stanko & Lee, 2003). Such behaviour can be assumed to have taken place when managers were interviewed for the current research. Second, because all the case study companies had been extensively criticised for their engagement in Myanmar and Sudan and were used to defend their activities, the interviewees were careful in their answers and seemed to have already “packaged” the information in a certain way. Spradley (1979) has previously identified such interviewees who are overly analytical as problematic because they see their situation from the viewpoint of an outsider and present a ready analysis of their experiences. Even when it is acknowledged that interviews are situations where the meaning is constructed by both the interviewee and the interviewer, this type of interviewee makes it difficult for the researcher to discover patterns of meaning in what the interviewee says.

One way to address concerns about the reliability of interviews is to give a reflective account of the process of interviewing and its interpretation (Frontana & Frey, 2005). A decision was made not to present the data in this 'confessional style' (van Maanen, 1988). Instead, a different approach was adopted because it was possible to access other data to complete and triangulate the information accessed through interviews. Secondary material available on the Doe v. Unocal court case was particularly useful because it included original communication between Total and Unocal as well as testimonies by corporate managers and other relevant people (see 4.5.2). As argued in the section 4.5.2 above, the trustworthiness of this material can be considered as higher than that of other sources of information including interviews because disincentives for submitting false information during a court case are more important than those for, say, lying in an interview with a doctoral researcher.

4.6 Data analysis

The interpretation of data was based on the sociological tradition that regards data as a way to learn about human experience of the world in distinction to the linguistic tradition that treats data as the object of analysis (Ryan & Bernard, 2000; Tesch, 1990). It was therefore possible to analyse all the data as subjective accounts of reality, irrespective of whether the data was obtained through different methods or from different sources. As seen above, data and method triangulation were applied to explore how accounts varied between different individual or organisational sources.

All the data was first transformed into text. Interviews were either transcribed or included as notes. Observation data was converted into written notes. The resulting text was then coded in line with the procedures suggested by Coffey and Atkinson (1996: 29-53). The process of coding focused on the three research questions that were established as major themes: (1) human rights issues addressed by the companies, (2) activities assumed by the companies to attend to the human rights issues, and (3) factors affecting the selection of these activities. All the text derived from document material, interviews, and observation was allocated to at least one of these three categories. Codes were then assigned to the text within each category and considered as minor themes. The last step in the analysis concerned a move from the level of minor themes to the level of major themes and the establishment of links between themes. As a result, an order of interconnected themes emerged.

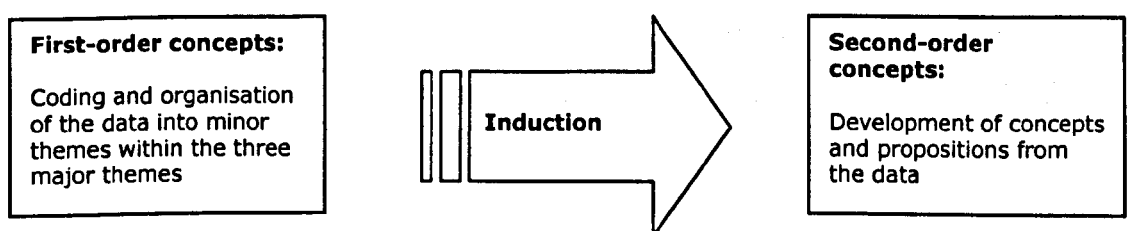
Throughout the process of coding, themes arising from the analysis of data were examined in relation to the concepts and variables identified in the literature review. A number of ideas and models stemming from the previous literature were subsequently incorporated into the model being developed; others were excluded as irrelevant.

A distinction between first-order and second-order concepts was applied throughout the process of coding, as suggested by van Maanen (1979). First-order concepts are the “facts” that arise from the data. They can include quantitative or personal accounts of the phenomenon studied. For example, information of the

activities carried out by the case study companies in Myanmar and Sudan was collected from the analysis of document material, interviews, and observation. Second-order concepts involve the organisation and explanation of first-order concepts by the researcher as well as the development of concepts, connections between concepts, and propositions from the data and organised into initial categories on the basis of the human rights issue that they were targeted at addressing. For example, the information on the activities carried out by the case study companies in Myanmar and Sudan was organised into different categories that eventually formed the five human rights strategies discussed in Chapter 7. The distinction between first-order and second-order concepts therefore serves to separate the “facts” of the case from the process of interpretation and theorising. The distinction was found useful in generating theory from the data and staying reflective about the concepts and propositions being developed.

The move from first-order concepts to second-order concepts involves induction based on generalisation from individual cases. Mintzberg (1979) referred to this type of induction as a creative leap that entails theorising based on the careful and systematic investigation of the collected data. The overall process of data analysis from the study of particular cases to more general statements is illustrated in Table 4.4 below.

TABLE 4.4. Process of data analysis



4.7 Generalisability of the findings

The findings of case study research are not generalisable in the sense of universal laws that apply to all situations at any time (Schofield, 1990). There are researchers that do not even consider generalisation as an important goal for case study research (e.g., Stake, 1978). Instead of generalisability, these researchers aim at producing illuminating description and insight on some phenomenon (Schofield, 1990). It can however be argued that the findings of case study research are generalisable to a population that shares relevant characteristics with the cases being examined (e.g., Eisenhardt, 1989; Gomm, Hammersley, & Foster, 2000). This type of generalisability is possible because of empirical generalization which involves drawing inferences about characteristics of a larger population on the basis of a sample that represents some relevant attributes of the larger population (Gomm, Hammersley, & Foster, 2000). Statistical generalization is based on the same principle of empirical generalization. The difference between case study research and statistical research relates to the nature of the sample. In statistical research, the sample is randomly selected and should be large enough to carry statistical significance. In case study research, the sample is purposive in the sense that it is selected because it is expected to illustrate some relevant features of the larger population (Silverman, 2000: 104). The sample can, for example, include cases that are selected on the basis of some theoretical categories or propositions (Eisenhardt, 1989; Silverman, 2000: 105-7; Yin, 1994: 51). In this research, the larger population was first defined and criteria were then developed to select cases that would represent the relevant characteristics of the larger population (see 4.4.3).

The most important risk in empirical generalization involving purposive sampling pertains to the heterogeneity of the target population (Gomm, Hammersley, & Foster, 2000). This risk can be controlled by the systematic selection of the cases based on the examination of the relevant features that the sample cases share with the larger population (Eisenhardt, 1989; Gomm, Hammersley, & Foster, 2000). The way in which such systematic selection was carried out for this present research was explained in section 4.4.3. It can therefore be argued that the research findings have relevance for the companies that fulfil the first two selection criteria: (1) they operate in the extractive industries and (2) they have sought to address human rights issues in countries in which the government is unable to secure the respect for human rights or itself perpetrates human rights violations.

4.8 Reliability and validity

In line with the positivist and post-positivist traditions (see Denzin, 1994), a variety of measures were taken to ensure the reliability of the data collection and analysis methods and the validity of the research constructs and findings. These measures are summarised in the table below.

TABLE 4.5. Measures for reliability and validity

Criteria	Definition	Tactic
Construct validity	Establishment of correct operational measures for the constructs studied	<ul style="list-style-type: none"> ▪ Comparison within and across cases ▪ Comprehensive data treatment ▪ Deviant-case analysis

Internal validity	Establishment of causal relationships	<ul style="list-style-type: none"> ▪ Comparison within and across cases
External validity	Generalisability of the research findings	<ul style="list-style-type: none"> ▪ Definition of the case ▪ Definition of case selection criteria
Reliability	Repeatability of research procedures	<ul style="list-style-type: none"> ▪ Description of the process of data analysis ▪ Presentation of first-order data

Many researchers have recommended the use of multiple sources of evidence and respondent validation as a way to improve **construct validity** (e.g., Denzin, 1978; Eisenhardt, 1989; Yin, 1994: 33-4, 92). These researchers are of the view that the use of multiple sources of data improves construct validity by providing multiple measures of the same phenomenon. In contrast, Silverman (2000: 177) argued that the use of multiple sources and methods of evidence does not improve construct validity because it does not exclude the subjectivity of qualitative research. Accounts by different individuals and organisations are just a further source of data and insight on the study. Instead, Silverman recommended five methods that increase the validity of qualitative research: the refutability principle, the constant comparative method, comprehensive data treatment, deviant-case analysis, and the use of appropriate tabulations. Two of these methods were employed in this research to ensure construct validity: emerging concepts and hypothesis were tested within and across cases and analysis was carried out until the theory being developed covered all the data (see section 4.6).

Internal validity concerned the establishment of causal relationships between particular human rights strategies and variables that affected the selection of these strategies. The validity of the suggested relationships was improved through

comparison within and across cases as suggested by Yin (1994: 35). Moreover, extant literature was examined for similar findings (Eisenhardt, 1989).

External validity has been seen as a major challenge for case study research because the number of cases studied is usually too small to carry statistical significance (Yin, 1994: 36). The external validity can however be improved through the explicit specification of the population from which the research sample is taken (Eisenhardt, 1989; Gomm, Hammersley, & Foster, 2000). In this research, external validity was sought through the clear definition of the case and case selection criteria (see section 4.4). (For a more elaborate discussion of the generalisability of the research findings, see section 4.7.)

The **reliability** of the research process was ensured in two main ways. First, as suggested by Yin (1994: 36-7), the processes of data collection and analysis were described in this present chapter so that the same procedures can be followed by other researchers. Second, a fairly rich description of the data is provided in the following chapters so that the reader can assess the reliability of the conclusions made. Quotes from the data are used to allow the reader to access original material, as suggested in the literature on qualitative research (e.g., Ryan & Bernard, 2000; Schofield, 1990).

4.9 Summary

This chapter described the research design and methods used to investigate the research questions. The chapter began with the justification of a case study

research design. The steps making up the research design were then described before the unit and sub-units of analysis, case selection criteria, and the selected cases were presented. The data collection and analysis methods were then described. The chapter concluded with the discussion of the generalisability, reliability and validity of the research.

5 The context

5.1 Introduction

The aim of this chapter is to provide a background against which the human rights approaches of the case study companies can be analysed. The chapter proceeds as follows. The political, economic, and social situation in Myanmar and Sudan is first described. The arrival of foreign investment and its role in the economy of the two countries is then discussed after which the oil and gas projects under study are compared and contrasted in terms of their physical characteristics, ownership structure, and development over time. Finally, a brief profile of the companies is provided before the chapter ends with a summary.

5.2 Country context

5.2.1 Repressive role of the military

Myanmar and Sudan are both countries where the military holds an important role. Myanmar has been ruled by a military government for most of the time since its independence from Britain in 1948. The latest government took power in 1988 when General Ne Win, who had been leading the country for 26 years, stepped down in the context of pro-democracy demonstrations that had resulted from a growing inflation and a worsening economic situation. The new government clapped down the protests killing an estimated 3,000 people and imprisoning many others (Human Rights Watch, 1990; Smith, 1991: 16; United Nations,

1993). Nevertheless, the opening of the economy for foreign investment in 1989 and the parliamentary elections of 1990 raised hopes of a more democratic era in the country. This is also when foreign companies including Total and Premier Oil entered the country. The hopes of democratic reforms were soon disappointed as the military prevented the new parliament from convening because against the expectations of the military, the majority of the seats had been won by the National League for Democracy, formed in the aftermath of the 1988 protests by Aung San Suu Kyi and two retired military officers. In the following years, many members of the new parliament were arrested and imprisoned (Amnesty International, 1990; Amnesty International, 1995; United Nations, 1993; United Nations, 2001: para 46-47). Some died in detention (Amnesty International, 1990; United Nations, 1993). Since then, the military junta has showed few signs of loosening its grip of the country. Regardless of power struggles among the top officers, many observers are of the view that the military has become stronger than ever because of the modernisation and expansion of the armed forces (Ashton, 1998; International Crisis Group, 2002b: 3-6; Selt, 1999: 4-7, 12).

Similarly to Myanmar, the military has held an important role in Sudan since the country became independent from Egypt and Britain in 1956. The latest military coup took place in 1989 when Omar al-Bashir took power with the backing of the National Islamic Front (International Crisis Group, 2002a: 14-5). In 1993, the government was changed into a civilian one, but al-Bashir kept power as president of the country (*ibid.*). Since then, the government has taken a number of steps towards democratic reforms, but the impact of the steps has been limited because

of the continuing harassment of the political opposition and restrictions on political freedoms (United Nations, 2001; United Nations, 2003b). For example, the elections organised in 1996 were boycotted by the main opposition parties in an atmosphere of political repression and authoritarian rule (International Crisis Group, 2002a: 18). For most of the time that Talisman and Lundin operated in Sudan, the country was ruled by presidential decree under a state of emergency (International Crisis Group, 2002a: 20; United Nations, 2001; United Nations, 2003b).

5.2.2 Armed conflict

At the time the case study companies invested in Myanmar and Sudan, both countries were experiencing internal armed conflict. In Myanmar, the central government has never held total control over the mountainous areas that surround the central plateau. These areas are populated by diverse ethnic groups, many of which have been in armed rebellion against the central government since independence from Britain. At the time of the 1988 demonstrations, there were over 30,000 insurgents divided into more than 25 armed groups (Smith, 1991: 10). In this context, one of the central aims of the new military government has been the unification of the country and its different ethnic and other insurgent groups and by the mid-1990s, the government had signed cease-fire agreements with most of the armed groups (Hawke, 1998; Silverstein, 1997: 134; Smith, 1994: 28, 30, 31; Smith, 2001: 35). The armed fraction of the Karen, an ethnic group to which the majority of the population in the area where Total and Premier operate

in Myanmar belongs, is one the last groups that has *not* negotiated a peace agreement with the government (BBC News, 22 January 2004).

In Sudan, the government's efforts to exert its control over the southern third of the country have given rise to a series of armed conflicts between the Arab north and the African south. These conflicts have been described as a civil war fuelled by various racial, religious, and economic factors between the centre and the periphery (International Crisis Group, 2002a: 5-6). The centre has traditionally favoured Arab Muslims of the north at the expense of African Christians of the south who have sought some degree of self-determination (International Crisis Group, 2002a: 5). The conflict resumed in 1983 when the government was seeking to have more control over the southern third of the country including the area where important oil deposits had been discovered (International Crisis Group, 2002a: 13-14). At the time Talisman and Lundin entered the country in the late 1990s, the SPLA, which had been the main political and armed movement of the south, had split into separate fractions with the result of intra-southern fighting near the areas where the oil concessions are located (*ibid.*). As oil came on stream in 1999, the resulting revenue enabled the government to modernise the armed forces and launch successful attacks on the SPLA and other parties to the conflict (International Crisis Group, 2002a: 22). A peace agreement was finally negotiated in 2005, two years after Talisman and Lundin had left the country (United Nations, 2005).

5.2.3 Economic and social development

Myanmar was isolated from the outside world until 1989 because of its policy of "the Burmese Way to Socialism" which involved the centralisation of economic control by the government. It only opened up for foreign investment in the aftermath of the pro-democracy protests that had resulted from the deteriorating social and economic situation in the country. The deteriorating conditions before the opening of the economy were highlighted by the fact that Myanmar was accorded the Least Developed Country status by the United Nations in 1987. Against this background, the military government has argued that any political transition needs to be underpinned by economic development (Smith, 2001: 37). Economic progress has, however, been held back by the mismanagement of the economy by government officials and their families (Silverstein, 2001: 132; Smith, 2001: 23). Also, a considerable number of companies have pulled out in response to pressures from human rights activists (The Burma Campaign UK, 2005). Myanmar has relied on trade with its neighbours, particularly Singapore, Thailand, and Malaysia (Government of the Union of Myanmar, 1998).

Unlike Myanmar, Sudan has never been closed to foreign investment, but parts of the economy were nationalised after the military coup of 1969. In the 1970s, economic development of the country looked promising and was supported by foreign capital from the United States, Europe, Arab countries, and the World Bank with the plan of making Sudan a food basket that could export agricultural products. This plan did not materialise as commodity prices declined and agriculture suffered from a lack of rainfall. Instead, Sudan gained one of the

largest foreign debts in the world. (Library of Congress, 2005) From 1983 onwards, the economy also carried the cost of the civil war. Agriculture has remained the most important sector of the economy with 80% of the work force and approximately 30% of the GDP (CIA Factbook, 2006; World Bank, 2005). Sudan's main trade partner is China, but it also has important relations with other countries such as Japan and Saudi Arabia (CIA Factbook, 2006). Since 1999, the export of oil has led to a significant increase in the GDP per capita (see Table 5.2).

Economic progress in both Myanmar and Sudan has been hampered by economic sanctions. Sanctions were imposed on Myanmar after the 1988 crack down of pro-democracy protests. The United States, for example, blocked any loans or assistance from international financial institutions to Myanmar (US Department of State, 2004). As a result, the World Bank has not given any new loans to the country since 1987 (World Bank, 2005). Sanctions have also been imposed on Sudan. In 1996, the UN security council called on its members to limit relations with the country because the government had failed to extradite suspects in relation to an assassination attempt of the Egyptian president (S/RES/1054; S/RES/1070). A year later, the US introduced a trade embargo against Sudan because of the role of the Sudanese government in international terrorism, instability in the region, and human rights violations (International Crisis Group, 2002a: 6; US Treasury, 2006). The embargo prevented US companies from investing in the country. Some of the sanctions on Sudan were lifted before Talisman and Lundin withdrew from the country. For example, the UN Security

Council lifted its sanctions in 2001 when Sudan had complied with the provisions of its earlier resolutions (S/RES/1372). In contrast, in 2006, the United States still observed its sanctions on Sudan (US Treasury, 2006).

As seen in Table 5.2, the UNDP Human Development Index ranks Myanmar and Sudan as countries of medium human development. In comparison to their neighbours, they perform better than the poorest countries in their region such as Kenya and Cambodia, but worse than the more developed countries such as Egypt and Thailand. This is illustrated by life expectancy at birth which in Myanmar and Sudan is similar or higher than in Cambodia and Kenya, but lower than in Thailand and Egypt. Table 5.2 also shows that both countries spend less on health than their neighbours.

TABLE 5.1. Economic and social indicators

Country	HDI rank	Total population (millions)	Life expectancy at birth in years	GDP per capita (PPP US\$)		Public expenditure on health (% of GDP)	Total armed forces (thousands)
				1995	2003		
		2003	2000-2005	1995	2003	2002	2003
Thailand	73	63.1	69.7	7,742	7,595	3.1	307
Egypt	119	71.3	69.8	3,829	1,220	1.8	450
Myanmar	129	49.5	60.1	1,130	1,027 ¹	0.4	378
Cambodia	130	13.5	56	1,110	2,078	2.1	124
Sudan	141	34.9	56.3	1,110	1,910	1	105
Kenya	154	32.7	47	1,438	1,037	2.2	24

Source: Human Development Indicators (2006).

¹Figure is based on the World Development Indicators (2004).

5.2.4 Human rights situation

Both the Myanmar and Sudanese government have been responsible for serious human rights violations. The United Nations has reacted to these violations by appointing special rapporteurs to investigate the situation of human rights in the two countries. Such nomination of special rapporteurs is relatively rare, which highlights the seriousness of the state of human rights in Myanmar and Sudan. In 2000, only 16 other countries were investigated by special rapporteurs (Steiner & Alston, 2000: 621).

Myanmar. Human rights violations are widespread in Myanmar. The military has been responsible for numerous human rights violations including extra-judicial killings and arrests, torture, rape, forced labour, and forcible relocation (ILO, 1998; United Nations, 1993-2003). The security forces systematically monitor citizen's movements and communications (US Department of State, 2001). For example, the possession of an unregistered telephone or modem is punishable by imprisonment (United Nations, 1997). Freedom of speech, press, assembly, and association are restricted (United Nations, 1993-2003). In 2002, Reporters without Borders included Myanmar on its list of the five countries with the least press freedom in the world (Reporters without Borders, 2002).

In 1999, the International Labour Organisation called on its members to review their relations with the Myanmar government and “take appropriate measures to ensure that the said Member cannot take advantage of such relations to perpetuate or extend the system of forced labour” (ILO, 2000). This call by the International

Labour Organisation was the first of its kind in the history of the organisation and reflected its concern over the widespread and systematic use of forced labour in the country. Although the government has now introduced decrees that ban the use of forced labour, the army still resorts to it in certain areas of the country (e.g., Human Rights Watch, 2003a; ILO, 2002; United Nations, 2003a). Forced labour has been seen to be caused by the military's policy of self-reliance according to which each army division is expected to generate food and income for its operations (Zandvliet & Fraser, 2004: 10).

There have been some improvements in the condition of human rights during the last few years, particularly in relation to prison conditions (United Nations, 2003a: para 21). The government has also constituted a Human Rights Committee (United Nations, 2001: para 26). Nevertheless, the fact that the leader of the opposition, Aung San Suu Kyi, remains under house arrest suggests that the situation regarding basic human rights remains fragile. This was confirmed by the United Nations Human Rights Rapporteur who said in November 2003 that the situation in the country was deteriorating (BBC News, 10 November 2003).

Sudan. The north-south conflict in Sudan has given rise to serious human rights violations (United Nations, 1999; United Nations, 2001; United Nations, 2003b). All parties to the conflict have been guilty of abuses including killings, destruction and confiscation of private property, rape, and abductions (United Nations, 1999; United Nations, 2001). The conflict has also led to the displacement of at least 30,000 people in the southern third of the country (United

Nations, 2001). The living conditions in the south have been worsened by the fact that the government has used access to humanitarian aid as a tool in the pursuit of its military goals (United Nations, 1999; United Nations, 2001). The government forces have, for example, bombed civilians who have gathered for food distribution by humanitarian organisations (United Nations, 2001). As a result, aid organisations have suspended some of their relief operations in the country (*ibid.*).

The internal conflict has also been associated with the practice of slavery. According to the UN Special Rapporteur, Gerhart Baum, the government has done little to prevent the practice from taking place. Slavery has been particularly related to the nomadic Arab tribes called the Murahaleen. The militias formed from the Murahaleen have been armed and deployed by the government to attack military and civilian targets. When doing so, the militias have been reported to destroy the food crops, kill the men, and abduct the women and the children for slavery. (United Nations, 2001)

Freedom of speech, press, and assembly and association have also been restricted (United Nations, 1999; United Nations, 2001; United Nations, 2003b). A law allowing political parties was introduced in 1999, but the political opposition and human rights activists have been harassed by means of arbitrary arrests and detention without judicial review (United Nations, 2001). Freedom of the press has been limited through censorship and restrictions placed on the movement of journalists (*ibid.*). Overall, the situation regarding civil and political rights situation improved over the time Talisman and Lundin operated in Sudan though

in 2003, when the companies pulled out, the political opposition was still being harassed (United Nations, 2003b).

5.2.5 Arrive foreign investment in the oil and gas sector

Important oil and gas discoveries were made in both Myanmar and Sudan before the case study companies invested in the countries. Despite the isolation of Myanmar before 1989, a number of foreign companies explored offshore oil and gas resources in the country between 1973 and 1977 (Back in the Game, 1989; Maung, 1998: 146). No important finds were made at the time, but in the beginning of the 1980s, a joint venture between a Japanese and Myanmar company discovered an offshore gas field that later became Total's Yadana project (Maung, 1998: 148; Total, 2003b: 9). In Sudan, the first oil concession was granted in 1975 to Chevron. A year later, the company made its first strike. Work was only halted in 1984 when three of the company's expatriate employees were killed in an attack that echoed the resumption of the civil war a year earlier (Gagnon & Ryle, 2001: 26).

Owing to a shortage of technology and skills, both Myanmar and Sudan required foreign investment to develop their oil and gas resources (Back in the Game, 1989; Gagnon & Ryle, 2001: 26). Foreign oil and gas companies were able to enter Myanmar in the aftermath of the 1988 pro-democracy demonstrations and the subsequent military reshuffle that took place in the context of a worsening economic situation. Foreign companies were interested in entering the country as it was believed to possess substantial oil and gas resources (Back in the Game,

1989; Myanmar Exploration Hitting Stride, 1992). Yet, investment in the newly opened Myanmar was viewed as "a gamble" by industry specialists because of poor infrastructure, distant location of oil and gas fields, and general political instability (Back in the Game, 1989). Nevertheless, foreign companies successfully bid for licences to explore the country's oil and gas resources (for a list of companies, see Myanmar Exploration Hitting Stride, 1992).

In Sudan, two main developments allowed foreign companies that were enthusiastic about Sudan's potential to resume oil development in the area where Chevron had halted its operations in the early 1980s (OGJ, 1997). First, in 1992, Chevron relinquished its rights to the concession, which enabled other companies to acquire promising blocks in the area (Gagnon & Ryle, 2001: 26). Second, in 1997, a peace agreement was negotiated between the government and rebel groups that had split from the SPLA. Even though the SPLA was excluded from the agreement, companies were able to enter the area with the protection of the army and local militia groups (International Crisis Group, 2002a: 135).

The onshore resources in Myanmar turned out to be smaller and less exploitable than expected (Myanmar's Upstream Sector, 2000). In contrast, a number of offshore areas were successfully explored and developed into gas fields. A joint venture consisting of Texaco, Premier Oil, and Nippon Oil signed the first exploration contract for offshore gas fields with the state gas and oil company MOGE in 1990 (Myanmar Exploration Hitting Stride, 1992; Premier Oil, 2002a: 14). Soon after, in 1992, Total successfully bid for the development rights of two

other offshore fields and consequently signed a production sharing contract with the state-owned MOGE (Myanmar Exploration Hitting Stride, 1992; Total, 2003: 9). To this day, these two joint ventures, *Yadana* and *Yetagun*, remain the most important projects in the oil and gas sector which is the largest source of foreign direct investment for Myanmar (Government of the Union of Myanmar, 1998).

In Sudan, parts of the concession relinquished by Chevron were purchased by Arakis Energy, a small Canadian company. In 1996, when the first oil was brought on stream, Arakis sold 75% of its interest to a number of other companies. These companies did not however have the technological and financial resources to develop the field further. The situation changed in 1998, when Talisman gained ownership of the interest that Arakis still had in the project. (Gagnon & Ryle, 2001: 26). Less than a year later, the first crude oil was exported (Talisman, 2000b: 1). The project remains the largest oil operation in the country and an important source of income to the government (Gagnon & Ryle, 2001: 27). However, because the current resources are estimated to run out by 2015, the future of Sudan's oil production is shaped by what will happen with the concession areas that have not yet been explored. The rights to the largest of these areas are held by Total (Total, 2003a).

5.3 Oil and gas projects in Myanmar and Sudan

5.3.1 Physical description

The Yadana and Yetagun projects in Myanmar involve the extraction of natural gas from offshore fields in the Andaman Sea and its transportation through pipelines across southern Myanmar to Thailand. The gas is extracted from separate offshore fields and carried via under-water pipelines that come together just off the Myanmar coast. Onshore, the pipelines run side by side before reaching the Thai border where a Thai company purchases the gas and transports it by way of another pipeline to the Ratchaburi area close to Bangkok. The pipelines are laid underground. The earth surface above them has been rehabilitated and is covered by grass and other vegetation. A service road follows the pipelines that stretch for 63 kilometres from the Myanmar coast in the West to the Thai boarder in the East.

The projects in Sudan involve the exploration and extraction of oil from onshore deposits in southern Sudan. The oil is extracted from separate concession areas, each of which encompassed approximately 30,000km² of land (<http://spc.sd/table1.php>, accessed 2 September 2006). Both joint ventures use the same 1,540 kilometre pipeline to carry the oil to a terminal in Port Sudan on the Red Sea from where it can be shipped to different destinations. The pipeline is mostly buried with seven pump stations on the ground.

The case study projects therefore shared a number of physical characteristics. Most importantly for their impact on human rights, they were located in the same

geographical areas and therefore in the same local communities, particularly in Myanmar. In Sudan, the facilities of Talisman and Lundin were relatively far apart because of the large size of the concession areas and the length of the pipeline.

5.3.2 Ownership of the projects

Each of the case study companies held an interest in a separate joint venture consisting of several companies. As seen in Table 5.3, the interests varied from Talisman's 25% to Lundin's 40%. Typically for the oil and gas sector, the national petroleum companies of the two countries held an interest in each of the the projects. Also some other companies had an interest in more than one project. The state-owned Petronas of Malaysia, for example, held an interest in one of the projects in Myanmar and both projects in Sudan.

TABLE 5.2. Interests in case study projects in 2002

Company	Country of origin	Myanmar		Sudan	
		Yadana (%)	Yetagun (%)	GNPOC (%)	Block 5A (%)
Total	France	31.2375			
Premier Oil	UK		26.6652		
Unocal	US	28.2625			
Petronas Caligari	Malaysia		30.0014	30	28.5
Nippon Oil	Japan		14.1667		
PTTEP	Thailand	25.5	14.1667		
MOGE	Myanmar	15.0	15.0		
Talisman	Canada			25	
Lundin	Sweden				40.375
CNPC	China			40	
OMV	Austria				26.125
Sudapet	Sudan			5	5

Total was the operator of the Yadana project, established in 1992. Other project partners included Unocal of the United States, the Petroleum Authority of Thailand (PPTEP), and the state-owned Myanmar Oil and Gas Enterprise (MOGE). Unlike the other companies studied, Total did not sell its share in the joint venture over the period of research.

Premier Oil had an interest in the Yetagun project. Even though the exploration contract for the concessions that became the basis of the project was originally signed between Premier Oil and MOGE in 1990, the project was first operated by Texaco. Premier Oil became the operator only in 1997 when Texaco withdrew from Myanmar. It stayed the operator until 2003 when it sold its interest in the project to Petronas. The other partners in the Yetagun project included Nippon Oil of Japan, PPTEP, and MOGE.

Talisman had an interest in the Greater Nile Petroleum Operating Company (GNPOC). It acquired its interest in 1997 by taking over another Canadian company, Arakis Energy. In 2003, Talisman sold its interest to ONGC Videsh, a subsidiary of an Indian state-owned company. Other partners in the project included the China National Petroleum Company, Petronas, and state-owned Sudapet. The operatorship of the GNPOC was not held by any of the project partners. Instead, each member company assigned employees to the GNPOC where important decisions required the support of at least two members holding at least 60% interest (Talisman, 2000b: 1).

Lundin Oil was the operator of the project that explored and sought to produce oil from Block 5A in Sudan. It held its interest through another company, International Petroleum Company (IPC), which was wholly owned by Lundin Oil. It was IPC that signed the exploration and production sharing agreement with the Sudanese government in 1997. Other companies in the joint venture were Petronas, OMV of Austria, and Sudapet. In 2003, Lundin sold its interest to Petronas. Lundin Oil was controlled by the Lundin family that also held 31% in Sands Petroleum, the biggest single shareholder in Arakis Energy from 1994 to 1998 when Arakis was taken over by Talisman. Lundin Oil therefore had links to both oil projects in Sudan. In 2001, Lundin Oil was taken over by Talisman with some of the assets, including those in Sudan, spun off as Lundin Petroleum.

5.3.3 Timelines

The present research covers the time that each of the companies had operated in Myanmar or Sudan by 2003. It therefore covers a different period of time for each of the companies studied. As seen in Figure 5.1, the time period was considerably shorter for Talisman and Lundin than for Total and Premier Oil. Moreover, Total was the only company that continued its operations beyond 2003; all the other companies withdrew from Myanmar or Sudan during the period of study after about five years of operations on the ground.⁷

⁷ Lundin still holds a working interest in another concession in Sudan (Lundin, 2003a: 2).

The project timelines differed in some respects that are relevant for human rights. As can be seen in Figure 5.1, the Yadana pipeline operated by Total was constructed before the Yetagun pipeline. Because of this, it was Total that was linked to the first allegations of forced labour in the pipeline region in Myanmar (see Chapter 6). Moreover, the period of research is considerably longer for Total and Premier Oil than for Talisman and Lundin; this may have affected the number and variety of human rights strategies employed by the companies.

FIGURE 5.1. Project timelines

YEAR	Yadana	Yetagun	GNPOC	Block 5A
1990		Contract signed		
1991				
1992	Contract signed⁸			
1993				
1994				
1995	Construction of the pipeline			
1996	1995-1998			
1997		Construction of the pipeline		Contract signed
1998	Production starts	1997-2000	Talisman enters	
1999			Production starts	
2000		Production starts		
2001				
2002		Premier divests		
2003			Talisman divests	Lundin divests

Sources: *Human Rights Watch, 2003; Premier Oil, 2002a; Total, 2002d.*

⁸ The Yadana field had been discovered by the state-owned MOGE in the 1980s (Total, 2003b: 9).

5.3.4 Project size

The Yadana project operated by Total was the larger of the two projects in Myanmar. In 2002, it produced 525 million cubic feet of gas per day (mmscfd) against Yetagun's 199 mmscfd (Premier Oil, 2002a: 9; Total, 2002d: 26). As seen in Table 5.6, it also had considerably larger reserves of gas than the Yetagun fields (World Oil, 1998). The Greater Nile Production Operating Company to which Talisman belonged was the larger of the projects located in Sudan. In 2002, it was estimated to have reserves of 846 million barrels of oil (mmboe) against Block 5A's 149 mmboe (Lundin, 2002a; Talisman, 2002a: 5, 64-65). In the same year, it produced 250,000 barrels per day; production in Block 5A did not start during the period of research (Lundin, 2002a; Talisman, 2002a: 5).

TABLE 5.3. Project production and reserves

	Myanmar		Sudan	
Project	Yadana	Yetagun	GNPOC	Block 5A
Case study company	Total	Premier Oil	Talisman	Lundin
Production/d	525 mmscfd	199 mmscfd	250, 000 boe	0 boe
Reserves (proven and probable)	7,3 Tcfd	1,8 Tcfd	846,0 mmboe	149,1 mmboe

Sources: Lundin, 2002a; Premier Oil, 2002a: 9; Talisman, 2002a: 5, 64-65; Total, 2002d: 26, World Oil, 1998.

NB. The figures are from year 2002 except for the proven and probable reserves for Myanmar projects which are from 1998.

5.4 Company profiles

5.4.1 Total SA - profile

Total's businesses comprise the whole range of activities from exploration to retail including exploration and production of crude oil and natural gas, power generation, trading, shipping, and refining and marketing of petroleum products such as automotive and aviation fuels. It also manufactures chemicals (Total, 2003a).

Total has experienced two important mergers since it entered Myanmar in 1989. The first merger in 1999 between Total and Belgium's PetroFina created Totalfina which merged again a year later with Elf Aquitaine. As a result of the mergers, Total became one of the five largest energy companies in the world (Fortune, 2005). In 2002, it operated in more than 130 countries and employed more than 120, 000 people (Total, 2002a).

Pre-merger Total and Elf had close links to the French state as they were both set up to secure France's access to oil. Total was founded after the First World War in 1924 at the request of the French premier to advance French oil interests abroad, particularly in the Middle East (Aubert, 1999: 57; Yergin, 1991: 190). Elf was established later in 1965 in a merger between a group of state controlled companies founded to explore oil outside the Middle East (Aubert, 1999: 57; Yergin, 1991: 526). With the purpose of ensuring that the companies contributed to France's objective to achieve a degree of energy independence, the French state held significant interests and special powers in both Total and Elf (Aubert, 1999:

61-62). According to a French parliamentary commission investigating the role of French oil and gas companies in international politics, connections between the French state and Elf were particularly close (Aubert, 1999: 57-60, 73). The French government allegedly influenced politics in a number of countries through Elf. In one instance, Elf assisted a former president to carry out a coup d'Etat in Congo-Brazzaville (Aubert, 1999: 113-125).

The French state sold its shares and gave up its formal powers in Total and Elf in the late 1990s to meet the demands of the EU and WTO legislation (Aubert, 1999: 61; ECON, 2002: 12). In 2003, Total had approximately 540,000 shareholders of which the majority (77%) were European pension funds, other institutional investors, and individual shareholders (Total, 2003a: 43). Important connections still exist between the French government and Total. A number of people have traditionally moved from Total to government posts and vice versa. Notably, a former Elf employee was appointed the French Ambassador to Myanmar in the late 1990s (Aubert, 1999: 60). The French government has also protected Total's interests abroad. In the mid-1990s, the Foreign Ministry took steps with regard to the lawsuits filed against Total in a Californian court for the company's actions in Myanmar (Aubert report, 1999: 92). The court was consequently found incompetent to apply United States law to a French company for activities in a third country (*ibid.*).

5.4.2 Premier Oil plc - profile

In comparison to Total, Premier Oil is a relatively small company in the oil and gas sector. In 2002, it had activities in less than fifteen countries and it employed an estimated 500 people worldwide (Premier Oil, 2002a). It defines its business as production and exploration of oil and gas resources and commercial deal-making (Premier Oil, 2003: 3).

Premier Oil was established in 1934 in the United Kingdom to explore and produce oil and gas in Trinidad. It acquired its first interests in the North Sea and further expanded its activities in the United Kingdom through a merger and acquisitions in the 1970s (Premier Oil, 2001c). The operations in the United Kingdom are still a major source of Premier Oil's revenues and a financial basis for its exploration activities in other regions (Premier Oil, 2003a).

Premier Oil discovered the Yetagun gas field in 1992 and subsequently became one of the partners in the joint venture that was formed to develop the field. In 1997, it became the operator after Texaco, the former operator, pulled out from the project. As Premier Oil's first major development operatorship, the Yetagun project was central to the company's planned transition from an exploration company to a production and development operator (Premier Oil, 1998: 11, 21). In furtherance of the transition, the company formed a strategic alliance with Amerada Hess and Petronas Caligari, each of which acquired a 25% interest in Premier Oil. The purpose of the alliance was to create a company that could become a leading independent oil and gas company in South East Asia. The

purpose was unrealised as the large shareholding of Amerada Hess and Petronas Caligari, in conjunction with the low price of oil, had a depressive effect on the company's share price that plummeted from 52p in 1997 to just 10p in 1999 (Premier Oil, 2000: 3; Premier Oil, 2002: 2). By 2002, Premier Oil had modified its strategy and decided to focus on exploration and commercial deal-making rather than the development of oil and gas fields (Premier Oil, 2001: 3; Premier Oil, 2002: 2). A restructuring was announced in the fall of 2002. It consisted of the sale of the company's interests in the Yetagun project and a part of the operations in Indonesia in exchange for £234 million and the shares held in Premier Oil by Amerada Hess and Petronas Caligari (Premier Oil, 2002: 2). The Yetagun project has therefore been central to Premier Oil's strategy, particularly during the period from 1997 to 2003.

5.4.3 Talisman Energy

Talisman is one the largest independents in the oil and gas sector. In 2002, it had interests or operations in 12 countries and a permanent staff of more than 1,500 people (Talisman, 2002a; Talisman, 2002b: 13). Its business focuses on upstream activities including the exploration, development, production, transportation and marketing of crude oil, natural gas and natural gas liquids (Talisman, 2006b). It does not seek to have any refining operations (*ibid.*).

Talisman Energy was founded in the early 1950s as BP Canada. In 1992, BP sold its majority interest in the company which changed its name to Talisman Energy. Since then, Talisman has expanded its activities through acquisitions and

exploration activities. The majority of Talisman's oil and gas production is in Canada and the North Sea (Talisman, 2000a; Talisman, 2003a). It started its international operations only in 1994. The acquisition of the indirect working interest in Block 5A in Sudan through the take-over of Arakis Energy in 1998 led to one of its first activities outside Canada. By 2000, it had operations also in Algeria, Indonesia, Colombia, and Trinidad (Talisman, 2000a).

In 2000, two years after Talisman had acquired Arakis Energy, oil production in Sudan represented 11% of Talisman's worldwide production (Talisman, 2000b: 1). The investment in Sudan was therefore relatively important for the company. Many observers and the CEO of Talisman however believed that the company's share price was undervalued because of the investment in Sudan (Talisman, 2002a: 2).

5.4.4 Lundin Oil/Petroleum

Lundin Petroleum is an independent company involved with the exploration and production of oil and gas. In 2002, it had interests or production in nine countries and 182 employees (Lundin, 2002a: 52). According to the Chairman, Ian Lundin, the company focuses on the exploration of oil, but also seeks to increase production in the short term through acquisitions (Lundin, 2002a: 7). Even when the controversy surrounding its operations in Sudan was heightened, it was "ready to face political challenges" (Lundin, 2000: 5).

Lundin Petroleum is registered in Sweden, but it belongs to a group of companies with legal entities in the Netherlands and Bermuda (Lundin, 2002a: 27). The main office is in Switzerland. The Lundin family controls the company through its 36% share and representation in the board (Lundin, 2002a: 25). Other shareholders include banks and institutional investors (*ibid.*). Carl Bildt, a prime minister of Sweden 1991-1994 and UN Special Envoy for the Balkans 1999-2001, is a member of the board (Lundin, 2000: 16).

Lundin Petroleum was spun off from Lundin Oil in 2001 when Talisman acquired most of Lundin Oil's assets (Lundin, 2000: 2). Adolf Lundin, the Chairman of the Lundin Group and father of Ian Lundin who is the Chairman of Lundin Petroleum, has described the events as follows:

We sold the company in 2001 for \$400 million to Talisman, the Canadian company, and gave the shareholders one share in the new company, called Lundin Petroleum. That started with one asset, the Sudan concession, which Talisman didn't want. (Lundin, *undated*)

The new company, Lundin Petroleum, continued with the same board and management team than Lundin Oil with its main assets in Sudan and Iran (Lundin, 2000: 4; Lundin, 2002a: 9, 29). With the acquisition of Coparex in 2002, it expanded its activities to other countries (Lundin, 2002a: 6). Lundin Petroleum is closely connected to the other companies of the Lundin family which has

companies operating in a number of countries that are politically unstable including the Democratic Republic of the Congo (Lundin, *undated*).

TABLE 5.4. Company characteristics in 2002⁹

Characteristic	Total	Premier Oil	Talisman Energy	Lundin Oil
Number of employees	121, 469	478	1,565	182
Operating income	10, 126 million €	£263 million	2,439 million C\$	295,844 TSEK
Assets	85, 329 million €	£538 million	11,594 million C\$	2,742,431 TSEK
Earnings per share	8.93 €	£1.58	3.73 C\$	-0.1 SEK
Home country	France	United Kingdom	Canada	Sweden

Sources: Lundin, 2002a; Premier Oil, 2002a; Talisman, 2002a; Total, 2002a.

5.5 Summary

Both Myanmar and Sudan were governed by a form of a military government during the period of research. The governments were responsible for serious human rights violations of which some were related to internal armed conflict. The political opposition was repressed in both countries, but it had more freedom in Sudan than in Myanmar. The situation in Sudan improved over time, but serious human rights violations were perpetrated throughout the period of study. The improvements in Sudan were followed by the lifting of sanctions by the United Nations and the European Union. In contrast, sanctions imposed on Myanmar increased over the period of study. The key country characteristics are summarised in Table 5.5 below.

TABLE 5.5. Key country characteristics

Characteristic	Myanmar		Sudan	
	1989	2003	1998	2003
Population	50 million		35 million	
Government	Military junta	No change	Military through presidential decrees	Little change
Internal conflict	More than 25 armed insurgent groups	Peace-agreements with most of the armed groups with the exception of KNU and some smaller groups	Civil war, Khartoum peace agreement excludes main rebel group	Civil war, new peace agreement being negotiated
HDI rank	n/a	129	157	141
Overall human rights situation	Serious violations		Serious violations	
Sanctions	Increasing		Decreasing	

The case study projects shared a number of characteristics. Most importantly for their impact on human rights in Myanmar and Sudan, their operations involved the same geographical areas and therefore the same local communities, though the activities in Sudan were relatively far apart in a country that is the size of Western Europe. All the case study companies were domiciled in Europe or North America. Total was the only major; the others were independents of various size. Total also differed from the other companies because it had special links to its home government. Each company had an interest in a joint venture that was extracting and transporting oil or gas. The interests varied from Talisman's 25% to Lundin's 40% and were relatively important for all the companies except for Total. Finally, all the companies with the exception of Total sold their interests in Myanmar or Sudan after about five years of operations on the ground.

⁹ Information on the companies is reported from 2002 rather than 2003 because of Premier Oil's restructuring that distorted its financial outcome in 2003.

6 Human rights issues

6.1 Introduction

This chapter describes and explores the characteristics of the human rights issues addressed by the case study companies in connection with their operations in Myanmar and Sudan. It therefore responds to the first research question specified in Chapter 1: What characterises human rights concerns encountered by companies? The focus is on the concerns that the companies have sought to influence through diverse measures. The term *issue* is therefore used to refer to those human rights concerns that the companies have decided to act upon rather than all the concerns that may be associated with their operations in a particular country (see 1.7).

The chapter begins with a discussion of the ontological nature of human rights issues. As will be seen, human rights issues can be categorised into substantial and symbolic issues. This distinction underpins the remaining of the chapter which consists of two main parts. The first identifies and describes the substantial issues addressed by the case study companies in connection to their operations in Myanmar and Sudan. The second explores the concept of symbolic issues by examining the characteristics of the symbolic issues addressed by the case study companies in Myanmar and Sudan. The chapter concludes with a summary of the main findings.

The distinction into substantial and symbolic issues reflects the way in which corporate human rights strategies are defined in Chapter 7. It is also one of the factors that will be argued to affect strategy selection in Chapter 8. The ontological nature of human rights issues is therefore an essential element of the framework of corporate human rights strategies.

6.2 Substantial and symbolic issues

The analysis of the cases suggests that human rights concerns can be categorised into substantial and symbolic issues on the basis of their ontological nature. Substantial issues involve policies, behaviours, or conditions that affect the enjoyment of the entitlements enshrined in the Universal Declaration of Human Rights. For example, the behaviour of government provided security forces in both Myanmar and Sudan gave rise to concerns about a number of rights enlisted in the Universal Declaration including the right to life, liberty, and security (Art. 3) and freedom from arbitrary arrest and detention (Art. 9). The example of the behaviour of government provided security forces also shows that substantial issues do not only concern the policies and behaviour of companies, but also those of other actors that can be connected to company operations. As will be seen, most of the substantial issues addressed by the case study companies in Myanmar and Sudan arose from the actions of the host government or the army.

In contrast to substantial issues, symbolic issues arise from the conflicting views and perceptions that different actors have about some policies or circumstances that can be associated to companies and the entitlements enlisted in the Universal

Declaration. Symbolic issues are therefore a result of the different ways in which companies and their stakeholders interpret events and situations. As seen in the literature review, the role of interpretation in the emergence of issues has been previously highlighted by researchers who have studied the development of social problems (Daft & Weick, 1984; Hilgartner & Bosk, 1988) and corporate issues (Dutton & Jackson, 1987; Lamertz, Martens, & Heugens, 2003). These researchers have argued that the same phenomenon may be perceived in a different way by different actors because individuals make specific interpretations of conditions and events from a multiplicity of possibilities. As will be seen, the analysis of the cases suggests that symbolic issues are underpinned by conflicting perceptions or interpretations of (1) some state of affairs and/or (2) the boundaries of responsibility between companies and other actors (see 6.4).

The essential difference between substantial and symbolic issues therefore pertains to the degree of agreement that exists on the issue. For example, both Total and a number of non-governmental organisations agreed that the Myanmar army had resorted to the use of forced labour in the pipeline area in the mid-1990s (see 6.3.1.1 below). The behaviour of the army at that time therefore gave rise to a substantial issue addressed by Total. Later on, however, Total argued that the army had stopped using forced labour, whereas the non-governmental organisations alleged that the practice was still continuing (see 6.4.1.2). This disagreement on what was really happening gave rise to a symbolic issue underpinned by inconsistent perceptions of what was happening in the pipeline area.

The human rights issues addressed by the case study companies in Myanmar or Sudan can be divided into five principal categories as shown in Table 6.1 below: (1) behaviour of government provided security forces near the areas of operations, (2) quality of life in local communities, (3) high-profile human rights incidents, (4) social and economic situation outside the areas of operations, and (5) legitimacy of foreign investment. A number of more specific issues can be identified under each of the main categories. For example, the behaviour of security forces has given rise to concerns about extrajudicial killings, torture, rape, forced labour, and confiscation of private property. Table 6.1 also shows that the same main issue can involve both substantial and symbolic issues.

TABLE 6.1. Human rights issues addressed by the case study companies

Major issue	Examples of specific issues	Universal Declaration article
Substantial issues		
Behaviour of security forces	Forced labour	Art 4: Freedom from slavery
	Forced relocations	Art 13: Freedom of movement and residence
	Extrajudicial killings	Art. 3: Right to life, liberty, and security
	Extrajudicial arrests	Art 9: Freedom from arbitrary arrest and detention
	Confiscation of private property	Art 17: Right to property
Quality of life in local communities	Access to health care	Art 25: Right to medical care
	Access to education	Art 26: Right to education
	Work opportunities	Art 23: Right to work Art 25: Right to an adequate standard of living
High-level human rights incidents	Arrest of Aung San Suu Kyi	Art 19: Freedom of opinion and expression
	National reconciliation	Art 19: Freedom of opinion and expression

Social and economic rights outside areas of operations	Condition of unprivileged groups	Art 22: Economic and social rights indispensable for his/her dignity
	Problems in the area of health	Art 25: Right to medical care
Symbolic issues		
Behaviour of security forces	Pre-investment violations	Art 3,4, 9, 13, 17: As above
	Forced relocations	Art 13: Freedom of movement and residence
	Recent human rights situation	Art 3-5, 9, 13, 17: As above
Legitimacy of investment	General human rights situation	All

As seen in Table 6.1, substantial and symbolic human rights issues addressed by the case study companies in Myanmar and Sudan involve different families of rights. The behaviour of security forces pertains mainly to security rights that protect individuals against abuses of their physical integrity such as murder, torture, and rape, but also to the due process rights that provide for the protection of the law. The quality of life in local communities, the condition of unprivileged groups, and specific problems in the area of health concern economic and social rights regarded as indispensable for human dignity and the development of personality. The high-level human rights incidents addressed by the companies involve civil and political rights that seek to guarantee the freedom of opinion and right to influence how a particular country is governed. Finally, the legitimacy of investment in Myanmar and Sudan does not concern any particular family of rights but the overall situation of human rights. The case study companies have therefore addressed all main types of rights enshrined in the Universal Declaration. They have, however, been more reluctant to address issues related to civil and political rights than other types of rights (see 7.2).

6.3 Substantial human rights issues

As just seen, substantial issues concern policies, behaviours, or circumstances that give rise to human rights concerns. The analysis of the cases shows that the substantial issues addressed by the case study companies in Myanmar and Sudan pertained to three principal areas of concern: (1) policies and behaviour of the host government and other external actors, (2) conditions in local communities, and (3) specific problems relating to health or unprivileged groups outside the areas of operations. The companies addressed several separate issues under these principal types of substantial issues.

6.3.1 Policies and behaviour of external actors

All the case study companies took measures to address human rights issues that arose from the policies and behaviour of the host government or other actors connected to their operations in Myanmar and Sudan. These measures addressed two main issues (1) the behaviour of security forces and (2) a number of high-profile human rights incidents outside the areas of operations. The behaviour of security forces is here discussed as a substantial issue on which some degree of agreement exists. In section 6.4 below, the behaviour of security forces is examined as a symbolic issue underpinned by disagreements about the actual state of affairs and/or boundaries of responsibility between companies and the host government.

6.3.1.1 Behaviour of security forces

The behaviour of government provided security forces gave rise to concerns about human rights violations in both Myanmar and Sudan. In Myanmar, the substantial issues centred on the practice of forced labour while in Sudan, the focus was on the bombardment and raiding of civilian settlements. In all the cases studied, the government forces were responsible for providing a secure working environment for the companies in collaboration with the private security companies that were directly employed by the companies (Anderson et al., 2002: 6-7; Batruch, 2004; Jones, 2003b; Talisman, 2000b: 14; Total, 2003c: 13). The need for security arrangements in Myanmar and Sudan was heightened because the oil and gas installations and personnel were seen as legitimate targets by the armed groups that were opposed to the central government (Gagnon & Ryle, 2001; International Crisis Group, 2002a: 119; Talisman, 2001b: 14; Total, 2003: 14). Serious incidents took place in both countries. In Myanmar, a truck that carried personnel from a French company conducting survey work for the Yadana project was attacked in March 1995. As a result, five Myanmar nationals were killed and several others injured (Total, 2003c: 14). Attacks were also mounted against the oil fields in Sudan. For example, in 2001, several people working for Talisman's sub-contractor died in an incident that the SPLA claimed responsibility for (Talisman, 2001b: 14).

Myanmar: forced labour and other violations by the army. According to Total, it first learned about human rights violations committed by the Myanmar army in the pipeline region in late 1995 after it had started the building of the

Yadana pipeline (du Rusquec, 2003; Total, 2003c: 15). At this time, Premier Oil had not yet begun its operations in the area. The Myanmar army reportedly committed a range of human rights violations including forced and child labour, extrajudicial arrests and killings, torture, rape, and confiscation of private property without compensation (EarthRights International, 2001; Karen Human Rights Group, 1995; Laroche & Hubbard, 1996). According to the non-governmental organisations that conducted interviews in the area, the military forced villagers to build army barracks and helipads, clear roads along the pipeline, and serve as porters for the military (Doe v. Unocal, 2001: 14198-9; EarthRights International & Southeast Asian Information Network, 1996; Karen Human Rights Group, 1995; Laroche & Hubbard, 1996). The provision of forced labour was organised by village heads who allocated the quota demanded by the army among village households (Karen Human Rights Group, 1996). Villagers were able to avoid forced labour by paying other villagers to work on their behalf or by sending their children to fill in the quota, a practice that resulted in accusations of child labour (EarthRights International, 2000: 101-103; Laroche & Hubbard, 1996). A court document from the case brought against Total and Unocal in the United States for alleged human rights violations in Myanmar described the charges on forced labour as follows:

Plaintiffs are villagers from Myanmar's Tenasserim region, the rural area through which the Project built the pipeline. Plaintiffs allege that the Myanmar Military forced them, under threat of violence, to work on and serve as porters for the Project. For instance, John Doe IX testified that he

was forced to build a helipad near the pipeline site in 1994 that was then used by Unocal and Total officials who visited the pipeline during its planning stages. (Doe v. Unocal, 2001: 14198)

The non-governmental organisations also reported that systematic human rights violations took place while villagers were forced to work for the army. These violations included extra-judicial arrests and killings, torture, rape, and confiscation of private property (see, e.g., EarthRights International, 2000: 53-60). Moreover, the non-governmental organisations alleged that the army requisitioned food, farmland and other private property from the villagers without appropriate compensation (EarthRights International, 2000: 107; Karen Human Rights Group, 1996). The army troops also imposed a range of fees on local communities, including pagoda fees, sports fees, and sentry fees (EarthRights International, 2000: 100-111; Karen Human Rights Group, 1995; Laroche & Habbard, 1996). As a result, many villagers fled the area as they were not able make a living while forced to work for the army and to pay so many fees (EarthRights International, 2000: 100; Karen Human Rights Group, 1995; Laroche & Habbard, 1996). A villager interviewed by a researcher from EarthRights International described the situation in the end of 1990s as follows:

My money and all my belongings like chickens, pigs, and cows were almost gone. A month before I left my village, I had to pay 7,000 kyat. It was for portering, forced labour, and for the Boad [Heinze] Island labour. Moreover, when the soldiers came into the village, all the food that they

ate, we had to give to them. [...] [W]e escaped to Thailand. (EarthRights International, 2000: 100)

The human rights violations committed by the Myanmar army in the pipeline region were similar to the violations that took place elsewhere in the country. Most of the violations seemed to stem from the military's policy of self-reliance which drove the army troops to confiscate private property, ask for additional payments on top of regular taxes, and force villagers to provide labour for the army. A failure to comply with the demands of the army was followed by extra-judicial arrests, torture, killings, and other human rights violations. For example, villagers were physically abused or otherwise ill-treated while forced to work for the military. The army was also linked to numerous accounts of rape, particularly in the ethnic minority areas. (ILO, 1998; United Nations, 1993-2003)

Total and Premier Oil maintained that human rights violations in the pipeline area stopped or became increasingly rare over time (Jones, 2003b; Total, 2003c: 15). This was contrasted by reports about continuing violations by non-governmental organisations, particularly EarthRights International (EarthRights International, 2002; EarthRights International, 2003). The disagreement over the behaviour of the army gave rise to symbolic human rights issues involving conflicting perceptions about the human rights situation in the pipeline area (see 6.4.2).

Sudan: security forces involved in civil war and attacks on civilians. The oilfields in Sudan were located in an area where an internal conflict had been

going on since Sudan became independent from Britain in 1954. The combination of fighting, raids of civilian settlements, drought, and government ban on access for relief organisations had damaging consequences for the situation of human rights and caused humanitarian emergencies in the area (International Crisis Group, 2002a: 122; United Nations, 1999). In 1999, when both Talisman and Lundin were operating in the area, the conflict was described in the following way by the UN Special Rapporteur on the situation of human rights in Sudan: “[I]nnocent civilians are the principal target and the famine is a direct by-product, as food is manipulated as a weapon of war” (United Nations, 1999: para 46).

Although all the parties to the conflict in Sudan were guilty of human rights abuses, the majority of the abuses were conducted by the government forces and associated militia groups (International Crisis Group, 2002a: 116; United Nations, 1999). According to human rights organisations, the same government forces that provided security for the oil fields over the period of research also took part in attacks against military targets and civilian settlements (Christian Aid, 2001; Gagnon & Ryle, 2001; Human Rights Watch, 2003). Local inhabitants in the area were attacked because they were considered possible rebel supporters and as such a security risk (Gagnon & Ryle, 2001; International Crisis Group, 2002a: 116). Attacks on civilians typically involved aerial bombardment followed by raids in which government sponsored tribal militia confiscated property, killed men, abducted young boys to use as soldiers, and enslaved women and children (International Crisis Group, 2002a: 121; United Nations, 1999).

The government forces or militias supported by them used company infrastructure such as airports and roads to attack military and civilian targets (Christian Aid, 2001; Gagnon & Ryle, 2001; Human Rights Watch, 2003; Talisman, 2000b: 16). The use of the Heglig airport that Talisman turned into an all-weather airport was particularly controversial. Gunships using this airport gave cover to oil workers, but also attacked civilian and military targets (e.g., Christian Aid, 2001; Human Rights Watch, 2003). Talisman admitted that the airstrip had been used for non-defensive purposes:

Despite the Company's stated position regarding the use of the Heglig airstrip and advocacy efforts in this regard, we believe that there were at least four instances of non-defensive usage of the Heglig airstrip in 2000. On these occasions helicopters or planes landed the airstrip for reasons that we could not determine were related to oilfield security and their presence was considered non-defensive by Talisman. (Talisman, 2000b: 16)

According to Talisman, oilfield infrastructure was owned by the government and therefore not under the company's direct control (Talisman, 2000b: 15). Nevertheless, the company took measures to ensure that the government did not use the infrastructure for offensive purposes (see next chapter), but the government still continued to use it for attacks against the SPLA and other targets as Talisman's corporate social responsibility report from 2001 explains:

Due to the increase in security incidents, as described earlier, there has been an increase in the use of the airstrips at Heglig and Unity by the Sudan military. [...] the Unity airstrip located in the southeast of the concession has been operating as a military airstrip. (Talisman, 2001b: 17)

The Sudanese government also used access to humanitarian aid to achieve its aims (Gagnon & Ryle, 2001; International Crisis Group, 2002a: 136, 148). In 2001, USAID reported that the government had increased its clearance denials of UN aid flights, particularly to the oilfield areas (International Crisis Group, 2002a: 148). Also, both the government and SPLA forces attacked aid workers in the area (United Nations, 1999). For example, in 1999, the SPLA abducted and killed people working for the International Committee of the Red Cross (United Nations, 1999; United Nations, 2001).

6.3.1.2 High-profile human rights incidents

In addition to the behaviour of the army in the pipeline region, Total and Premier Oil expressed their concern over a number of high-profile human rights incidents that took place outside the pipeline region in Myanmar. The companies did not therefore only address substantial issues that could be connected to their operations in the country, but also some more general developments in Myanmar. This was, however, a recent phenomenon, particularly in the case of Total (see section 7.2.1). No evidence was found about similar activities by Talisman or Lundin Oil in Sudan.

National reconciliation and treatment of Aung San Suu Kyi. Both Total and Premier Oil expressed their concern over the treatment of Aung San Suu Kyi and supported the process of reconciliation in Myanmar (see section 7.5.3). The treatment of Aung San Suu Kyi has brought regular attention on the situation in Myanmar. Since the demonstrations of 1988 that led to the opening of the economy and the elections of 1990, Aung San Suu Kyi has symbolised the campaign for democracy and human rights in Myanmar because of her popularity inside and outside the country and personal courage in facing the military regime. In 1991, she was awarded the Nobel Peace Prize in recognition of her role in the promotion of democracy and respect for human rights. The international community has put constant pressure on the military government to include Aung San Suu Kyi in the discussions about Myanmar's future (e.g., United Nations, 2003a). The military has responded by holding talks with Aung San Suu Kyi and other members of the National League for Democracy, but the process of national reconciliation has suffered from the government's systematic policy of intimidation and repression of political opponents (see, for example, United Nations, 2000).

In May 2003, during a period when Aung San Suu Kyi was not held under house arrest, her convoy was attacked in northern Myanmar. She was subsequently detained and operated in a hospital before put again under house arrest. Eyewitnesses and other parties believed that the attack was orchestrated by the Myanmar military (US Department of State, 2003). The United States, the European Union, Australia, and Japan consequently introduced new political and

economic sanctions on Myanmar. These sanctions are unlikely to be lifted before the military follows the appeals to hold discussions with Aung San Suu Kyi and to take other steps to further the national reconciliation process (United Nations, 2003a).

British prisoner of conscience. In addition to supporting the national reconciliation process and raising concerns about the treatment of Aung San Suu Kyi, Premier Oil addressed a number of other high-profile human rights incidents in Myanmar. In 2000, it contributed to the enjoyment of the freedom of opinion and expression by allegedly playing a role in the early release of a British national, James Mawdsley, who was imprisoned by the Myanmar authorities for expressing his views on the situation in the country (Premier Oils Wheels of Change, 2001; Premier Oil Looks Well Placed, 2002). Mawdsley travelled to Myanmar on three separate occasions to express his opposition to the policies of the military government by, for example, handing out pamphlets and playing democracy songs on a tape recorder (United Nations, 2000). He was twice deported, but re-entered for a third time without a visa through Thailand; he was subsequently arrested and sentenced to 17 years' imprisonment for illegal entry and distribution of leaflets (*ibid.*) The incident attracted some attention in the international media and was also raised within the United Nations. In addition to the case of Mawdsley, Premier Oil wrote to the government officials in Myanmar about a number of other issues related to the civil and political rights enumerated in the Universal Declaration, but unconnected to the company's operations in the country (Jones, 2003b).

6.3.2 Conditions in local communities

All the case study companies launched community development programmes to improve the quality of life in the communities where they operated in Myanmar and Sudan (Premier Oil, 2001b: 32; Lundin Oil, 2002b; Talisman Energy, 2000b: 23-25; Total, 2002d: 16). These projects contributed to the enjoyment of a variety of social and economic rights enumerated in the Universal Declaration. The right to education, for example, was enhanced through a number of projects including the construction of schools, provision of physical and educational material, and financial support of teachers (Lundin Oil, 2002b; Premier Oil, 2001b: 32; Talisman Energy, 2000b: 24; Total, 2002d: 16). The right to medical and health care was furthered by way of a range of measures including the construction of health centres and a series of campaigns on vaccination, hygiene, sanitary education, malaria, and access to water (Lundin Oil, 2002b; Premier Oil, 1998: 15; Premier Oil, 2001b: 32; Talisman, 2000b: 25; Total, 2003c: 19-20). The enjoyment of the right to work was supported through, for example, micro-credit programmes and skills training (Lundin Oil, 2002b; Premier Oil, 1998: 15; Premier Oil, 2001b: 32; Total, 2002d: 17). In addition to the regular community development programmes, Talisman and Lundin provided humanitarian assistance near their oil fields in Sudan (Lundin, 2000: 15; Talisman, 2000b: 23, 40).

The community development projects reflect established corporate practice across companies and countries. Contribution to host societies at the local level became a particularly topical issue in the mid-1990s when local communities in several

countries voiced their concern over the negative effects that extractive projects had on their livelihood and the lack of benefits at the local level (see McPhail & Davy, 1998). According to a study carried out by the OECD in 2002, extractive industry companies now view the provision of community development, education, and health services as part of their involvement in host societies and it is common for companies in the extractive industries to launch social and economic programmes alongside their business operations (OECD, 2002a: 8). In line with the industry practice, all the case study companies carried out community development projects in connection with their operations around the world (Lundin Oil, 2001a: 12; Premier Oil, 2001b; Talisman Energy, 2003b; Total, 2003a: 36). The objective of such projects was, according to Total, to "rectify the human and economic imbalances" that industrial projects "can create in local communities that are often very unprivileged and deprived of institutional support" (Total, 2003a: 36).

6.3.3 Specific problems in the area of health or unprivileged groups

In addition to the activities that facilitated the enjoyment of social and economic rights in local communities, the companies carried out similar projects outside their areas of operation. These projects were significantly smaller in scale than the community programmes and mainly furthered the realisation of social and economic rights by a specific, unprivileged group or by people with a particular medical condition such as blindness (see 7.4.4). They are an example of the philanthropic ventures that many companies carry out in their host societies.

6.4 Symbolic human rights issues

As already seen, symbolic issues arise from the different ways in which situations are perceived and interpreted. They are essentially disagreements between companies and their stakeholders about some circumstances or more abstract ideas. As will be seen below, the analysis of the cases suggests that the symbolic issues addressed by the case study companies related to two main issues (1) the behaviour of government provided security forces and (2) the legitimacy of investment in Myanmar and Sudan. The analysis of the cases further reveals that symbolic issues were underpinned by conflicting views about (i) perceptions of reality and (ii) the boundaries of responsibility between companies and other actors, particularly the host government. In what follows, the symbolic issues addressed by the companies are described in relation to these two factors.

6.4.1 Conflicting perceptions of reality

The analysis of the cases suggests that symbolic issues are often underpinned by conflicting views about some objective conditions. Such conflicting views correspond to what Wartick and Mahon (1994) referred to as factual gaps between perceptions of "what is". According to Wartick and Mahon, factual gaps arise from inconsistent perceptions of corporate behaviour. Evidence from the cases shows that in addition to corporate behaviour, factual gaps can also involve incompatible perceptions of some state of affairs. For example, Total and Premier maintained that human rights violations had become increasingly rare as a result

of their presence in the pipeline area (e.g., Jones, 2003b; Total, 2003c: 15), whereas a number of non-governmental organisations alleged that the army continued to perpetrate systematic human rights violations in the area (e.g., EarthRights International, 2002; EarthRights International, 2003; Zandvliet & Fraser, 2004: 19).

Symbolic issues based on conflicting perceptions of reality are exacerbated by mistrust between companies and some other actors. Total's head of mission in Myanmar, for example, believed that there were organisations whose *raison d'être* was to oppose foreign investment in the country and that the information provided by these organisations was affected by this objective (du Rusquec, 2003). Similarly, Lundin's manager for corporate social responsibility regarded the approach of some organisations as "difficult": "[I]n many cases, views about the situation in Sudan were so very different that discussions rarely went beyond each side trying to convince the other of the correctness of its views" (Batruch, 2004). At the same time, the organisations investigating the consequences of the companies' investment in Myanmar and Sudan found that the companies had a generally defensive attitude towards human rights and that the companies often misrepresented or suppressed information in order to continue their operations (see, for example, Christian Aid, 2001: 6; EarthRights International, 1996).

6.4.1.1 Impact of investment

The conflicting perceptions between companies and some of their stakeholders over the impact of investment on human rights in Myanmar and Sudan gave rise

to a symbolic issue that all the companies sought to address in some way. The conflicting views about the impact of investment echo the difficulty of examining the impact of foreign investment on human rights as already discussed in the literature review (see 3.2). The situation of human rights in a particular country is affected by so many different factors that it is difficult to make conclusive arguments about the impact of company operations on human rights.

A variety of actors asked the companies to withdraw or suspend their operations in Myanmar and Sudan because they believed that foreign investment provided financial and moral support for the Myanmar and Sudanese governments that were responsible for gross and systematic violations of human rights (Aung San Suu Kyi, 1997: 169; European Parliament, 1998b; House of Commons Parliamentary Debates, 2000; NCGUB, 1995). For example, argued the Karen Human Rights Group that had reported about the human rights situation in the pipeline area in Myanmar:

[I]n the case of Burma, foreign investment directly leads to suffering. [...] The profits from these joint ventures stay with the military and are used to expand the Swiss bank accounts of junta members and to expand and arm the grossly oversized Army, which exists in the absence of any foreign threat, only to crush its own people. (Karen Human Rights Group, 1995)

Similar calls were made on Talisman and Lundin in connection with their operations in Sudan. For example, Christian Aid asked the companies to suspend

their operations in the country and in this way to promote the respect for human rights:

Christian Aid is not calling for the operational oil companies to sell their concessions, nor to relinquish their investment in Sudanese oil industry. But they must send a clear message to the government of the Sudan that it is unacceptable to violate human rights and humanitarian law in order to assist the production of oil. (Christian Aid, 2001: 33).

The companies responded to the allegations by arguing that they had through their policies and activities set an example on international standards for the Myanmar and Sudanese authorities (e.g., Premier Oil, 1998: 14; Total, 2002c: 87). For example, stated Premier Oil in one of its annual reports:

In any global business, judgements have to be made about doing business in countries that have political systems that are criticised by the international community. [...] However, we believe that the development of an emerging country's energy resources is one of the prime requisites for long-term economic growth. We believe that the high standards of employment and welfare we set are seen as an example of what can be achieved and what is globally acceptable. (Premier Oil, 1998: 14)

The companies also presented other arguments about their positive impact on human rights in Myanmar and Sudan. Total, for example, argued that the presence

of international companies is the best way of enforcing the process of normalisation and respect for human rights in Myanmar (Total, 2002c: 5). The companies also asserted that economic development was a step towards the respect of human rights (Talisman 2000b: 7; Total, 2003b: 25). Talisman expressed this argument in the following way in its first Corporate Social Responsibility report:

The Canadian Government has expressed the view that “trade leads to development, and development leads to respect of human rights and leads to respect of democracy”. We believe that this will be the case in Sudan.
(Talisman 2000b: 7)

6.4.1.2 Human rights situation in Myanmar

Another issue over which the companies and a number of non-governmental organisations had conflicting views was the human rights situation in the pipeline area in Myanmar. These conflicting views were underpinned by the inconsistency of the evidence collected by the companies and the non-governmental organisations. Interviews carried out by the latter, particularly EarthRights International, suggested that the army still perpetrated systematic human rights violations in the vicinity of the pipelines (e.g. EarthRights International, 2002; EarthRights International, 2003; Zandvliet & Fraser, 2004: 19). The alleged violations included forced portering for the military, providing soldiers with food and money, and forced work for infrastructure projects (EarthRights International, 2002; EarthRights International, 2003).

In contrast to the reports by EarthRights International, Total and Premier Oil argued that the army had changed its behaviour in the pipeline area and that occurrences of human rights violations had become increasingly rare (Jones, 2003b; Total, 2003c: 15). The companies based their position on the human rights monitoring that they carried out in the area. Both Total and Premier Oil observed the human rights situation through their personnel that was in regular contact with local villagers (see 7.4.3). The companies also asked other organisations and individuals to investigate the situation in the pipeline region. One of these organisations, Collaborative for Development Action, visited Myanmar at the request of Total in 2002 and 2003 to examine the impact of Total's operations on local communities. It found no evidence of systematic use of forced labour or other human rights violations in the villages that were included in Total's socio-economic programme (Anderson et al., 2002; Zandvliet & Fraser, 2003; Zandvliet & Fraser, 2004). Quite the opposite, villagers told the researchers from the agency that the presence of foreign companies had improved the situation regarding forced labour and ad-hoc taxation:

Villagers repeatedly attributed the absence of forced labour and taxation by the army in the pipeline area directly to the presence of the gas companies (TFE and Premier Oil). Many people explicitly commented on the fact that the presence of the oil companies has improved their circumstances, specifically with regard to labour and taxation. [...] Almost everyone immediately indicated that, even more important than these

economic and social benefits, was the advantage of having recourse when the army requested labour. (Anderson et al., 2002: 10)

EarthRights International countered these findings by alleging that local military commanders had advised villagers not to talk about the use of forced labour which still however continued (EarthRights International, 2002). For example, a farmer interviewed by a member of the EarthRights International team witnessed how villagers were advised not to tell about forced labour to the foreigners visiting the area:

One time a commander from town came to our village and told us not to talk about forced labour if and when a delegation came and asked about it. That happened in April 2001, after the Water Festival. He called a meeting in our village, and he talked about it. Three days after he left, a delegation including one foreign woman came to our village and asked if there was any forced labour. No one dared to say yes because the soldiers had already told us not to say there still was forced labour. I saw a signpost outside the village that there would be no forced labour and that the soldiers could not ask for forced labour. But nothing has changed. (EarthRights International, 2002, Interview #071)

EarthRights International recorded several similar accounts. On one occasion, military authorities from the capital visited a village in the pipeline area to ensure that forced labour was not used. Villagers were reluctant to report about incidents

of forced labour as local commanders had warned that anyone testifying about the practice would be punished. (EarthRights International, 2001) In 2002, a farmer from the Tenasserim division where the pipelines go across Myanmar described the situation regarding forced labour as follows:

The situation in our village right now is sometimes good and sometimes bad. It is good when we have time to work for our family and our business, but it is bad when we have to work for the soldiers. Sometimes we have to work on the road in our village. People still have to porter for the soldiers. It happens once a month, and each time the soldiers order about two porters. [...] The last time we had to work for soldiers, I did not have to go. But my wife's sister, only fifteen years old, had to go. It was for harvesting rice paddies from the LIB #401's field. [...] I did not see people get paid for the work. Moreover they cannot refuse to go. If we don't go, we have to hire people for us. (EarthRights International, 2002, Interview #031)

According to EarthRights International, Light Infantry Battalion 401 mentioned by the villager was known to have provided security for the pipeline projects (EarthRights International, 2001: 29, 95).

Collaborative for Development Action, commissioned by Total, attempted to corroborate the accounts published by EarthRights International by asking villagers whether the army had paid pre-emptive visits prior to their own earlier

visits. The villagers denied this. Collaborative for Development Action noted in its following report that because the villagers told about their previous experiences of forced labour and expressed their dissatisfaction about many government policies, it seemed unlikely that the army had threatened the villagers in the manner suggested by EarthRights International. (Zandvliet & Fraser, 2004: 4) Moreover, during the organisation's first visit to the pipeline area, the villagers told the researchers that they felt safe reporting incidents of forced labour to Total staff (Anderson et al., 2002: 10). Also, the fact that the villagers had told the researchers about some incidents of human rights violations suggested that they were not afraid to disclose information about such issues. For example, Collaborative for Development Action was informed about the following incident in the pipeline area:

One villager said that in December 2002, after the arrival of a new commander, his son was requested by the army to level ground and cut trees for a helicopter pad. The Head of Village (HoV) confirmed that he had been asked by the army to "provide" 20 villagers for several hours. Although some villagers did not perceive this exercise as forced labour, others complained to the army, and they were exempted. In retaliation for the complaint, the battalion told the village that they could not sell their vegetables to the barracks, a situation that lasted for 6 weeks. (Zandvliet & Fraser, 2003: 14)

Subsequent to the complaints, the local battalion was reprimanded (Zandvliet & Fraser, 2003: 15). The army also retrospectively paid the villagers for the work they had conducted (*ibid.*).

Collaboration for Development Action also visited exiled communities near the Myanmar-Thailand border to explore the possibility that the villagers who had been subjected to human rights violations could have left the pipeline area for the refugee camps in Thailand (Zandvliet & Fraser, 2003: 2; Zandvliet & Fraser, 2004: 3). The consultancy subsequently found that several organisations based in the border area had recent information about the use of forced labour in the pipeline region (Zandvliet & Fraser, 2004: 19). The disagreement about the human rights situation in the pipeline region therefore persisted.

6.4.1.3 Forced displacement in Sudan

Similarly to the conflicting views over the human rights situation in the pipeline area in Myanmar, the inconsistent views about the forced population displacements in Sudan were underpinned by the contradictory findings of the investigations carried out by the companies and other actors. According to John Harker, who was asked by the Canadian government to investigate the issue of population movements, the first displacements took place in 1992 when the government started planning for oil exploration in the southern Sudan (Harker, 2000: 10). Alleged depopulation of the area where the oil fields were located therefore started already before Talisman and Lundin invested in Sudan and continued after the companies began operating in the area in the late 1990s

(Christian Aid, 2001: 6; Harker, 2000: 11). According to Christian Aid, displacements resulted from a systematic series of attacks through which “government forces have destroyed harvests, looted livestock and burned houses to ensure that no-one, once displaced, will return home” with the effect that some areas were turned into “government-controlled no-go areas” (Christian Aid, 2001: 6). In 1999, the UN Special Rapporteur on the Situation of Human Rights in Sudan reported that the government was following “a policy of forcible population displacement in order to clear oil-producing areas and transportation routes of southern civilians, who were suspected of supporting sabotage actions by the SPLA” (United Nations, 1999).

The companies carried out their own investigations about population movements in Sudan and used evidence from these investigations to renounce the allegations about forced displacements. Talisman’s investigations, for example, involved a satellite photo study which covered the time period from 1965 to 2000. According to the company, the photos showed “no evidence of appreciable human migration – in other words displacement – within the concession areas studied” (Talisman, 2001b: 16). Instead, the study showed that some areas had experienced an increase in human population which was confirmed by the interviews the company conducted in Sudan (*ibid.*). Similarly, Lundin carried out its investigation on displacements when specific allegations were made in relation to a road built by the company, but found no evidence of forced displacements:

Having carried out our own investigation, we can now state categorically that there has been no forced population displacement along the 80 km all-weather road which runs from our base camp at Rubkona to the present drill site at Jarayan, no burning of villages to make way for the road. There are witnesses on the ground who are prepared to testify about this. (Lundin, 2001c)

Human rights groups criticised the investigations conducted by the companies. Human Rights Watch, for example, argued that the satellite images published by Talisman could have been interpreted differently from the way in which the company interpreted them. For example, the increase in human population showed by the images could have been seen to prove that agro-pastoralists tribes were being forced to move from rural areas into towns because of the internal conflict or other reasons such as drought (Human Rights Watch, 2003).

6.4.2 Boundaries of responsibility

In addition to conflicting perceptions of reality or objective conditions, the analysis of the cases shows that symbolic issues can be underpinned by differing views on the boundaries of responsibility between companies and other actors. Such views resemble what Wartick and Mahon (1994) called ideals gaps around incongruent arguments about “what should be”. As will be seen below, a further analysis of the cases suggests that differing views on the boundaries of responsibility can relate to (i) geography, (ii) time, and/or (iii) legitimate role of different actors.

6.4.2.1 Physical boundaries of responsibility

Evidence from the cases shows that symbolic issues may be based on conflicting views over the physical or geographical limits of corporate responsibility. In Myanmar, the different ways in which the case study companies and non-governmental organisations, particularly EarthRights International, defined the pipeline area contributed to the conflicting reports about the human rights situation in the area. Total and Premier Oil spoke about the geographical area around the pipelines as the pipeline 'corridor'. This area was 10-15 kilometres wide and covered the length of the onshore pipelines from the Myanmar coast to the Thai border. The villages that were included in the socio-economic programmes were located inside the corridor and the Myanmar government and the army troops in the area were aware of the boundaries of the corridor. (Anderson, Fraser & Zandvliet, 2002: 3; Premier Oil, 2001b) Total and Premier Oil referred to the villages inside the corridor when they asserted that they had put a stop to human rights violations in the pipeline area. In contrast, the allegations that EarthRights International made about human rights violations in the area were based on interviews with villagers that came from communities situated within twelve miles of the pipelines, an area somewhat larger than the corridor (EarthRights International, 2002; EarthRights International, 2003). It may therefore be that human rights violations took place in the vicinity of the pipelines, but outside what the companies regarded as the pipeline corridor. This explanation for the conflicting reports of the human rights situation in the pipeline area was supported by the observations made by Collaborative for Development

Action in 2002 during one of its visits to Myanmar. The organisation noted that the army deployed forced labour and asked for contributions of money and food in the villages that were located just outside the 'corridor' (Anderson *et al.*, 2002: 10-11; Zandvliet & Fraser, 2003: 15).

Similarly, the different ways in which Talisman and Lundin and other actors defined the physical boundaries of their responsibility in Sudan contributed to the disagreement about whether displacements had occurred in the area where the companies' oil fields were located in Sudan. Talisman and Lundin focused their investigations of alleged displacements on the areas around their oilfield infrastructure (Lundin, 2001c; Talisman, 2001b: 16). In this way, the companies suggested that they only bore responsibility for what took place in the immediate vicinity of their operations. Other actors were however of the view that the responsibility of companies extended beyond the physical limits of the concession areas. Human Rights Watch, for example, showed this by criticising the selection of the sites that Talisman studied through satellite images for seeing whether population movements had taken place:

Aside from the oil/government centers where gross population counts have increased, the analysis did not look at adjoining areas of the Block 1 concession that are shown on earlier maps to have a high density of settlement. Instead, the other sites selected by Talisman for examination are small rectangles immediately surrounding active oilfields, areas that

have not shown up on previous maps as population centers or even clusters. (Human Rights Watch, 2003)

Also Harker implied in his report commissioned by the Canadian government that Talisman was responsible for displacements that had been carried out in the areas surrounding its operations in Sudan by pointing out that a permanent human settlement in Heglig, located close to the concession area but outside the site of the company's base camp and pipeline terminus, had disappeared (Harker, 2000: 47).

6.4.2.2 Temporal boundaries of responsibility

The analysis of the cases shows that, in addition to disagreements about the physical boundaries of corporate responsibility, symbolic issues can arise from conflicting views over the temporal boundaries of corporate responsibility. Such issues are illustrated by the disagreement between the case study companies and a number of non-governmental organisations over whether Total and Premier Oil were responsible for the human rights violations committed by the Myanmar army before Total and Premier Oil began their operations in southern Myanmar (e.g., EarthRights International & Southeast Asian Information Network, 1996: 23; Laroche & Hubbard, 1996).

The first public allegations about human rights violations committed by the Myanmar army in connection with the pipeline projects were made by a Reuters journalist in October 1992 (Brunsstrom, 1992). At the time, the army was

reportedly using forced labour to build a railway from Ye to Tavoy in southern Myanmar. The Reuters journalist associated this forced labour with the development of the Yadana pipeline. Total responded to the allegations by denying any connection between its pipeline operation and the Ye-Tavoy railway. It argued that the allegations were unfounded as the story was published before the pipeline route had been agreed on:

At the time the article was written, Yadana was only a proposal. The pipeline route had yet to be determined and work would not begin for another three years. This not credible assertion was actually made in connection with an unrelated railroad project on which the government was working at the time. (Total, 2003c: 26)

Yet, a number of non-governmental organisations including Karen Human Rights Group (1995; 1996), EarthRights International (EarthRights International & Southeast Asian Information Network, 1996: 15), and International Federation of Human Rights (Laroche & Hubbard, 1996) have maintained that the army was building the railroad to improve the infrastructure in the area for the benefit of the pipeline projects:

Hundreds of thousands of people have been forced to do labour constructing the Ye-Tavoy railway line since late 1993. The details of this labour are already covered in several reports by KHRG [Karen Human Rights Group] and other groups. Comments by SLORC officers along the

railway route, SLORC itself and others have made it very clear that a major reason for the sudden hurried construction of this railway line was to support the gas pipeline infrastructure and the thousands of troops being used to secure the area. However, the foreign oil companies have faced so much international pressure about this railway that they have now categorically insisted that they will not under any circumstances use the railway. (Karen Human Rights Group, 1995)

The non-governmental organisations have further alleged that in order to make the anticipated pipeline route secure, the army increased the number of its troops in a region where there had been no significant military presence before the early 1990s (The Burma Campaign UK, 1998; EarthRights International, 2000: 23; EarthRights International & Southeast Asian Information Network, 1996: 2; Karen Human Rights Group, 1995; Laroche & Hubbard, 1996). The non-governmental organisations have also claimed that the increased number of troops resulted in systematic violations of human rights in the area that the pipelines now traverse (EarthRights International & Southeast Asian Information Network, 1996: 2; Laroche & Hubbard, 1996). The alleged violations included relocations that the army carried out to enhance the military's control of the area by forcing villagers to live close to military camps or in other areas to which the army had an easy access (EarthRights International, 2000: 39-49; Karen Human Rights Group, 1996).

In sum, the arguments presented by the non-governmental organisations about corporate responsibility for alleged human rights violations in what later became the pipeline area have given rise to symbolic issues underpinned by different views about the temporal boundaries of corporate responsibility. While the non-governmental organisations have held Total and Premier Oil responsible because they believe that the Myanmar army was acting in furtherance of the pipeline projects, the companies have denied any responsibility for the violations that took place before they began their operations in the area.

6.4.2.3 Legitimate role of actors

The analysis of the cases suggested that symbolic issues also arise from the conflicting views held over the legitimate role of companies and other actors, particularly the host government. The debate on whether the case study companies should have continued their operations in Myanmar and Sudan illustrates how incongruent views over the legitimate role of companies can give rise to symbolic issues. The debate emerged from the calls made upon the companies to withdraw or suspend their operations in Myanmar and Sudan. Notably, in 2000, the British government asked Premier Oil to consider pulling out from Myanmar. Said Robin Cook, at that time the United Kingdom Secretary of State for Foreign and Commonwealth Affairs:

It is important that the company [Premier Oil] should consider withdrawing, because if it continued with its development it would

produce a revenue stream that would be available to buttress a regime that is in great difficulty (House of Commons Parliamentary Debates, 2000).

The calls for withdrawal reflected the increasing expectations placed on companies since the mid-1990s with regard to human rights. As discussed in Chapter 2, the scrutiny placed by non-governmental organisations on companies and developments of international human rights law showed that companies were expected to go beyond government regulation to promote the respect of human rights and to ensure that they were not complicit in human rights violations. Talisman described the changing boundaries of responsibility between companies, governments, and other actors in the following way:

Corporations, however, are increasingly being asked to step into roles that were once the domain of governments or international bodies such as the United Nations. Defining what is properly expected of a company needs to be more clearly articulated and more rigorously debated. (Talisman 2001b: 5)

Still, when responding to the calls for withdrawal, the case study companies noted that their investment in Myanmar and Sudan was in line with the policies of the United Nations, the European Union, and their home government which had not introduced sanctions that would have affected extractive companies (e.g., Premier Oil, 2000: 3; Total, 2002c: 4). Total, for example, stated that it followed the

positions of the United Nations, the European Union, and the French government when deciding where to invest:

Notre premier critère est de respecter la position de l'ONU, de l'Union européenne, et du gouvernement français. Nous acceptons de travailler dans un pays à la condition sine qua non que ces institutions légitimées y autorisent les investissements. (Total, 2002c: 4)

The position of the companies suggested that they saw governments and inter-governmental organisations as the actors that set policies on foreign investment and that they were unlikely to pull out or freeze their investment in a country in the absence of regulation to such effect by their home government or international organisations. Total explicitly stated that it was not the role of companies to decide whether a particular government was legitimate (du Rusquec, 2003; Total, 2002c: 4; Total, 2003c: 25). It also argued that there were organisations that were in a more suitable position than companies to influence governments, particularly on how the income generated from oil and gas projects should be distributed:

[I]t would constitute interference if an oil company were to presume to dictate how a country should spend its oil income but international organisations such as the World Bank are well placed to exert their influence and offer advice, which would be particularly welcome in the case of Myanmar (Total, 2003c: 25).

6.5 Summary

This chapter explored the nature of the human rights issues addressed by the case study companies in Myanmar and Sudan. It was first argued that human rights issues can be categorised into substantial and symbolic issues on the basis of their ontological nature. Accordingly, substantial issues involve policies, behaviours, and circumstances that affect the enjoyment of human rights or constitute a direct violation of the entitlements enshrined in the Universal Declaration of Human Rights, whereas symbolic issues involve incongruent interpretations that stakeholders make about policies, behaviours, and conditions related to the entitlements enlisted in the Universal Declaration. The distinction into substantial and symbolic issues reflects the way in which Mahon and Waddock (1992) divided responses to issues into substantial and symbolic responses even though this distinction has not been previously extended to issues.

A further analysis of the symbolic issues addressed by the case study companies showed that they were underpinned by inconsistent views between companies and other actors about (i) some objective conditions or (ii) the boundaries of corporate responsibility. The first type of inconsistency corresponds to what Wartick and Mahon (1994) referred to as factual gaps between perceptions of “what is”. The second type of inconsistency resembles what Wartick and Mahon (1994) called ideals gaps around incongruent arguments about “what should be”. A further analysis of the cases suggested that conflicting views over the boundaries of responsibility can relate to (i) geography, (ii) time, or (iii) legitimate role of different actors.

7 Human rights strategies

7.1 Introduction

This chapter identifies and explores the strategies that the case study companies pursued to address human rights issues in Myanmar and Sudan. The chapter begins with a review of how the companies' approach to human rights developed over the period of study. In line with the portrayal of human rights issues in Chapter 6, a distinction is then made between substantial and symbolic action and more specific strategies identified under each type of action. Overall, a total of five strategies are isolated from the activities carried out by the companies: (1) direct strategy, (2) indirect strategy, (3) information strategy, (4) leveraging strategy, and (5) stakeholder engagement strategy. The first two of these are forms of substantial action, while the last three represent symbolic action. The greater part of the chapter consists of the more detailed discussion of each of the five strategies. The interconnectedness and organisational mode of strategies are also examined. The chapter concludes with a summary of the main findings.

7.2 From silence to constructive engagement

7.2.1 Human rights in government relations

Chapter 6 showed that most human rights issues addressed by the case study companies in Myanmar and Sudan arose from the policies and behaviour of the host government. This is why the companies often referred to their policies on

government relations when they were called upon to use their influence to improve the situation of human rights in the two countries. A closer analysis of the companies' policies in this area shows that they changed over the period of research. In what follows, this change is described as a move from silence on human rights issues to constructive engagement with the host government.

The companies were initially reluctant to raise human rights issues with government authorities. Premier Oil, for example, stated in 1998 that it did not support any particular political party and that its discussions with host governments were confined to its business operations (Premier Oil, 1998: 14). Similarly, Lundin preferred to focus on its commercial mission and refrain from "getting involved in political affairs of a country" (Batruch, 2004). In line with the other companies, Total applied a global policy of political non-interference and neutrality, even though it was renowned for its diplomatic skills acquired through the recruitment of former diplomats (Aubert, 1999: 73; Total, 2002c: 85). Total's general policy of political non-interference and neutrality bore particular relevance to the situation in Myanmar where it was enforced by the view of the Total staff that the Myanmar government was a monolithic entity over which the company had little influence (Anderson et al., 2002: 20).

Over time, however, the companies became more willing to bring up human rights issues in their relations with government officials. Premier Oil, for example, had by 2000 started to seek ways in which it could raise the issue of human rights with the Myanmar authorities (Premier Oil, 2000: 3; Premier Oil, 2001: 10). The

change in the company's policy coincided with the time the UK government requested it to consider withdrawing its investment from Myanmar (House of Commons Parliamentary Debates, 2000). The company described its new position as follows:

These rights are to be protected and promoted throughout Premier Oil's business operations and in our relations with both business and local community partners. We will also use our legitimate influence to promote the protection of human rights outside of our areas of operation. (Premier Oil, 2001b: 5)

Premier Oil referred to this policy as constructive engagement. It involved the promotion of human rights through a dialogue with the host government and activities that addressed what the company did not "directly control" (Premier Oil, 2000: 22; Premier Oil, 2001a: 10). In Myanmar, these activities included the coordination of human rights seminars for government officials, members of the police, and military officers (Premier Oil, 2001a: 10; Premier Oil, 2000: 22).

Similarly to Premier Oil, Talisman adopted a policy of constructive engagement. In its first corporate social responsibility report published in 2000, the policy was explained as follows by Jim Buckee, CEO of Talisman:

In all countries where we operate, we believe we have a duty to advocate respect for human rights where there are abuses and we will strive to

ensure that in this regard our actions are scrupulously fair and that we lead by example. [...] In Sudan, where conflict and reported human rights violations are widespread, I believe our responsibility is great. (Talisman, 2000b: 7)

Also Total showed signs of becoming more active in expressing its stance on the political situation in Myanmar despite the lack of change in its general policy of non-interference and neutrality. For example, in 2003, Total expressed its concern over the arrest of Aung San Suu Kyi and the slow progress of the process of national reconciliation (du Rusquec, 2004; Total, 2003b: 4). Such action was encouraged by organisations that Total had asked to investigate the impact of its investment in Myanmar. Collaborative for Development Action, for example, warned that silence on the country's political situation and human rights violations could be perceived as support for the military government and its policies (Zandvliet & Fraser, 2003: 18). Similarly, Bernard Kouchner recommended after visiting Total's operations in the country that the company should openly express its support for democracy and human rights (BK Conseil, 2003). In 2002, Total explained the modification of its position in the following way:

TotalFinaElf participates in the economic development of host countries, respecting their cultures and without interfering in politics. We have no legitimate authority to recognize or condemn a specific regime or government. This political neutrality does not mean that we do not express

our point of view to national or local authorities on all issues, particularly human rights, of concern to us [...]. (Total, 2002c: 85)

Similarly to Total, Lundin maintained its general policy of non-interference throughout the period of study, but made an exception to this policy by asking Carl Bildt, a former UN special envoy for the Balkans and a member of Lundin's board, to have discussions with the host government and other parties to the conflict in Sudan. Bildt's task was to show Talisman's support for the peaceful resolution of the situation in the country: "the company needed to make clear to the protagonists in the conflict that it saw peace as the best means to ensure sustainable oil operations" (Batruch, 2004).

In sum, all the companies were initially reluctant to raise human rights issues with the Myanmar and Sudanese governments. Over time, however, all the companies altered their position in some way. By 2000, Premier Oil and Talisman were explicit about their policy of constructive engagement and support for human rights. Also Total and Lundin altered their position by taking measures to promote the respect for human rights in their relations with government authorities despite their unwillingness to modify their general policy of political neutrality and non-interference.

7.2.2 Role of CSR policies and systems

The human rights controversy surrounding the operations in Myanmar and Sudan contributed to the launch of corporate social responsibility policies and

management systems in all the companies studied. Premier Oil, for example, acknowledged that its motivation to develop and implement policies on corporate social responsibility grew when it became the operator of the Yetagun project: “Premier’s focus on corporate social responsibility (CSR) intensified in 1997 when it became a significant operator of production and developments projects in South East Asia” (Premier Oil, 2002: 11). Consequently, it formulated specific policies on human rights, political neutrality, and constructive engagement in conjunction with more general principles on responsible business conduct. It also set up a corporate social responsibility programme and conducted a social audit of its operations and activities (Premier Oil, 1998; Premier Oil, 2001b: 2, 9; Premier Oil, 2002b).

Similarly to Premier Oil, Talisman adopted new operating principles and management structures in response to the human rights concerns that arose in connection with its investment in Sudan (Talisman, 2000b: 5). Wrote the Chairman of the Board in 2000: “Choosing to operate in a country with internal conflict amplifies the need for rigorous commitment to and disclosure of performance against corporate social responsibility principles” (Talisman, 2000b: 5). The need became stronger when a shareholder resolution asked the company’s management to ensure that Talisman complied with the International Code of Ethics of Canadian Business (Talisman, 2000b: 6). As a result, Talisman endorsed the Code and translated it into more specific operating principles relevant for the situation in Sudan (Talisman, 2000b: 8). A related management system with identifiable objectives and target dates was also put in place (Talisman, 2000b: 9).

Also Lundin responded to the negative publicity attracted by its investment in Sudan by adopting a code of conduct, organising an awareness session on human rights within the company, and disseminating a management primer on human rights (Batruch, 2004). In difference to Premier Oil and Talisman, it did not, however, start reporting about its activities in the area of corporate social responsibility with the same level of detail and regularity than the other companies.

In comparison to the other case study companies, the controversy in Myanmar played a less important role in the introduction of corporate social responsibility policies within Total because the company operated in a much higher number of countries than the other companies. Corporate social responsibility was announced a high priority for Total after it merged with Elf Aquitaine in 2000 (Total, 2001: 12). Rather than a way to respond to the human rights concerns in Myanmar, the importance given to corporate social responsibility could therefore be seen as a way to counter the negative reputation of Elf that had been involved in one of the worst corruption scandals of the French history, *l'affaire Elf*. The new company also revised its code of conduct, created an ethics committee, and initiated a process to develop business-wide commitments, guidelines, and management systems to be able to measure and report about its ethical performance (Total, 2001: 12; Total 2002c: 7). It was in this context that the company justified its presence in Myanmar. Previously, it released little

information about its policies in the country, even though it had applied a code of conduct that was adapted to local circumstances in Myanmar (Total, 2003b: 7).

7.2.3 Commitment to human rights

All the case study companies made an explicit commitment to human rights over the period of research. For example, Total expressed its commitment to human rights through a code of conduct adopted in October 2000. The code stated that wherever the company operates, it adheres to the principles expressed in the Universal Declaration of Human Rights, the treaties of the International Labour Organisation, and the OECD Guidelines for Multinational Enterprises (Total, 2002b). Total affirmed this commitment to human rights and international standards in its first corporate social responsibility report published in 2002 by pledging to comply with the principles and regulations of the United Nations, the European Union, and the French government when considering investment in a particular country (Total, 2002c: 86). In the same report, it stressed that its investment in Myanmar did not violate any regulation introduced by these institutions (Total, 2002c: 88).

As already seen, Premier Oil formulated general business principles that defined the company's view on its role in society soon after it became the operator of the Yetagun project in 1997 (Premier Oil, 1998: 14). Similarly to Total, it made reference to government regulation while explaining its view on responsible business:

We believe that the high standards of employment and welfare we set are seen as an example of what can be achieved and what is globally acceptable. And we pursue business opportunities by formulating an active non-political strategy that takes into account both the UK's and EU's human rights policies. (Premier Oil, 1998: 14)

Moreover, in its human rights policy, Premier Oil referred to the Universal Declaration of Human Rights and international labour standards:

The Premier Oil Human Rights Policy is based on the fundamental rights pronounced in the Universal Declaration of Human Rights and is guided by those rights enshrined in the core labour conventions of the International Labour Organisations (Premier Oil, 2001b: 5).

Similarly to Total and Premier Oil, Talisman and Lundin also made a commitment to operate in line with international standards on human rights, but in difference to the companies operating in Myanmar, they did not seek to justify their investment in Sudan in relation to the position of their home government (Batruch, 2004; Talisman, 2000b: 4). Instead, Talisman made an explicit commitment to support principles of the Universal Declaration of Human Rights (Talisman, 2000b: 4). It also introduced the Sudan Operating Principles that were based on international standards on human rights and corporate social responsibility (Talisman, 2000b: 8). Similarly, the Code of Conduct adopted by Lundin was based on documents in the area of corporate social responsibility

rather than policies of its home government (Batruch, 2004). In sum, all the companies expressed their commitment to human rights in connection with their broader policies on corporate social responsibility.

7.3 Corporate human rights strategies

The analysis of the cases suggests that the activities carried out by the companies to address human rights issues can be separated into five different strategies: (1) direct strategies, (2) indirect strategies, (3) information strategies, (4) leveraging strategies, and (5) stakeholder engagement strategies. The strategies are showed in Table 7.1 below. The first two of them involve activities that companies carry out to have an impact on material conditions that give rise to human rights concerns, while the other three are directed at influencing views and perceptions that stakeholders have of physical conditions or more abstract ideas relating to human rights. The first two strategies are therefore used to address substantial issues as defined in the previous chapter, whereas the last three strategies are pursued to attend to symbolic issues (see 6.2).

The strategies also mirror the way in which Mahon and Waddock (1992) divided corporate responses to social issues into substantial and symbolic action. As seen in the literature review, Mahon and Waddock (1992) defined substantial action as "definitive moves that attempt to actually change or deal with the existing situation in specific, identifiable ways" (p. 27). In contrast, symbolic action pertains to the framing of an issue from the viewpoint of the organisation or its key constituents: "this is fundamentally a process of reinterpretation of the

interpretation of events proposed by other actors" (p. 27). As seen in the literature review, the distinction into substantial and symbolic responses resembles the way in which other researchers have described responses to issues (e.g., Arcelus and Schaefer, 1982; Buchholtz, 1992: 510; Dutton & Ottensmeyer, 1987; Nigh & Cochran, 1987; Sethi, 1979; Strand, 1983). Strand (1983), for example, classified responses to social demands based on whether they involve changing the environment or affecting the constituent demands placed on companies.

TABLE 7.1. Human rights strategies

Target	Strategy	Focus	Description
Objective conditions (substantial issues)	Direct strategy	Action	Affect objective conditions directly through concrete action
	Indirect strategy	Influence	Affect objective conditions through persuading another actor to take concrete action
Stakeholder views and perceptions (symbolic issues)	Information strategy	Information	Affect stakeholder views through the provision of information and viewpoints
	Leveraging strategy	Authority	Affect stakeholder views through appeals to authority or verification measures
	Stakeholder engagement strategy	Rapport	Affect stakeholder views through two-way communication aimed at increasing mutual understanding between companies and their stakeholders

The proposed strategies do not only reflect the distinction on substantial and symbolic action, but also provide new insight on the type of action that companies can take to influence social issues. More specifically, the analysis of the cases shows that what Waddock and Mahon (1994) called substantial responses can be divided further into direct and indirect strategies. Accordingly, direct strategies involve activities that have a direct impact on material conditions. For example,

all the companies pursued a direct strategy by running a community development programme aimed at improving the social and economic conditions in the local communities in which they operated in Myanmar and Sudan (see 7.4.1). In distinction to direct strategies, indirect strategies involve attempts to influence material conditions indirectly through persuading other actors to take direct action. For example, the case study companies employed an indirect strategy by asking the government to put a stop to the human rights violations perpetrated by the government provided security forces (see 7.5.1).

The analysis of the cases also sheds new insight on symbolic action by identifying three strategies that can be carried out under symbolic action: (1) information strategies, (2) leveraging strategies, and (3) stakeholder engagement strategies. The first two strategies do not necessitate two-way communication between companies and other actors. First, information strategies involve attempts to influence stakeholder views by providing stakeholders with relevant information and viewpoints that can be communicated through channels that do not provide any opportunity for response (e.g. corporate reports). Leveraging strategies pertain to attempts to increase the trustworthiness of the information and viewpoints provided by companies through verification measures or appeals to other actors who possess some form of authority. These strategies are pursued to address the lack of trust that some actors have in companies that are seen to have a vested interest to present situations from their own perspective. Similarly to information strategies, leveraging strategies do not require interaction between companies and the target audience. Finally, stakeholder engagement strategies involve attempts to

increase mutual understanding between companies and their stakeholders through two-way communication. In difference to the other strategies, stakeholder engagement strategies are relational rather than issue-specific; they aim to create a rapport or a sense of understanding between companies and their stakeholders with the expectation that this rapport is useful in addressing any human rights issues that may arise.

The analysis of the cases also suggests that the organisational mode of strategies varies from internal development to different forms of collaboration, as explained in section 7.9 below. For example, Total's socio-economic programme in the pipeline region in Myanmar was managed by company staff, whereas Premier Oil delivered a similar programme in collaboration with Save the Children US. What is more, evidence from the cases shows that the proposed strategies are not mutually exclusive; companies can use more than one of them to address a particular issue. The interconnectedness of strategies is discussed in section 7.8 below.

7.4 Direct strategies

Direct strategies involve concrete action aimed at having a direct impact on the objective conditions that give rise to human rights issues. They therefore represent what Mahon and Waddock (1992) called substantial action (see 7.3). The case study companies engaged in a number of activities to pursue direct strategies. The main ones are listed in table 7.2 below. As can be seen from the table, most of the activities addressed one of the substantial issues identified in Chapter 6. The

monitoring of the human rights situation in the areas of operations was an exception. Unlike the other activities pertaining to direct strategies, the monitoring was not aimed at having a direct impact on material conditions, but to gain a better understanding of the state of human rights. It is still a direct strategy because it is concerned with the actual situation of human rights rather than the way in which some stakeholders may perceive the situation.

In general, the activities that the case study companies carried out under direct strategies were relatively similar. For example, all the community programmes set up by the companies focused on the areas of health, education, and economic development (Lundin, 2000: 14; Talisman, 2000b: 23; Talisman, 2001b: 22-23; Total, 2002d: 16; Total, 2003c: 19). As an exception, the ways in which the companies monitored the human rights situation were relatively informal and seemed to vary more than the other forms of direct strategy. This informality and unusually broad range of practices may have reflected the novelty of the practice for companies. Talisman, for example, found that the lack of useful precedents made the establishment of a monitoring system challenging (Talisman, 2001b: 15).

In what follows, the activities that the case study companies engaged in to address the main human rights issues connected to their operations in Myanmar and Sudan are discussed. As will be seen, all the companies set up community programmes to improve the quality of life in local communities. All of them also monitored the human rights situation in their areas of operations in some way and most of them

engaged in philanthropic activities to attend to specific problems in the area of health or unprivileged groups outside their areas of operations. Total and Talisman also assisted victims of human rights violations perpetrated by the government provided security forces. In addition to these activities described in further detail below, the companies pursued a number of other activities that can be regarded as direct strategies, but were not linked to the main human rights issues as identified in Chapter 6. These activities included measures that were aimed at ensuring that people whose land use was affected by the operations were appropriately compensated (e.g., Talisman, 2001b: 16). They also included policies through which the companies sought to make sure that local inhabitants were employed in their projects (e.g., Talisman, 2000b: 26).

TABLE 7.2. Examples of direct strategies

Issue addressed	Direct strategies	Specific activities
Quality of life in local communities	Community development programmes	▪ Projects in the area of health
		▪ Educational projects
		▪ Measures to support economic development
Behaviour of security forces	Assistance of human rights victims	▪ Facilitation of a relocation of a village
		▪ Monetary and in-kind contributions to victims of forced labour
		▪ Skills training in refugee camps
---	Human rights monitoring	▪ Human rights monitoring through company staff
		▪ Human rights monitoring through external actors
Social and economic rights outside areas of operations	Philanthropic projects	▪ Various projects in the area of medical care and education

7.4.1 Community development programmes

7.4.1.1 Programme focus and content

All the companies carried out community programmes that included projects in health care, education, economic development, and infrastructure to improve social and economic conditions in the local communities in which they operated in Myanmar and Sudan (Lundin, 2000: 14; Talisman, 2000b: 23; Talisman, 2001b: 22-23; Total, 2002d: 16; Total, 2003c: 19). In addition, Talisman and Lundin also provided some emergency relief in the vicinity of their concession areas in Sudan (Batruch, 2004; Talisman, 2000b: 23). The social and economic activities carried out by Total in Myanmar illustrate the content of the socio-economic programmes. Total's programme comprised four components of education, medical and health care, economic development, and improvement of infrastructure (Total, 2002d: 16; Total, 2003c: 19). With regard to education, the programme enabled the construction or renovation of 50 schools (Total, 2002d: 16; Total, 2003c: 20). It also provided schools with physical and educational material and paid towards the salaries of the teachers (*ibid.*). In addition, it awarded scholarships to young people who wished to continue their studies in the capital. In the area of health, the programme renovated a hospital, built health centres, recruited doctors, and trained personnel to treat patients in the pipeline area (Total, 2002d: 17; Total, 2003c: 21). It also supplied medicine and equipment and carried out a series of campaigns on vaccination, hygiene, sanitary education, and malaria (*ibid.*). Some 800 wells were drilled or renovated to improve the quality of drinking water in the area (*ibid.*). In terms of economic development, the socio-economic programme financed projects aimed at developing economic

activities including animal farming and crop production (Total, 2002d: 17; Total, 2003c: 21). Some of these activities were supported through a system of micro-credits (*ibid.*). Finally, Total constructed, renovated, and maintained roads and bridges as well as community facilities such as churches, assembly halls, and football fields (Total, 2002d: 17; Total, 2003c: 22).

The design of the socio-economic programmes was based on studies about the conditions in the local communities and consultations with various stakeholders. Premier Oil, for example, identified the objectives of its programme on the basis of an assessment of the social and economic conditions in the pipeline area, as a company manager explains: "we looked at our impact assessment and asked what we would like to achieve" (Jones, 2003b). Similarly, Total's programme in Myanmar was designed on the basis of two surveys on social, economic, and ethnic conditions in southern Myanmar and consultations with local inhabitants (Total, 2003c: 16). In the same way, Talisman based its community programme in Sudan on three independent needs assessment studies it had commissioned and discussions with the representatives of the local communities and development partners in Sudan and North America (Talisman, 2000b: 22). Also Lundin consulted various local stakeholders to identify areas where it could make a contribution through its community programme (Lundin, 2000: 14; Batruch, 2004).

Members of the local community played a role in the management of the programmes in two main ways. First, most of the teams that were set up to

implement the programmes included local inhabitants (Anderson et al., 2002: 8; Talisman, 2000b: 23; Total, 2003b: 17). Some of the programmes also had structures through which villagers could participate to the design and management of individual projects. Total, for example, set up village communication committees in each of the villages belonging to its community programme to facilitate regular contact with the villagers and to assign responsibility for decisions on grants and other aspects of the programme delivery to the village level (Anderson et al., 2002: 13-14). Premier Oil's community programme had similar structures that enabled local villagers to oversee the delivery of the programme in each of the participating villages (Premier Oil, 2001b: 32, 36). The management of the community programmes is discussed in more detail in section 7.9 below.

7.4.1.2 Criticism of the programmes

From time to time, human rights activists criticised the community development programmes as attempts to restore corporate reputation without addressing the main human rights issues associated to the companies' operations in Myanmar and Sudan (Christian Aid, 2001: 29; EarthRights International, 2000). The community programmes were viewed in a negative light particularly when companies were seen to present information about them in response to concerns about other types of human rights violations:

While the companies claim that the development projects are for the local people alone, in reality they are motivated by self-interest. [...] A few

extra hospitals do little to help the men and women who are raped, tortured, and killed, and a few more schools do not stop children from being enslaved as laborers and military porters. (EarthRights International, 2000: 124; see also Christian Aid, 2001: 29)

The community development programmes set up by Talisman and Lundin in Sudan were also criticised because the government prevented the United Nations and non-governmental organisations from delivering humanitarian aid in the same area where the programmes were run (Christian Aid, 2001: 12-13; United Nations, 2001). The UN Special Rapporteur commented the situation in 2001 as follows: “In spite of the infrastructures provided by the oil companies to the local population in oil-rich areas, oil exploitation has continued to have a negative impact on the human rights situation” (United Nations, 2001). Similarly, said an interviewee to Christian Aid with regard to Talisman’s community development programme in Sudan: “It is not a question of how many schools are built or how adequate they are. [...] What good are these schools to you when you can be shot, burned and killed in the villages?” (Christian Aid, 2001: 29). This criticism demonstrates that company efforts to contribute to the realisation of social and economic rights can be viewed as futile in a situation where basic physiological and safety needs are not being satisfied. It also shows that in order to avoid criticism by human rights groups, companies are expected to address the main human rights issues associated with their operations in a particular country.

The community development programmes run by Talisman and Lundin Oil in Sudan were also criticised because the government allegedly used them to back up its campaign of discrimination and displacement of southerners (Christian Aid 2001: 27; Gagnon & Ryle, 2001; Harker, 2000). The Harker commission, for example, reported that Arab patients were more welcome than other inhabitants at the hospital that Talisman helped to built in Heglig (Harker, 2000). Moreover, because the schools, clinics, wells, and other facilities built by the companies were located in garrison towns rather than in rural areas, they were argued to encourage the patterns of displacement (Gagnon & Ryle, 2001). It was also alleged that the programmes enabled northerners to settle in the area in place of southerners that had been forced to move, which is why the community programmes were sometimes referred to as “programmes of displacement” (Christian Aid 2001: 27).

The criticism presented about the community programmes in Sudan shows that the human rights issues faced by companies can be interconnected and that company efforts to contribute to the realisation of one set of rights can, or can be seen to, exacerbate the violation of other rights even when “the company seem to want to do what is right” (Harker, 2000). The criticism also shows the difficulty of addressing human rights concerns in a situation where the government is not respecting its human rights obligations. In such a situation, company efforts to address human rights may become tools in the pursuit of other objectives by the host government that is not abiding by international human rights standards.

7.4.2 Assistance of human rights victims

Total and Talisman provided assistance to human rights victims that came from their areas of operations. This assistance addressed the behaviour of government provided security forces by helping people that had been subjected to human rights violations, but it also contributed to the quality of life in the local communities. Most of the assistance was provided by Total, but the skills-training project that Talisman sponsored in two camps for internally displaced people in Khartoum can also be seen as assistance of human rights victims as many of the residents in the camps came from the areas in which the companies operations were located in Sudan (Talisman, 2001b: 23).

Total assisted victims of human rights violations in two main ways. First, in 1997, it facilitated the relocation of the village of Michaunglaung that the army had forcibly moved in the area that later fell inside the pipeline “corridor”. Despite the fact that Total had not started its operations in the area at the time the village had been relocated, the company assisted the return of the villagers by giving 10,000 kyats to each family that wished to move back to the old village that had been destroyed (Commission for Justice and Peace, 1998; du Rusquec, 2003; Total, 2003c: 15). According to Unocal, a partner in the Yadana project, many families still chose to stay in the new village because of its more convenient location (Unocal, 2002).

Around the same time that Total assisted the return of the villagers of Michaunglaung to their old village, it also provided assistance to the villagers who

had been subjected to forced labour or whose property had been appropriated by the Myanmar army in the pipeline area (du Rusquec, 2003; Total, 2003c: 15). This assistance involved (i) monetary contributions that were calculated as if the concerned individuals had been employed in a normal way and (ii) in-kind contributions such as boats and buffalo carts to replace the property requisitioned by the Myanmar army (du Rusquec, 2003; Total, 2003c: 15, 26). As will be seen in section 7.8.2 below, the assistance gave rise to new human rights issues because the Myanmar army confiscated some of the money that Total had given to the villagers. As a result, the company faded out its assistance and requested the army to pay compensation to the people that had suffered from human rights violations (du Rusquec, 2003; Total, 2003c: 15, 26).

The activities carried out by Total to assist victims of human rights violations became part of the debate on the role and responsibility of foreign companies in Myanmar. On the one hand, organisations critical of foreign investment in the country argued that the fact that Total had assisted victims of human rights violations proved that the company knew about and was responsible for the violations (e.g., EarthRights International, 2000: 82). On the other hand, Total denounced that its assistance amounted to assuming responsibility for the violations (du Rusquec, 2003). According to the company's general manager in Myanmar, the company assisted the victims because it wanted to help people who had suffered:

Notre filiale s'est trouvée dans une situation difficile et elle a essayé de trouver une solution humaine et efficace pour d'une part que cela ne se reproduise plus et d'autre part pour aider les gens qui avaient souffert. (du Rusquec, 2003)

Moreover, Total asserted that providing victims of human rights abuses with financial support was an act that signalled condemnation rather than compensation:

These humanitarian gestures were not compensation, since neither Total nor MGTC [the joint venture for transportation of gas] was even indirectly the cause or beneficiary of the forced labour, but were intended to send a strong message that forced labour was unacceptable and to oblige the Army to change the way it operated (Total, 2003c: 15).

Nevertheless, the arguments presented by the non-governmental organisations and Total demonstrate that the activities carried out by companies can exacerbate the controversy surrounding their operations; this is discussed in more detail in section 7.8.2 below.

7.4.3 Human rights monitoring

All the companies made use of their existing staff to monitor the human rights situation in the vicinity of their areas of operations. In addition to their own monitoring, some of the companies asked independent organisations and

individuals to investigate the human rights situation in their areas of operations. Both types of human rights monitoring have a connection to symbolic action as explained in section 7.6 below.

Total began monitoring the human rights situation in the pipeline area in Myanmar when it received the first reports about incidents of forced labour in 1995. Subsequently, it asked the staff of its socio-economic programme to "closely monitor relations between the villagers and the Army to prevent abuses, [and] to intervene immediately if any occurred [...]" (Total, 2003c: 15). The staff of the socio-economic programme was in regular contact with many villagers because, unlike other staff who lived in a company compound, the staff of the socio-economic programme lived and worked in the villages in the region (Anderson et al., 2002: 14; Total, 2003c: 8; Zandvliet & Fraser, 2003: 9). The programme staff also monitored the human rights situation through the communication officers who had regular discussions with the committees set up by the company at village level (Anderson et al., 2002: 14; Total, 2003c: 13).¹⁰ The company staff could also make observations about the human rights situation in the village-wide meetings that were organised on a monthly basis (Anderson et al., 2002: 13).

In addition to its own staff, Total asked a number of external organisations and individuals to investigate and report about its operations and their impact in Myanmar. In 1997, it together with its joint venture partner Unocal invited the

Commission for Justice and Peace, an organisation based in Bangladesh, to visit the Yadana project (Unocal, 2002). Two persons from the Commission subsequently reported about Total's socio-economic programme and the situation in the pipeline area after visiting a number of villages in the area (Commission for Justice and Peace, 1998). In 2002, Total commissioned Collaboration for Development Action, a US based organisation, to examine its operations and their impact in Myanmar (du Rusquec, 2004). The consultancy consequently published three reports based on field visits and interviews with a significant number of people inside and outside the country (Anderson et al., 2002; Total, 2003c: 28; Zandvliet & Fraser, 2003; Zandvliet & Fraser, 2004). Moreover, in 2003, Total invited Bernard Kouchner, a former French minister and the founder of Doctors without Borders, to visit and report about Total's impact in Myanmar (du Rusquec, 2004). In his following report, Mr. Kouchner braced Total's socio-economic programme and recommended constructive engagement with the Myanmar government (BK Conseil, 2003).

Premier Oil observed the situation of human rights in the pipeline area through its employees, particularly its doctor who visited villages in the area to "talk to people there and find out things from the company point of view" (Jones, 2003b). The villagers did not, however, have a direct access to Premier Oil staff at the village level because the company's social and economic activities in the local communities were run by Save the Children US (Premier Oil, 2001b, 36, 37).

¹⁰ The use of communication officers has been criticised because they were seconded from the state-owned MOGE. Even so, it was in this way that Total first learned about human rights violations in the pipeline area (du Rusquec, 2003; Total, 2003c: 15).

Similarly to Premier Oil, Lundin encouraged some of its employees to report about any possible violations they observed (Batruch, 2004).

In addition to its own monitoring, Premier Oil also collaborated with two external organisations to monitor the human rights situation in the pipeline region. First, it received information about human rights in specific villages through Save the Children that run the company's socio-economic programme in the pipeline area (Jones, 2003b). What is more, it collaborated with an internationally recognised non-governmental organisation specialised on human rights. This organisation regularly visited the pipeline area and consequently made recommendations to the company:

In fact, we have for the last two years that kind of monitoring in place that we feel comfortable that they are not using forced labour in this area. [...] It is confidential. We have a system in place. As I mentioned earlier, it was arranged with a credible international NGO. This was done at no cost to us. People typically went to this area. They came down several times a year and they went around and talked to whomever they wanted to and made recommendations based on their findings. (Jones, 2003b)

Talisman's system of human rights monitoring was overseen by its human rights field coordinator who was responsible for actively searching for information about the situation of human rights in the concession area and maintaining a related system of records (Talisman, 2000b: 7, 18-19). The field coordinator also submitted a monthly report to the general manager in Sudan (*ibid.*). The incidents

that were recorded and investigated ranged from inappropriate dismissal to murder and were categorised as to their seriousness and connection to Talisman's operations (Talisman, 2001b: 14). Some of the incidents were subsequently raised with government authorities (Talisman, 2001b: 15; also see 7.5.1). In addition to this monitoring, Talisman carried out some other activities that could be regarded as human rights monitoring. For example, it observed the use of the Heglig and Unity airstrips because of concerns about their military use. This monitoring involved the recording of the number, type, and user of each aircraft using the airstrips (Talisman, 2000b: 25). Talisman also monitored the usage of the hospital it helped to fund in Heglig against concerns about patient discrimination based on ethnicity and religion (*ibid.*). Finally, it investigated allegations of displacement in the concession area by interviewing villagers in the area and commissioning a satellite photo study covering the period from 1965 to 2000 in what it considered as its main operating areas (Talisman, 2001b: 16).

7.4.4 Philanthropic projects outside the areas of operations

Most of the companies engaged in philanthropic activities to improve the economic and social conditions outside their areas of operations. These activities focused on a specific problem in the area of health or on a particular unprivileged group. Total, for example, provided financial support for Helen Keller International which carried out blindness prevention programmes in different regions in Myanmar while Premier Oil sponsored a week of training in 1999 for eye surgeons and other health professionals in the Yangon region (Premier Oil, 1999a; Total, 2004b: 113). In Sudan, Talisman's employees assisted schools and

education projects in the capital through employee-sponsored and coordinated Project HOPE (Talisman, 2001b: 23). In addition to these projects in the areas of health and education, the companies also carried out activities to support the social and economic rights of specific unprivileged groups. For example, in Myanmar, Total supported a number of orphanages in the Yangon area through financial aid and employee volunteering (Total, 2003b: 23). The philanthropic projects did not give rise to similar criticism than the community development programmes because they were not directly linked to company operations or the criticism presented about foreign investment in Myanmar and Sudan.

7.5 Indirect strategies

Indirect strategies are concerned with attempts to persuade other actors to take direct action regarding some objective circumstances that give rise to human rights concerns. Similarly to direct strategies, indirect strategies therefore represent what Mahon and Waddock (1992) called substantial action (see 7.3). The case study companies mainly pursued indirect strategies to affect government policy and behaviour, but indirect strategies can also be employed to influence the behaviour of other actors such as business partners and contractors. In what follows, the indirect strategies pursued to address the main human rights issues in Myanmar and Sudan are described in more detail.

7.5.1 Raising human rights concerns with government officials

All the companies raised human rights concerns with government officials in order to affect the way in which the security forces behaved while providing security for company operations. In this way, the companies employed an indirect strategy to influence the behaviour of security forces in the areas of operations. As will be seen, the ways in which the companies did this varied to some degree. Some used their existing connections to bring particular incidents of human rights violations to the knowledge of government officials, while others took a more relational approach and sought to sensitise key officials within the government to human rights.

As seen before, Total first learned about incidents of forced labour in the pipeline region in late 1995 (du Rusquec, 2003; Total, 2003c: 15). At the time, the Yadana consortium had not yet started building its pipeline, but Total was informed about the incidents of forced labour through the village communication committees that it had set up as part of its socio-economic programme (du Rusquec, 2003; Total, 2003c: 15). The manager of Total's subsidiary in Myanmar subsequently contacted senior government officials in the capital to insist that if the army needed to employ local labour, villagers should be paid and consent to work for the army:

Le responsable de notre filiale a fait savoir au plus haut niveau et par l'intermédiaire de notre partenaire local, MOGE qui nous a toujours

soutenu, qu'il n'était pas question que l'armée se comporte mal dans la zone dans laquelle nous travaillions et que, si elle avait besoin de collaborateurs civils, elle devait employer des gens volontaires et convenablement payés. (du Rusquec, 2003)

Following the first incidents of forced labour that Total became aware of, the company established a system through which the human rights situation in the pipeline area was monitored and possible violations brought to the knowledge of the Myanmar authorities. Accordingly, any alleged incident of forced labour or other human rights violations were first investigated by the staff of Total's socio-economic programme. If confirmed, Total's general manager based in Yangon brought it up with government authorities by writing a letter to the Minister of Energy who liaised with other officials in the capital. At the same time, the site manager requested a representative of the state-owned MOGE to raise the issue with the commander of the army in the pipeline area. The army was also asked to take corrective action to compensate the human rights victims by, for example, paying the villagers that had been forced to work for the army. (Anderson et al., 2002: 9-10; Zandvliet & Fraser, 2003: 15.)

Similarly to Total, Premier Oil raised incidents of human rights violations with officials in Yangon and at MOGE, as acknowledged by the Premier Oil CEO, Charles Jamieson (Macalister, 2000). Yet, Premier Oil approached relations with the Myanmar government somewhat differently from Total. Instead of establishing structures through which particular incidents could be brought to the

attention of government officials, Premier Oil sought to forge informal and formal contacts with government authorities so that it could discuss human rights issues with increasing openness (Jones, 2003a). As a result, human rights issues gradually become easier to raise and talk about (Jones, 2003a).

Total was less active than Premier Oil in establishing contacts with Myanmar officials outside formal business connections because Total staff tended to view the government as "a monolithic entity over which the company has no influence so that there is little point to engage positively" (Anderson et al., 2002: 20). Instead, Total highlighted the role of state-owned MOGE in influencing the behaviour of the army (e.g., Total, 2003c: 15):

The credit for this [decreased number of incidents of forced labour reported to Total] goes to [...] the ongoing support given to Total by its partner MOGE, which fully adhered to the co-venturers' determination to respect and promote human rights in the pipeline region and worked effectively with the Army to achieve this. (Total, 2003c: 15)

Similarly to Total and Premier Oil, Talisman raised concerns about human rights with government officials in Sudan. These concerns included the bombing of civilians, human rights monitoring in the concession area, access to humanitarian aid, child soldiers, the peace process, and the use of oilfield infrastructure and revenue from oil (Talisman, 2000b: 15-16, 28-29; Talisman, 2001b: 15-17). Talisman also encouraged the government to comply with its responsibilities in

relation to the Universal Declaration of Human Rights (Talisman, 2001b: 17). The human rights issues were raised by Talisman's senior management in discussions with government officials that included the president al-Bashir and the ministers of energy, foreign affairs, interior and defense (Talisman, 2000b: 16; Talisman, 2001b: 25). The CEO of the company personally engaged in some of the discussions:

In the past year I have personally raised the importance of upholding international standards for human rights and business conduct as well as the need for a more equitable distribution of the benefits of oil development to each of these groups (Talisman, 2000b: 7).

Talisman also corresponded with government officials and was in touch with the Sudanese embassies in North America (Talisman, 2001b: 19). Another way in which the company raised issues relating to human rights was through an agreement that it drafted regarding the provision of security for the GNPOC project (Talisman, 2000b: 15). The agreement concerned guidelines on the behaviour of security forces and the use of oilfield infrastructure as well as the investigation by the GNPOC joint venture of any alleged violations (Talisman, 2000b: 13, 15). Despite its efforts, Talisman was not able to persuade the Sudanese government to sign the agreement because the government viewed the provision of security as "the prime responsibility and prerogative of governments" and not an issue that was "appropriate to be addressed by a company" (Talisman, 2001b: 17).

Also Lundin raised human rights issues in its discussions with government authorities. These discussions focused on the situation in its concession area where the Sudanese forces had made attacks on civilians. Representatives of the company expressed their discontent with offensive attacks and conveyed the view that security could only be achieved with the support of the local community. Lundin also advocated unrestricted access for humanitarian organisations, particularly the Operation Lifeline Sudan. These views were communicated to government authorities including the President, his peace adviser, and several ministers as well as the main representative of the local Nuer community by one of Lundin's board members, Carl Bildt who was also former Swedish prime minister and UN envoy for Balkans. Bildt also met with the representatives of the countries that acted as peace mediators. His view was that the mediators should help the parties to the conflict to determine their minimum requirements for peace. (Batruch, 2004.)

7.5.2 Human rights training

In addition to discussing human rights issues with government officials, Premier Oil provided human rights training for civil servants, members of the police force, and army officials in Myanmar to affect the behaviour of the army in the pipeline region. The first human rights seminar took place in 2001 and altogether eight seminars were held (Premier Oil, 2001b; Premier Oil, 2002b: 46). The idea for the human rights seminars arose from private discussions with officials representing the Australian government in Myanmar:

They [the seminars] came about through in a roundabout way from conversations with the Australian ambassador who was himself thinking about doing something like that. Their audience were the ministerial people, people from immigration, home affairs, justice department, etc. The audience we were interested in was the military. (Jones, 2003b)

The aim of the human rights training was to affect government policy and the behaviour of the Myanmar army (Premier Oil, 2001a: 10; Premier Oil, 2000: 22; Sorrell, 2003), as described by a Premier Oil manager:

The Australian government could not train the military because that was the government policy. They could not work with the military. We were pretty much only interested in the military. (Jones, 2003b)

Some of the training seminars were specifically targeted at the soldiers that provide security for the pipelines:

We took some of the local people, Red Cross and a Law Professor from Yangon University, who went to the course and then became trainers. We had a human rights workshop in the pipeline area in Burmese language. The same content but in local language. Our need was slightly different because we needed to show these soldiers in the pipeline area that these are the rules. That was what we were working towards. (Jones, 2003b)

We sometimes run workshops on humanitarian law for law enforcement officers which had nothing to do with anybody else. (Jones, 2003b)

Other seminars sponsored by Premier Oil were aimed at improving the awareness and knowledge on human rights at a more general level:

The Burmese government now has a structure of a human rights committees with a number of sub-committees. Maybe 8 or 9 sub-committees. What we tried to do between the two of us was to build capacity for each of these sub-committees. (Jones, 2003b)

Premier Oil also sought to coordinate the seminars with other actors that were providing similar training:

The Australians were supportive. It complemented their own workshops. Now they have suspended them. But at one stage we were working closely with the Australians where we run a workshop on socio-economic cultural rights. Their workshops would benefit from that. They would not have to cover this area again. We would have very much the same audience and also military people. (Jones, 2003b)

The human rights seminars sponsored by Premier Oil were designed and run by consultants that had previously been involved in the organisation of similar seminars in Myanmar and elsewhere in the world:

So he [the Australian ambassador] put us in touch with people who run their workshops, the Australian human rights commissioner who retired at that time. We struck a deal that he would work for us. They mainly structured the workshops. They worked around the world, they work in Indonesia, Bosnia, and everywhere where there is conflict. They designed the workshops. [...] We had very little input into the curriculum. It wasn't designed by us. We are not specialists. We just went to them and said this is what we need and they went away and designed it. (Jones, 2003b; see also Sorrell, 2003)

In addition to specifying the objectives of the training, Premier Oil also secured government's approval for the seminars.

What we did was we went to the government and got their ok. This is the audience we want. We pay for it. (Jones, 2003b)

7.5.3 Expressions of concern over specific incidents

In addition to the human rights concerns arising from the behaviour of the army in the areas of operations, Total and Premier Oil were in contact with government officials in Myanmar to express their concern over a number of high-profile

human rights incidents that took place outside the pipeline area. As seen in Chapter 6, these incidents received significant attention outside the country and contributed to the negative publicity related to the companies' investments in Myanmar. The expressions of concern represent indirect strategies because the companies sought to influence human rights issues indirectly through persuading the host government to take action on the issues.

In general, Total was reluctant to engage in any activities that could have been seen to compromise its policy of political neutrality (Total, 2002c: 85). As already seen in section 7.2.1, this policy changed over time and in 2003, Total expressed its concern to government officials over the events that led to the renewed house arrest of Aung San Suu Kyi (du Rusquec, 2004; Total, 2003b: 4). Moreover, on a separate occasion during the same year, Total's director for exploration and production met with the Myanmar prime minister to communicate the importance that the company placed on the process of national reconciliation and its hope that the process would include all relevant parties, including Aung San Suu Kyi (du Rusquec, 2004).

Also Premier Oil expressed its views to Myanmar government officials on a number of issues related to human rights but unconnected to the company's operations in the country, as stated by a company manager:

I wrote dozens of letters to the Burmese government to say there are allegations of this and this, I hope they are not true. This would not be

acceptable to us. These are allegations that have nothing to do with our project. (Jones, 2003b)

Moreover, Premier Oil allegedly played a role in the release of a British national, James Mawdsley, from a Myanmar prison (Premier Oils Wheels of Change, 2001; Premier Oil Looks Well Placed, 2002). As seen in the previous chapter, James Mawdsley was imprisoned for entering Myanmar illegally to publish and distribute anti-government leaflets (Mawdsley, 2002; United Nations, 2000; also see 6.3.1.2).

7.6 Information strategy

Information strategy involves attempts to influence stakeholders through the provision of information or viewpoints. The strategy is similar to Hillman and Hitt's (1999) corporate political strategy of the same name which seeks to influence political decision-makers by providing them with information that is useful in some way. The case study companies presented stakeholders with two main types of information to influence their perceptions and views: (i) factual information or what was perceived as factual information by the companies, and (ii) arguments representing the corporate viewpoint. Examples of information and arguments provided by the companies are given in Table 7.3 below.

7.6.1 Information types

As seen before (see 6.4), symbolic issues arise from conflicting views about (i) objective conditions and/or (ii) the boundaries of responsibility between companies and other actors, particularly the host government. The analysis of the cases suggests that companies often presented factual information, or what they considered as factual information, to address symbolic issues that were based on conflicting views over objective conditions. For example, in order to show that allegations of human rights violations in the areas of operations were incorrect, the companies provided evidence gained from human rights monitoring (see 7.4.3). In this connection, the companies also admitted that human rights violations had taken place, but then explained how the violations had been addressed (see, e.g., Total, 2003b: 27-32). Similarly, in order to show that the human rights situation had improved in their areas of operation, the companies provided information about the achievements of their community development programmes (see Table 7.3).

Both factual and more abstract arguments and viewpoints were presented to address symbolic issues that were based on conflicting views between the companies and their stakeholders about the boundaries of responsibility (see 6.4.3). For example, as seen in Table 7.3 below, Total and Premier Oil often referred to extant laws to argue that their investment in Myanmar was legitimate, but they also provided arguments about the positive impact of their investment on human rights in the country in order to justify their presence. The latter type of argument was based on assumptions about the relationship between economic and

political development and as such clarified the company viewpoint, but was unlikely to affect stakeholder views as the assumption could not be proved right or wrong (see Spar, 1999).

TABLE 7.3. Examples of information provided on symbolic issues

Symbolic issue	Examples of information and viewpoints provided by companies
Situation of human rights in the pipeline area in Myanmar (see 6.4.2)	<p>TotalFinaElf has brought a degree of peace and prosperity to around 43, 000 Myanmar nationals (Total, 2002c: 89).</p> <p>I do believe that we have made a real difference by way of active participation in a range of social programmes within the country (Premier Oil, 2000: 2-3).</p>
Legitimacy of investment (see 6.4.3)	<p>In our opinion, anything that contributes to Myanmar's outward opening and to maintaining critical dialogue between the regime and the international community is in the interests of human rights and of the people of Myanmar (Total, 2002c: 89).</p> <p>As you may have read Premier was urged by the UK government in April last year to withdraw from Myanmar, although the government stressed that any such decision was for the Premier Board. [...] It is our long held belief that constructive engagement and dialogue with all shades of opinion is more likely to bring progress in that country than continued isolation. (Premier Oil, 2000: 2-3)</p> <p>Our first criterion is to respect the position of the United Nations, the European Union and the French government. We are prepared to operate in a country provided investment there is authorized by these legitimate institutions. Failing that, we abstain. (Total, 2002d: 4)</p> <p>We cannot, as some observers feel, be responsible for actions throughout the countries in which we operate, but we do take responsibility in our areas of influence (Premier Oil, 2000a: 5).</p>

7.6.2 Communication channels

The companies used two main types of communications channels to pursue an information strategy. First, they engaged with some specific stakeholder groups to communicate information and viewpoints in relation to their operations in Myanmar and Sudan. Forms of stakeholder engagement are discussed in more detail in section 7.5.3 below. As will be seen, the way in which companies

engaged with stakeholders varied from informal contacts to structured consultations processes.

In addition to stakeholder engagement, the case study companies presented information and viewpoints through communication channels that offered no or little opportunity for interaction, but reached larger audiences. Corporate publications played a particularly important role in such communication. All the case study companies used *annual reports* to provide information and viewpoints about their investment in Myanmar or Sudan. This was done in special sections focused on operations in the two countries (e.g., Lundin, 2000: 14-15; Premier Oil, 1998: 15; Premier Oil, 2002a: 11-12; Total, 2003a: 37) or through more general statements and policies about corporate social responsibility, local communities, and what Total calls "challenging environments" (Total, 2002d: 84, see also Premier Oil, 1998: 14; Premier Oil, 2001a: 10; 18, 20). The CEOs of Premier Oil, Talisman, and Lundin also referred to the investments in Myanmar or Sudan in their contributions to the annual reports (e.g., Lundin, 2000: 3; Premier Oil, 2000b: 5). For example, wrote Charles Jamieson, the CEO of Premier Oil in 2000 when the United Kingdom government had called upon Premier Oil to consider withdrawing from Myanmar:

The Chairman mentioned the request for us to withdraw from Myanmar. Our experience, predominantly in developing countries, leads us to address our approach to entry and then our 'licence to operate' in such countries, in the light of all stakeholders, both internally and externally.

[...] We cannot, as some observers feel, be responsible for actions throughout the countries in which we operate, but we do take responsibility in our areas of influence. (Premier Oil, 2000b: 5)

Moreover, all the companies with the exception of Lundin started publishing *corporate social responsibility reports* during the period of research. The importance of these reports as communication channels was highlighted by the fact that Talisman's first report was solely focused on its operations and other activities in Sudan (Talisman, 2000b). Most reports, however, sought to provide a view of the companies' overall performance in corporate social responsibility. In addition to annual and corporate social responsibility reports, some of the companies published *separate reports* on their activities in Myanmar and Sudan (Lundin, 2002b; Total, 2002d). Finally, Total set up a *web site* focusing on its investment in Myanmar (<http://myanmar.total.com>). Through this web site, the company sought to "restore balanced debate on whether a responsible multinational can contribute positively to the economic and social development of a country that faces sharp internal divisions" (Total, 2003b: 3).

7.7 Leveraging strategy

Leveraging strategies involve attempts to increase the credibility of the information and viewpoints provided by companies. These strategies are pursued to enhance the objectivity and authority that companies lack in the eyes of some actors. The case study companies used three main measures to address this lack of trust: (1) external verification of their statements, (2) appeals to the views of other

actors who possessed some form of authority, and (3) reference to regulations, guidelines, and laws.

7.7.1 External verification

The analysis of the cases shows that companies use external verification to increase the credibility of the information presented in their reports. As already seen, Total, Premier Oil, and Talisman published corporate social responsibility reports to communicate information and views about their investment in Myanmar and Sudan (see 7.7.1). All of them were using or considering of using external verification to increase the credibility of their reports (Premier Oil: 2001b: 17, 63-72; Talisman, 2000b: 9; Total, 2003b: 15). Talisman, for example, stated that verification provides “assurance to our stakeholders that what we are saying is reliable and balanced” (Talisman, 2000b: 9). Similarly, Total believed that external verification would enhance the reliability of its data collection and analysis processes (Total, 2003b: 15). The importance of external verification was supported by the results of a survey conducted in 2005 by Pleon. Accordingly, 53% of the survey respondents regarded external verification as the most important factor contributing to the credibility of CSR reporting; this represented a rise of 5% from 2003 (Pleon, 2005).

The case study companies used quite different types of organisations to verify their CSR reports. While Talisman commissioned PricewaterhouseCoopers to verify the information it provided in its CSR reports, Premier Oil used the Corporate Citizenship Unit of the Warwick Business School (Premier Oil, 2001b:

17; Talisman, 2000b: 9). The use of both types of organisations is typical in the external verification of CSR reports. In addition, companies have also used smaller, specialised consultancy agencies. However, according to a survey carried out in 2005 by Pleon, a clear majority (59%) of stakeholders prefer that CSR reports are “verified by a professional assurance or verification body”. Financial analysts and investors were most strongly in favour of verification by such organisations (Pleon, 2005).

Verification was particularly used to increase the credibility of the factual information provided by the companies. This was expressed by Talisman as follows: “We have retained PricewaterhouseCoopers to verify those elements of the report which are capable of objective independent verification [...]. Unverified portions of this report generally relate to background information or our beliefs, opinions or intentions where verification is not always possible” (Talisman, 2000b: 9). Nevertheless, verification did not mean that information provided by the companies was not questioned by other actors. For example, the way in which Talisman interpreted the findings of the satellite photo survey it had commissioned to study population movements in Sudan was criticised by, for example, Human Rights Watch despite the verification provided by PricewaterhouseCoopers (Human Rights Watch, 2003; Talisman 2001b: 16). Similarly, several observers criticised the effectiveness of the system of human rights monitoring that PricewaterhouseCoopers verified Talisman to have put in place (Gagnon & Ryle, 2001: 34-35; HRW, 2003; also see Talisman, 2000b: 18).

In sum, external verification can be regarded as a leveraging strategy through which companies seek to increase the credibility of the information and viewpoints presented in their reports. Verification works best when it is used to address symbolic issues that are based on conflicting perceptions of what is really happening. Verification is less effective in addressing symbolic issues that are based on conflicting beliefs and opinions that are not verifiable in the same way as issues of which concrete evidence can exist.

7.7.2 Appeals to experts or other actors

One of the ways in which the case study companies sought to increase the credibility of their arguments was through appeals to the views and information provided by other actors who possessed some form of authority or were seen as more neutral than the companies. For example, the way in which Total referred to the information collected by other organisations and individuals about the situation of human rights in the pipeline area in Myanmar can be seen as an attempt to appeal to the authority of other actors for arguing that the situation in the pipeline area had improved (see, e.g., Total, 2003b: 27-32). As explained in section 7.4.3, Total asked Collaborative for Development Action and Bernard Kouchner to investigate and report about the situation of human rights in the pipeline area. It then published the reports and made reference to them to, in its own words, “provide an objective view of the human rights situation in our area of activity” (Total, 2002c: 89).

In addition to referring to the human rights monitoring conducted by external organisations, the case study companies also made reference external actors in other ways. Talisman, for example, disclosed the names of the organisations with which it collaborated to deliver relief aid in Sudan (Talisman, 2000b: 40). Similarly, Premier Oil referred to Amnesty when discussing the legitimacy of its investment in Myanmar (Amnesty, 2000). In these two particular cases, the organisations that the companies referred to denounced the use of their name. The relief organisations that Talisman had mentioned by name felt that their work was affected by the information published by Talisman. As a result, Talisman made a public apology (Talisman, 2000b: 40). In the case of Amnesty, the organisation clarified its relationship with Premier Oil in a public statement:

Amnesty International is astonished that Premier Oil, in response to a call by the UK Government that it withdraw from Myanmar, has reportedly said in a news wire story that the company's ongoing dialogue with Amnesty International "had made a significant difference in Myanmar." The organization does not believe that this is the case. [...] As a part of the human rights organization's ongoing policy to engage with all actors in society, Amnesty International has contact with Premier Oil, just as it has similar contacts with other major international corporations. During these meetings, the organization has stressed the sustained, grave human rights crisis in Myanmar. [...] Amnesty International calls upon companies such as Premier, which believe that their presence in Myanmar can effect positive change, to demonstrate what effective improvements their

presence has brought about. Amnesty does not endorse such a presence.
(Amnesty, 2000)

The two incidents demonstrate the sensitivity of the relationship between companies and non-governmental organisations and the concern that the non-governmental organisations have about the negative consequences of their association with companies.

The analysis of the cases suggests that the effectiveness of appeals to other actors depends on the authority and expertise of the actors that are referred to. When the two priests belonging to Commission for Justice and Peace from Bangladesh visited Total's operations and the pipeline area in Myanmar, their subsequent report was criticised by some other non-governmental organisations because the priests were not seen to have followed appropriate procedures in human rights investigations. Commented EarthRights International:

A cursory examination of the factfinding methodology in the report undermines its credibility completely. Typically, human rights investigations are conducted independently of governments and corporations, and rely on large numbers of confidential interviews conducted in safe environments. The "Timm Report" has none of these characteristics; the authors were in the pipeline villages for only two days, and their trip was organised and financed by the corporations they purport to exonerate. (EarthRights International, 2000: 135)

The report written by Bernard Kouchner about the impact of Total's investment in Myanmar was criticised by the French media for similar reasons (e.g., *Libération*, 10 December 2003). In contrast, the reports produced by Collaborative for Development Action, a respected organisation in the area of business and human rights, received little criticism.

In sum, appeals to other actors can be seen as a leveraging strategy through which companies seek to increase the credibility of their arguments and behaviour. The companies need to, however, ensure that the organisations they refer to are happy to have their name disclosed. Also, the perceived authority of the organisation or individual that is appealed to has an impact on the effectiveness of the strategy.

7.7.3 References to regulation and laws

The references the case study companies made to extant regulation and laws in support of their views can be seen as another form of leveraging strategy. The companies referred to existing laws when they sought to justify the legitimacy of their presence in Myanmar and Sudan (Premier Oil, 1998: 14; Total, 2002c: 88; Talisman, 2001b: 4). Total, for example, stressed in its first corporate social responsibility report that its investment in Myanmar did not violate any regulation introduced by the United Nations, the European Union, or the French government and was therefore legitimate (Total, 2002c: 88). References to extant laws did not, however, satisfy the critics who alleged that the responsibility of companies went

beyond the law (e.g., Aung San Suu Kyi, 1997: 169; EarthRights International, 2000; European Parliament, 1998b; NCGUB, 1995; also see Chapter 3).

In addition to regulation and laws, the case study companies made reference to guidelines and principles on ethical business, corporate social responsibility, and human rights to justify their policies and conduct in Myanmar and Sudan. For example, Talisman explained in one its corporate social responsibility reports that it took measures to ensure that its Sudan Operating Principles were consistent with codes of conduct including Amnesty International Guidelines for Companies, Social Accountability 8000, the United Nations Global Compact, and the Global Sullivan Principles (Talisman, 2000b: 8). In terms of reporting guidelines, several of the companies made reference to the Global Reporting Initiative Guidelines, which mirrors the importance of the Guidelines in contributing to the credibility of corporate social responsibility reports (Pleon, 2005; Premier Oil, 2002b: 76; Talisman, 2002b: 4).

7.8 Stakeholder engagement strategy

Stakeholder engagement involves attempts to increase mutual understanding between companies and their stakeholders through two-way communication. In difference to the other symbolic approaches, stakeholder engagement strategy is relational rather than issue-specific; it aims to create a rapport or a sense of understanding between companies and their stakeholders with the expectation that this relationship helps in addressing any human rights issues that may arise. In what follows, the main ways in which the case study companies engaged with

different stakeholders are first reviewed: (1) discussions, (2) consultation structures, and (3) visits to areas of operations. Engagement with non-governmental organisations is then explored in more detail because many of the symbolic issues encountered by the companies arose from the concerns of non-governmental organisations.

7.8.1 Discussions

The companies held discussions with diverse stakeholder groups to exchange information and views about their operations in Myanmar and Sudan (Batruch, 2004; du Rusquec, 2004; Jones, 2003a; Talisman, 2000b: 10). For example, since the early 1990s, representatives of Total met with a number of non-governmental organisations and other groups that were concerned about the company's impact in Myanmar. The meetings were typically arranged at the request of the other organisation rather than Total (e.g., Doe v. Unocal, 2000; du Rusquec, 2003, 2004; Laroche & Hubbard, 1996). Total also discussed its investment in Myanmar with the host and home government authorities (Aubert report, 1999: 87; du Rusquec, 2004).

As for Premier Oil, it stated that it was "committed to open dialogue on an ongoing basis" with all stakeholders (Premier Oil, 2003: 5). In line with this commitment, it initiated discussions with a variety of non-governmental organisations including Amnesty International (Premier Oil, 2002a: 11; Premier Oil, 2002b: 12; Premier Oil, 2003: 7, 8). Representatives of Premier Oil also met with the leader of the National League for Democracy, Aung San Suu Kyi, to

discuss their investment in the country (Aubert report, 1999; Premier Oil, 2002b: 72). Similarly to Total, Premier Oil also held discussions with government authorities at home and in Myanmar (Jones, 2003a).

The Myanmar and Sudan operations were also discussed in annual general meetings, which reflected the increasing attention that institutional and other investors gave to corporate social responsibility issues. As a result of one of these discussions, Talisman's shareholders adopted a resolution to ensure that the company complied with the International Code of Ethics of Canadian Business (Talisman, 2000b: 6). The Myanmar and Sudan operations were also raised by groups that had obtained company shares to be able to attend annual meetings in which they expressed their opposition to investment in Myanmar and Sudan (e.g., Friends of the Earth, 2002). These groups also organised demonstrations outside the buildings where annual meetings were held in order to direct shareholders' attention on the companies' role in Myanmar and Sudan (*ibid.*).

7.8.2 Consultation structures

The case study companies also set up structures through which they consulted particular stakeholder groups or provided them with an opportunity to interact with relevant people from the company. Some of these consultation structures were permanent while others were used on a less regular basis. Moreover, as will be seen, some of the structures involved just one stakeholder group while others could be used by different stakeholders.

Several of the case study companies set up structures to consult with the members of the local communities in which they operated (Anderson et al., 2002: 14; Total, 2003c: 16; Premier Oil, 2001b: 32, 36). Total and Premier Oil, for example, set up committees at the village level as part of their community development programmes. The committees consisted of local residents elected by the inhabitants of each of the villages that took part in the community programmes (Total, 2003c: 16; Premier Oil, 2001b: 32, 36). They were unusual as the government was normally suspicious of civil society organisations; it only agreed with the establishment of the committees because of their non-political character (Anderson et al., 2002: 14). Communication between the committees and Total and Save the Children as the organisation that managed Premier Oil's socio-economic programme took place on a regular basis through informal and formal meetings (Anderson et al., 2002: 14; Premier Oil, 2001b: 32, 36).

In addition to consultation structures that enabled communication with the representatives of local communities, Total set up a committee that enabled internal and external stakeholders to make inquiries pertaining to ethics (Total, 2001: 12). This Ethics Committee established in 2001 served several functions. One of its purposes was to offer employees an opportunity to request advice in confidence (Total, 2005e). In 2004, 54 such requests were investigated. The committee was also responsible for preparing communications relating to ethical issues, particularly towards international, governmental and non-governmental organisations (*ibid.*).

Finally, in 2000 and 2001, Premier Oil consulted a number of stakeholder groups about issues relating to corporate social responsibility (Premier Oil, 2001b: 5, 44-49). One of the groups that it particularly sought to engage with was shareholders. In order to do this, the company first invited shareholders to take part in a dialogue through focus groups (Premier Oil, 2001b: 44). As only a few were prepared to do this, it ended up using a questionnaire to collect shareholder views (*ibid.*). Unlike the other consultation structures described above, the focus groups or the questionnaire did not become permanent structures.

7.8.3 Visits to areas of operations

The companies also invited selected stakeholders to visit their operations in Myanmar and Sudan and thereby engaged these stakeholders in two-way communication. The visitors included several non-governmental organisations that examined the situation of human rights in the areas of operations (see 7.4.1). The visitors also included embassy personnel and parliamentarians from the home countries (Aubert, 1999: 92; BBC Radio, 15 May 1998). For example, a French Parliamentary Committee visited Myanmar in March 1999 to examine the role of Total in the country (Aubert, 1999; 218-9). The companies also facilitated the visits of foreign journalists (Batruch, 2004; du Rusquec, 2004; Premier Oils Wheels of Change, 2001). Total, for example, hosted several groups of journalists, first of which in November 1996 (du Rusquec, 2003). Most recently, in 2003, the company organised three separate occasions for journalist to visit the pipeline region (du Rusquec, 2004). Finally, the companies also assisted the UN special rapporteurs in accessing their operational areas (United Nations, 2002).

In general, international coverage on the areas of operations was restricted because of the control exercised by the host government authorities¹¹ (Reporters without Borders, 2004). Reports by the journalists who visited company projects provided rare insight on the situation in Myanmar and Sudan. Some of these reports conveyed a negative view on the role of the companies in the case study countries. For example, the French television channel *Canal Plus* aired a documentary entitled “Total en Birmanie: l’autre scandale” (Total in Myanmar: another scandal) after its visit to the pipeline area. The programme suggested that human rights violations took place near the pipelines and that Total’s investment in the country was unethical. In contrast, other reports conveyed a more positive view on the companies’ impact in the country. For example, wrote a journalist in *The Times* after visiting Premier Oil’s human rights training in Myanmar: “Premier’s engagement has some legitimacy. In the conference centre in Rangoon and the village schoolroom an attempt is being made to plant the seeds of political discussion at a personal level” (*The Times*, 2001).

7.8.4 Contact with non-governmental organisations

As seen in Chapter 6, symbolic human rights issues often arose from the concerns expressed by non-governmental organisations, which is why engagement between companies and non-governmental organisations is examined in some detail here. In general, the relationship between the case study companies and non-

governmental organisations was sensitive. One reason for this was that some non-governmental organisations felt that contact with companies would give legitimacy to the investments in Myanmar and Sudan, (Total, 2002d: 81; observation). Others were wary of the effect that association with companies had on their own reputation and activities in Myanmar and Sudan (Talisman, 2000b: 40; Total, 2002d: 81; observation). As a result, discussions between the companies and non-governmental organisations were not always made public (Batruch, 2004; observation).

In the beginning of the research period, non-governmental organisations were reluctant to engage with the case study companies. Over time, however, they became more willing to have contact with the companies. This development was particularly evident in Myanmar. When a French parliamentary commission visited the country in 1999, all non-governmental organisations interviewed by the commission said that they were unwilling to participate to Total's social and economic activities in the country (Aubert report, 1999: 89). A few years later in 2002, another set of similar type of non-governmental organisations interviewed by Collaborative for Development Action expressed their interest in meeting with the representatives of the company, though they remained somewhat critical about the company (Anderson et al., 2002: 21; Zandvliet & Fraser, 2003: 23; Zandvliet & Fraser, 2004: 19). Parallel to this development, Total began to foster contacts with humanitarian organisations in order to exchange information relating to the

¹¹ It was difficult for journalists to obtain a press visa and when successful, they were monitored throughout their stay in the country. Moreover, Myanmar nationals working for international news agencies were subject to close scrutiny by the Myanmar authorities.

company's social and economic activities in the country (Anderson et al., 2002: 21; Zandvliet & Fraser, 2003: 23).

The case study companies categorised non-governmental organisations into those with which they could have meaningful interaction and those with which engagement was unproductive (Batruch, 2004; du Rusquec, 2003; *personal observation*, 2003). For example, Total's general manager in Myanmar divided non-governmental organisations into two groups: organisations that were interested in a dialogue with the company and organisations for which boycotting Myanmar was the *raison d'être* (du Rusquec, 2003). Some communication still took place between the companies and the organisations of the latter type, but the companies often found the engagement futile (Batruch, 2004; du Rusquec, 2003; *personal observation*, 2003). The following quote illustrates the sentiment of the company managers:

Lundin's experience with special-interest NGOs was more difficult. In many cases, views about the situation in Sudan were so very different that discussions rarely went beyond each side trying to convince the other of the correctness of its views. This was particularly true with respect to religious-based organisations, which characterised the conflict as an attempt by Muslims to eradicate the Christian population in the south of Sudan in order to gain access to the oil there. Although the company responded to their claims, in discussions and in writing, it felt that not much would be gained from this effort. (Batruch, 2004).

The case study companies mostly sought to collaborate with international non-governmental organisations. In Myanmar, this was explained by the fact that there were only very few local non-governmental organisations as the government discouraged and monitored any gathering of more than a small number of people (US Department of State, 2003). There were still some organisations that could be regarded as local even though they had to operate underground or from the refugee camps close to the Myanmar-Thai border (Zandvliet & Fraser, 2004). Total and Premier Oil had little direct contact with these groups until 2004 when Collaborative for Development Action, commissioned by Total, visited the camps in the border area (*ibid.*).

7.9 Interconnectedness of strategies

7.9.1 Strategy combinations

The analysis of the cases suggests that companies sometimes combine strategies in order to address a particular issue. For example, in order to enable the relocation of the village of Michaunglaung, Total first employed an indirect strategy by persuading the government officials to let the villagers return to their old village. Once the government had agreed to this, Total adopted a direct strategy by providing the villagers with financial assistance so that they could move and build houses to replace the ones that had been destroyed (see 7.4.1). The successive strategies that Total employed to re-establish the village of Michaunglaung reflect the control that the company had over the different aspects

of the relocation: it first needed to obtain the agreement of the government to make the return possible; it could then assume a direct strategy because it could make the payments without involving other actors. The role that the degree of control plays in the choice of strategy is discussed in more detail in Chapter 8 (see 8.3).

In addition to employing strategies in succession, the case study companies pursued strategies in parallel. For example, Premier Oil sought to influence the behaviour of the army in the pipeline area by employing two types of direct strategy: raising human rights issues with government officials and providing human rights training to relevant members of the army and the police (see 7.5.1. and 7.5.2). Similarly, when arguing that their investment in Myanmar and Sudan was legitimate, the companies typically used different types of leveraging strategy including appeals to authority and references to relevant regulation and laws (see 7.7).

Finally, the companies combined substantial and symbolic strategies by referring to their substantial action in order to address symbolic issues. For example, they pursued an information strategy aimed at influencing stakeholder views about their impact in Myanmar and Sudan by providing information about their direct strategies that were designed to improve the quality of life in the local communities (see 7.5.1). As already seen, non-governmental organisations reacted negatively when companies did this (*ibid.*).

7.9.2 Activities exacerbate and give rise to new issues

The experiences of Total in Myanmar show that activities carried out by companies to address particular human rights issues can exacerbate the issues they were aimed at addressing. For example, some non-governmental organisations interpreted the assistance that Total gave to victims of human rights violations as compensation and acknowledgement of responsibility for the violations (e.g., EarthRights International, 2000:82; also see 7.4.2). Similarly, the relocation of the village of Michaunglaung exacerbated the debate over the boundaries of corporate responsibility and made Total to provide its view on the motives for the relocation and thereby engage in an information strategy. In this case, EarthRights International among others argued that the pipeline projects had benefited from the forced relocations perpetrated by the Myanmar army and that the companies had been aware of the relocations (EarthRights International, 2000: 43). According to the organisation, by persuading the government to let the villagers return to the original village, Total admitted its knowledge and responsibility for the displacement of Michaunglaung: "Total did more than admit their knowledge of the relocation. Labeled as remorse, the foreign Total representatives admitted responsibility" (*ibid.*: 43). In contrast, Total presented the facilitation of the return of the villagers as an example of the company's positive influence in the pipeline region: "No villages were relocated because of Total; on the contrary, in 1997, the Group even arranged for the villagers of Michaunglang [...] to return to their former home" (Total, 2003c: 15). Despite these statements, the relocation of the village exacerbated the debate on whether the Myanmar army had violated human

rights in furtherance of the Yadana project and if this was the case, whether Total bore any responsibility for it.

In addition to exacerbating existing issues, the analysis of the cases suggests that strategies pursued by companies can give rise to new human rights issues. For example, according to interviews conducted by EarthRights International, the army confiscated all or part of the money that Total gave to the villagers that had been victims of forced labour (EarthRights International, 2000: 92, 93, 97). Witnessed a displaced person from the pipeline area to EarthRights International:

The headman told me that I might get 4,000 kyat because I had worked three times on the pipeline route and portering. In 1996, I had to go three times and it took me about 10 days in total. So he said that I had been working on the foreigner's project. Most of the villagers from every household went to Kaleinaung to get their payment. There were about 50 people from my village. When we were at the place where they would pay us, we had to stay separated from the other villagers. The Total employees were paying us village by village. [...] So the Burmese employees called us one by one. There were no foreigners, only three [Burmese] employees and soldiers from LIBs 408 and 407. After we got the payment we could not go back yet, but we had to sit down in front of the building and wait for the other villages. I got 4,000 kyat, and they took a notice. Then I had to sign my name on their paper. [...] After the foreigner's employees went back, a major took the registrations and did the same as employees. I mean

he made all the villagers come one by one to him and give all the money back to him. (EarthRights International, 2000: 92)

According to a cable sent from the United States Embassy in Yangon to Washington and quoted in an EarthRights International report, Total was aware of the problems with the payments to the villagers (EarthRights International, 2000: 96). Indeed, Total asked the staff of its socio-economic programme to ensure that the financial and other contributions reached their intended beneficiaries and thereby sought to address the new issue that had arisen from the assistance of the human rights victims (du Rusquec, 2003; Total, 2003c: 15, 26).

7.9.3 Emergent strategies

Evidence from the cases further suggests that company activities and practice can have unintended consequences that develop into new human rights strategies. The village communication committees set up by Total are an example of this. They were originally established to provide information about the pipeline project and to promote trust between the project partners and local communities (Total, 2003c: 8, 13, 16-17). They also served as a forum for dialogue that guided the design of Total's social and economic activities in the pipeline region (*ibid.*). In 1995, however, Total learned through the village communication committees about incidents of human rights violations committed by the army (see 7.5.1). Since then, the company used the committees as a channel through which it monitored the human rights situation in the pipeline area (Total, 2003c: 15). The

village communication committees therefore gave rise to Total's strategy of human rights monitoring.

7.10 Organisational mode

The analysis of the cases shows that the organisational mode of strategies varied from internal development to different forms of collaboration. Three specific modes could be identified from the way in which the companies pursued corporate human rights strategies: (1) internal development, (2) sponsorship, and (3) collaboration. Internal development refers to the use of existing resources or acquisition of new resources for the purpose of carrying out an activity. For example, Total hired new people to deliver its community programme in Myanmar (Anderson et al., 2002: 8; Total, 2003b: 17). Sponsorship concerns financial contributions to other organisations without any direct involvement from companies. Talisman, for example, sponsored development projects that were in line with the company's objectives. These included the Kailak Lake Agricultural Project managed by D'Tasi Development Technology and Services International and Women's Entrepreneurial Project coordinated by the Salesian Sisters (Talisman, 2001b: 23). Finally, collaboration refers to activities that companies carry out together with other actors. In distinction to sponsorship, collaboration involves not only financial, but also some managerial or other type of input from the part of companies. For example, in Myanmar, Premier Oil worked in collaboration with Save the Children US to run a community programme in the pipeline area. The collaboration was initiated by Texaco from which Premier Oil obtained the operatorship of the Yetagun project in 1997. Premier Oil

subsequently recruited people that had been involved in the planning and setting of the activities for Texaco and also went ahead with Texaco's plan to collaborate with Save the Children US in designing and managing the social and economic activities (Jones, 2003b).

As seen from Table 7.4 below, internal development was used to pursue all types of strategies, but it was particularly typical for carrying out symbolic action. In contrast, sponsorship and collaboration were mainly employed to take substantial action. One reason for this may be that substantial action is project-like with clear roles and tasks, while symbolic action requires detailed knowledge and understanding of corporate policy and activity.

TABLE 7.4. Organisational mode of activities

Type of action	Strategy	Activity	Internal	Sponsorship	Collaboration
Substantial	Direct	Community development	Y	Y	Y
		Assistance of human rights victims	Y	N	Y
		Human rights monitoring	Y	N	Y
		Philanthropic projects	Y	Y	N
	Indirect	Raising human rights issues with authorities	Y	N	N
		Human rights training	N	N	Y
Expressions of concern		Y	N	N	
Symbolic	Information	---	Y	N	N
	Leveraging	External verification	N	N	Y
		Appeals to experts or authority	Y	N	N
		References to regulation and law	Y	N	N
	Stakeholder engagement	Discussions	Y	N	N
		Consultation structures	Y	N	Y
Visits		Y	N	N	

Over time, collaboration with other actors became more common. This reflected change within companies and non-governmental organisations that were potential partners for collaborations projects. Total, for example, began to foster contacts with humanitarian organisations towards the end of the research period (e.g., Anderson et al., 2002: 21; Batruch, 2004; Zandvliet & Fraser, 2003: 23). In turn, the humanitarian organisations acknowledged that Total was trying to find solutions to the situation in Myanmar through engagement, although they remained somewhat critical about the company (Zandvliet & Fraser, 2003: 23; Zandvliet & Fraser, 2004: 19). The change in attitudes was also demonstrated by the fact the Talisman and Lundin that started their operations in Sudan later than Total and Premier Oil in Myanmar sought contact with non-governmental organisations and other possible partners from the beginning of their operations (Batruch, 2004; Talisman, 2000b: 22).

7.11 Summary

This chapter identified the human rights strategies that the case study companies pursued in connection with their operations in Myanmar and Sudan. It was first argued that the companies' approach to human rights changed over the period of research. The change was particularly evident in the policies on government relations which shifted from silence on human rights to constructive engagement with the host society, but the change was also highlighted by the introduction of new policies on corporate social responsibility and human rights. It was then seen that the companies adopted two main lines of action to address human rights issues with regard to their operations in Myanmar and Sudan: substantial action

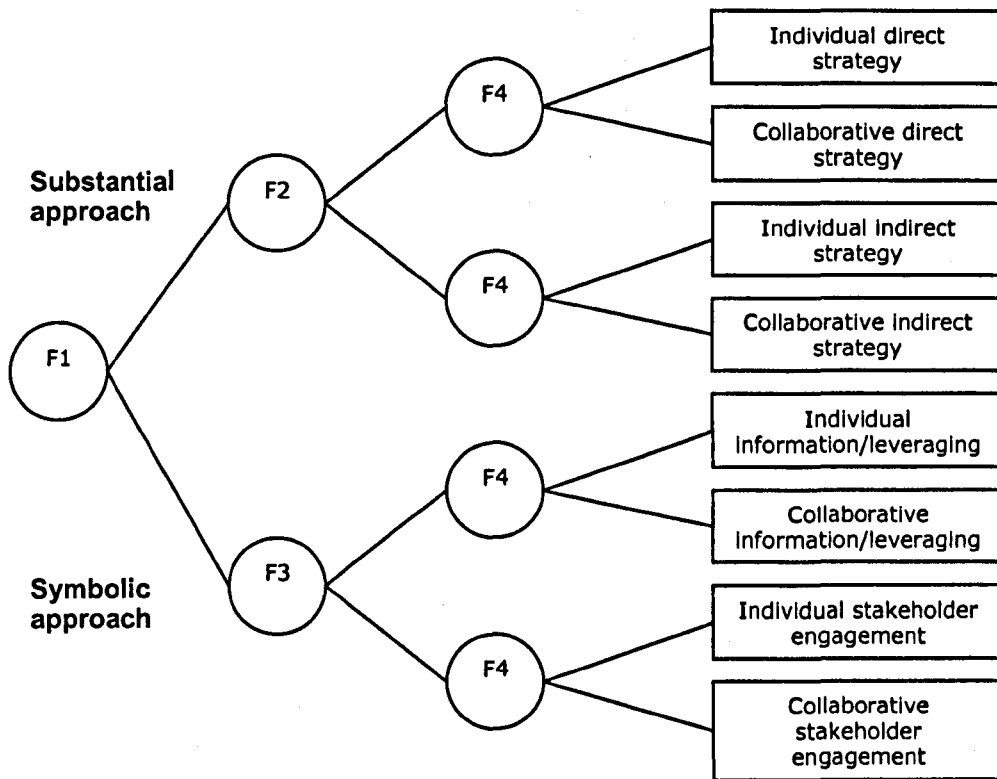
aimed at altering material circumstances that give rise to human rights concerns and symbolic action directed at influencing stakeholder perceptions and views. This distinction mirrors the way in which Mahon and Waddock (1992) divided corporate responses to social issues into substantial and symbolic responses. Each type of action was then divided into further strategies of which a total of five were identified: direct and indirect strategies represented substantial action while information, leveraging and stakeholder engagement strategies were forms of symbolic action. Each of the five strategies was then discussed in more detail. The response of non-governmental organisations to some of the activities carried out by the companies showed that it is important for companies to focus on the main human rights issues associated with their operations in a particular country. It also showed that company efforts to contribute to the realisation of social and economic rights can be viewed as futile in a situation where basic physiological and safety needs are not being satisfied. The chapter concluded with the examination of the interconnectedness of strategies and the discussion of organisational modes.

8 Variables affecting the choice of human rights strategy

8.1 Introduction

This chapter sheds light on the variables that affect the way in which companies address human rights concerns. In doing so, it answers the third and last of the research questions specified in Chapter 1: What are the factors that explain strategy selection? Based on the analysis of the cases and existing literature on issues and stakeholder management, seven variables are proposed to influence the choice of human rights strategy: (1) the perceived ontological nature of the human rights issue, (2) the degree of control the company holds over the issue, (3) the company's intrusiveness into its external environment, (4) the power that stakeholders hold relative to the company, (5) the size of the company, (6) the availability of collaboration partners, and (7) the perceived fit with core activities. In the figure below, the proposed strategies are presented in the form of a diagram that incorporates the seven variables.

FIGURE 8.1. Framework for corporate human rights strategies



F1: Nature of human rights issue
 F2: Intrusiveness, stakeholder power
 F3: Degree of control
 F4: Size, availability of partners, fit with core activities

8.2 Choice between substantial and symbolic action

As seen in Chapter 7, the activities that the case study companies carried out in response to human rights issues can be divided into substantial and symbolic action. Substantial action is directed at altering material circumstances that give rise to human rights concerns, whereas symbolic action is aimed at influencing perceptions and views that stakeholders have of physical conditions or more abstract ideas. The categorization of activities into substantial and symbolic action reflects the grouping of human rights concerns into substantial and symbolic

issues and the way in which Mahon and Waddock (1994) divided responses to social issues (see 7.3).

The analysis of the cases suggests that the choice between substantial and symbolic action is affected by the perception that managers have about the ontological nature of the issue that they are seeking to address. Accordingly, companies employ substantial action to influence issues that the managers view as involving material conditions or what were earlier defined as substantial issues (see 6.2). For example, Total and Premier Oil employed a substantial approach to improve the living conditions in the pipeline area because they regarded the poor social and economic situation as a source of discontent that could be exacerbated by foreign investment (Premier Oil, 2000: 15; Premier Oil, 2001b: 32; Total, 2003a: 36). In contrast, the analysis of the cases shows that companies assume a symbolic approach to address issues that they see as originating from stakeholder perceptions and views. These types of issues were earlier referred to as symbolic issues (see 6.2). Total and Premier Oil have, for example, used a symbolic approach to respond to the allegations according to which the army continued to use forced labour and perpetrate other human rights violations in the pipeline region because they perceived these allegations as a symbolic issue pertaining to the perception that some stakeholders have about the behaviour of the army rather than a substantial concern stemming from the actual way in which the army behaved (du Rusquec, 2003; Jones, 2003b; Zandvliet & Fraser, 2004: 3).

As seen in the literature review, a number of researchers have already previously linked the interpretation of issues to the actions assumed by companies in response to issues (e.g., Daft & Weick, 1984; Dutton, 1993; Dutton & Duncan: 1987a; Dutton & Jackson, 1987; Mitchell, Agle, & Wood, 1997). These researchers have asserted that there is a multitude of possible interpretations of events and conditions. They have also argue that the way in which managers perceive and interpret a particular issue has an impact on which organisational resources and processes are evoked to respond to the issue. Mitchell, Agle, and Wood (1997), for example, argued that managers' perception of stakeholder attributes determines which stakeholders are salient for a particular organisation and subsequently require managerial attention. The analysis of the cases provides support for the significance given to the way in which managers view the external environment and further suggests that managers perceive human rights issues either as substantial or symbolic issues and consequently deploy substantial or symbolic approaches to address them.

Previous literature therefore provides support for the observation made on the basis of the analysis of the cases that it is the perception of managers about issues rather than the actual nature of issues that determines whether companies assume a substantial or a symbolic approach to human rights issues. Hence, based on the analysis of the case studies and previous literature, the following propositions can be put forward:

Proposition 1. Companies are likely to adopt substantial action to influence human rights issues that are perceived to concern objective conditions.

Proposition 2. Companies are likely to adopt symbolic action to influence human rights issues that are perceived to involve stakeholder perceptions and views.

8.3 Choice between direct and indirect strategies

Substantial approaches to human rights can be further divided into direct and indirect strategies, as seen in Chapter 7. Direct strategies involve concrete action aimed at having a direct impact on some objective conditions giving rise to a human rights issue whereas indirect strategies pertain to attempts to persuade other actors to take concrete action over the conditions creating the issue. The analysis of the activities carried out by the case study companies in Myanmar and Sudan suggests that the degree of control that companies hold over human rights issues varies and that the approach they employ to address a particular substantial issue is affected by their control over the issue. As will be seen below, in situations where the companies held a high degree of control over an issue, they employed a direct strategy while in situations in which they held a low degree of control over the issue, they assumed an indirect strategy.

8.3.1 Low degree of control

In connection with their operations in Myanmar and Sudan, the case study companies attended to a number of human rights issues over which they held a relatively low degree of control. These issues typically arose from the policies and behaviour of actors other than the companies, usually the government or attached groups such as the army in Myanmar or the tribal militias in Sudan (see 6.3.1). In such situations, the companies persuaded other actors to take action and thereby employed an indirect strategy (see 7.5). For example, in order to stop the army from perpetrating human rights violations in the pipeline region, Total raised particular incidents of human rights violations with government officials and the state-owned MOGE to express their dissatisfaction over the events (see 7.5.1). Similarly, Premier Oil sponsored human rights training seminars targeted at military officials to affect the way in which the army behaved in the pipeline region (see 7.5.2).

The analysis of the case studies therefore suggests that companies are likely to address a human rights issue indirectly through other actors when they hold a low degree of control over the issue. In Myanmar and Sudan, the companies held a low degree of control over issues that arose from the policies and behaviour of other actors, particularly the host government and the army. The following proposition can thus be formulated:

Proposition 3. The lower the control the company holds over a substantial human rights issue, the more likely it is to employ an indirect strategy for addressing the issue.

8.3.2 High degree of control

The case study companies also addressed a number of issues over which they held a relatively high degree of control. Such issues included the social and economic conditions in the villages near the areas of operations and the financial and material situation of the victims of human rights violations. The control that the companies held over these issues derived from their ability to mobilise sufficient resources to influence the conditions that gave rise to the issues. For example, Premier Oil mobilised resources by forming a partnership with Save the Children to improve the social and economic situation in the pipeline area in Myanmar (see 7.4.1). The other companies resorted to internal development to set up similar programmes (see 7.9). The analysis of the cases therefore suggests that companies are likely to employ a direct approach to attend to issues over which they hold a relatively high degree of control:

Proposition 4. The higher the control the company holds over a substantial human rights issue, the more likely it is to assume a direct strategy for addressing the issue.

8.3.3 Shifts in the degree of control

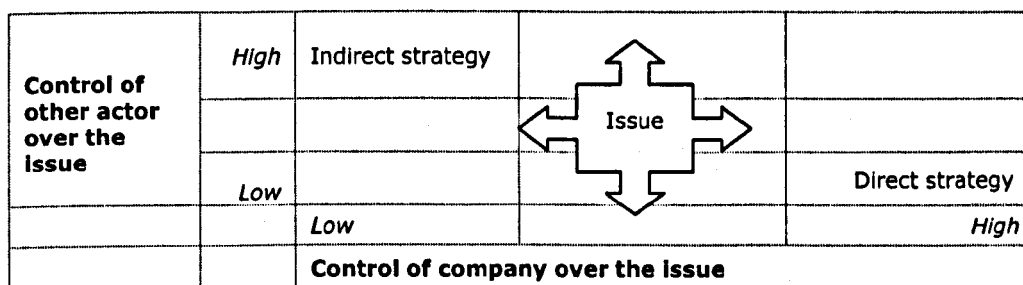
The analysis of the cases further suggests that companies can affect the degree of control they have over particular issues. More specifically, in order to gain control over an issue, companies can approach other parties that are in a position to influence the issue. In Myanmar, Total and Premier Oil run socio-economic programmes that contributed to the social and economic rights of the villagers living near the pipelines (du Rusquec, 2004; Premier Oil, 2000: 15; Premier Oil, 2001b: 32; Total, 2002d, 16-17; Total, 2003c; see also 7.4). At the time the programmes were set up, few similar projects existed in the country as the government suspected that they could be used to enhance the power and popularity of other than government affiliated organisations (see 7.4). The companies therefore sought for the government's approval in order to launch the socio-economic programmes. In this way, they increased their control over the impact they could have on the social and economic conditions in the local communities near their areas of operations. The companies were then able to employ a direct strategy by setting up and running socio-economic programmes.

Another example about increasing control over a particular issue concerns the relocation of the village of Michaunglaung. In this case, Total persuaded the government and the army that had originally displaced the village to let the villagers move back to the old village (du Rusquec, 2003; Total, 2003c: 15; see also 7.4.2). The company then assisted the return of the villagers by giving them money to build new houses in place of the ones that the army had destroyed (*ibid.*). Total was thus able to assume a direct strategy because it had increased its

control over the relocation of the village by obtaining the agreement of the government and the army.

In the figure below, a human rights issue is presented in relation to the control that a company and another party hold over it. In order to assume a direct strategy, companies should move the issue from the upper left hand corner where another actor holds a relatively high degree of control over the issue towards the lower right hand corner where the company has a relatively high degree of control over the issue.

FIGURE 8.2. Strategy and substantial human rights issues



8.4 Choice between information/leveraging and stakeholder engagement strategies

Based on the analysis of the cases, companies employ three types of strategies to address symbolic human rights issues. These strategies are: information strategy, leveraging strategy, and stakeholder engagement. As seen in Chapter 7, information and leveraging strategies are similar in that they do not necessitate two-way communication between companies and their intended audiences (see

7.6 and 7.7). Stakeholder engagement is, in contrast, characterised by attempts to exchange views with other actors (see 7.7).

Researchers in the areas of issues management and stakeholder management have previously identified a number of variables that affect the approaches that companies assume in response to issues and stakeholder demands. These variables were discussed earlier in Chapter 3. Evidence from the case studies suggests that two of the variables, organisational intrusiveness and the relative power of stakeholders, have an impact on whether companies engage in (i) information and leveraging strategies or (ii) stakeholder engagement for addressing symbolic human rights issues.

8.4.1 Organisational intrusiveness

Daft and Weick (1984) suggested that the company's response to an issue is affected by the extent to which it intrudes into its external environment to comprehend it. Some organisations actively search information about their environment, whereas others accept it as given. Active organisations allocate resources for intruding the environment. This can include subscription to monitoring services and establishment of departments that are responsible for forecasting and research. Passive organisations may have a system for interpreting data that they receive about the environment, but they accept the environment as it is rather than explore its boundaries.

The analysis of the cases suggests that because searching the environment often involves two-way communication with diverse actors, stakeholder engagement becomes a natural way of addressing human rights issues for companies that actively intrude their environment. Premier Oil is an example of this. It forged contacts with a variety of actors including non-governmental organisations and Aung San Suu Kyi for gaining a better understanding of the general situation in Myanmar and the positions and views of different actors towards foreign investment (Premier Oil, 2002a: 11; Premier Oil, 2003: 5, 7, 8; Richard Jones, 7 February 2002). It also used these contacts to communicate its own position on operating in Myanmar and in so doing employed a stakeholder engagement strategy.

In contrast, Total was less active than Premier Oil in establishing contacts to various groups with regard to its investment in Myanmar and it tended to present its views through one-way communication channels (see 7.5.1). Total's approach was illustrated by the fact that, until recently, it did not seek to create contacts to non-governmental organisations in the country and it still refuses to meet with organisations that it considers hostile (Anderson et al., 2002: 20; Total, 2002c: 85; Zandvliet & Fraser, 2003: 23; Zandvliet & Fraser, 2004: 19). This approach is explained by the head of mission in Myanmar as follows:

Parmi les ONG, il faut distinguer deux catégories: d'une part, les ONG humanitaires qui sont intéressées au dialogue avec nous. [...] La filiale de Total développe avec elles un dialogue et a déjà fait visiter à certaines

d'entre elles la région du gazoduc. D'autre part, les ONG dont la campagne pour le boycott de la Birmanie est la raison d'être (du Rusquec, 2003).

Thus, based on the analysis of previous literature and the case studies, the following propositions regarding organisational intrusiveness and strategy towards symbolic human rights issues can be presented:

Proposition 5. The greater the extent to which the company intrudes into its environment to comprehend it, the more likely it is to assume a stakeholder engagement strategy to address symbolic issues.

Proposition 6. The lesser the extent to which the company intrudes into its environment to comprehend it, the more likely it is to assume an information or leveraging strategy to address symbolic issues.

8.4.2 Relative power of the stakeholder

Researchers have previously connected stakeholder power to the way in which companies approach stakeholder relationships (Freeman & Gilbert, 1987; Hill & Jones, 1992; Mitchell et al., 1997; Rowley; 1997; Savage et al., 1991). In line with this research, the analysis of the cases suggests that companies employ a stakeholder engagement strategy to communicate their views to stakeholders that hold some form of power.

In general, a stakeholder can be seen to have power to the extent it can impose its will on the other actor (see Mitchell et al., 1997). This definition of power derives from a reformulation of Dahl's (1957) view of power as "a relationship among social actors in which one social actor, A, can get another social actor, B, to do something that B would not otherwise have done" (Pfeffer, 1981: 3). In organisational literature, the bases of power have been explained in terms of the resources that actors can access to impose their will on others (e.g. Etzioni, 1964; French & Haven, 1960).

Formal power. The case study companies assumed a stakeholder engagement strategy towards a number of stakeholders that held what Freeman and Gilbert (1987) called formal power. According to Freeman and Gilbert, formal power stems from the power of certain stakeholders to affect corporate policies and behaviour. Governments have such power because they can regulate corporate behaviour. Investors also have formal power because they can, for example, cast their vote in the election of corporate directors. The case study companies sought to engage with both types of stakeholders to communicate their views on operating in Myanmar and Sudan (Aubert, 1999: 87; Batruch, 2004; Jones, 2003a; Premier Oil, 2003: 12, 59; Talisman, 2000b: 6; Total, 2002d: 9; also see 7.7).

Social power. The case study companies also sought to engage with stakeholders that held what Etzioni (1964: 59) referred to as social power. This type of power stems from the ability to influence the perceptions and views that a broad range of stakeholders have about some events or situation. Such power is particularly held

by journalists and non-governmental organisation that are capable of mobilising the attention of the media. Some degree of social power is also held by the local communities that have, on occasion, brought their grievances regarding foreign investment to the knowledge of the international community (see 7.4.1). As seen in Chapter 7, the case study companies sought to engage with all these groups in connection with their operations in Myanmar and Sudan (see 7.7). They did this by, for example, inviting journalists to visit their areas of operations. All the companies also engaged with non-governmental organisations through discussions (see 7.7). They also met with some important political actors to advance their views. These actors included Aung San Suu Kyi who leads the party that won the 1990 elections in Myanmar, but does not hold any formal power (see 7.7). Similarly, Talisman and Lundin met with political actors, including members of the opposition, in connection with their operations Sudan to exchange views about their investment in the country (Batruch, 2004; Talisman, 2000b: 22).

Therefore, based on previous literature and analysis of the cases, companies employ a stakeholder engagement strategy in situations where the stakeholder holds a relatively high degree of power relative to companies.

Proposition 7. Companies are likely to assume a stakeholder engagement strategy to communicate their views to stakeholders that hold a relatively high degree of power over corporate behaviour.

8.5 Choice between individual action and collaboration

As seen in the previous chapter, companies can pursue strategies on their own or in collaboration with other actors. The analysis of the case studies and previous research suggests that three variables affect the choice between individual and collaboration strategies: (1) organisation size, (2) availability of partners, and (3) perceived fit with core activities.

8.5.1 Organisation size

Resource dependency theory proposes that larger organisations have greater resources to influence their environments than smaller organisations (Pfeffer & Salancik, 1978: 267). This proposition is supported by research in issues management. In particular, Greening and Gray (1994) found in their study of 103 companies that larger companies are more likely to have formal issues management structures and to devote more resources to issues management than smaller companies. It can be similarly argued that larger organisations are more likely to take action on their own in response to human rights issues because they have more resources at their disposal than smaller companies. Correspondingly, smaller organisations are more likely to pursue strategies in collaboration with other actors because they have fewer resources to address human rights issues. This argument is supported by the fact that Total, a significantly larger company than Premier Oil, employed a direct strategy on its own to run a socio-economic programme in the pipeline region, whereas Premier Oil collaborated with Save the

Children US to deliver a similar programme (see 7.9). In general, Total began to forge contacts with other actors only recently, whilst Premier Oil sought to pursue strategies in collaboration with other actors since it became the operator of the Yetagun project (see 7.4.3 and 7.5.1). The following propositions can hence be put forward:

Proposition 8. The larger the size of the company, the more likely it is to assume individual action to address human rights issues.

Proposition 9. The smaller the size of the company, the more likely it is to assume a strategy in collaboration with other actors to address human rights issues.

8.5.2 Availability of partners

The analysis of the cases further suggests that the availability of collaboration partners affects the choice between individual action and collaboration. Availability explains, for example, why Total run its community programme in Myanmar through its own staff while Premier Oil collaborated with Save the Children (see 7.9). According to Total's Head of Mission in the country, few non-governmental organisations were interested in collaborating with the company at the time it launched its socio-economic programme, which was one of the reasons why it decided to recruit new staff to carry out its social and economic activities rather than to look for an organisation that would be prepared to collaborate with it (du Rusquec, 2004). In contrast, Premier Oil found a partner in Save the

Children US because of the contacts that Texaco as the former operator of the Yetagun project had established with the organisation before Premier took over the operatorship (Jones, 2003b).

The proposition that the availability of collaboration partners affects the choice between individual and collaboration strategy is supported by the fact that even though Total rarely addressed human rights issues in Myanmar in collaboration with other organisations, it took the opportunity to do so when one arose. For example, given the opportunity, it asked Mr. Bernard Kouchner to examine its socio-economic programme in the country:

Le contact entre B. Kouchner et Total est un peu le fruit du hasard. Il avait accompagné son épouse qui interviewait Madame Aung San Suu Kyi et peu après il a rencontré le Président de Total qui lui a dit: 'nous sommes très critiqués sur la Birmanie, vous ne voulez pas venir sur place ce que nous y faisons, notamment sur le plan médical' (du Rusquec, 2004).

The cooperation with Collaborative for Development Action is also an example of collaboration that Total engaged in when a suitable partner became available (Anderson et al., 2002: 21; du Rusquec, 2004).

The availability of collaboration partners can vary over time depending on how company operations are perceived by stakeholders, as noted by Lundin:

[I]t [Lundin] found that organizations with a humanitarian focus were generally supportive of the company's efforts to contribute to the local communities in the areas of operations. They were prepared to talk to company representatives and even work with them on certain projects. When the stigma surrounding oil activities became significant, most chose not to be publicly associated with the company and therefore only a few cooperative ventures continued, on a confidential basis. (Batruch, 2004).

The analysis of the case studies therefore gives rise to the following propositions:

Proposition 10. Unavailability of partners increases the likelihood that a company assumes individual action to address human rights issues.

Proposition 11. Availability of partners increases the likelihood that a company assume a strategy in collaboration with other actors to address human rights issues.

8.5.3 Perceived fit with core activities

The analysis of the cases also suggests that fit with what managers consider as the companies' core activities affects the choice between individual action and collaboration. According to a Premier Oil manager, one of the reasons why the company formed a partnership with Save the Children for delivering a socio-economic programme in the pipeline region was that the company did not consider social and economic activities as its core capability; instead, it preferred

to find an organisation specialised in such activities to design and run the programme:

Our approach has been to get the specialist to do their job. [...] They have an entire international organisation to draw to. If there is no model in South-East Asia that works, then Save the Children can go to South America and say we would like that model (Jones, 2003b; see also Anderson et al, 2002: 8).

In contrast to Premier Oil, the other three companies delivered a community programme through their own staff though they also sponsored projects managed by non-governmental organisations (see 7.9). Total, for example, was already carrying out socio-economic projects in other countries and felt capable of running a similar project in Myanmar (du Rusquec, 2004). It also considered the socio-economic programme as “too important to be implemented without direct and personal involvement” (Anderson 2002, 8).

Hence, based on the analysis of the cases, fit with what is considered as the company’s core activities affects the choice between individual action and collaboration:

Proposition 12. The greater the perceived fit with core activities, the more likely a company is to assume a direct strategy to address substantial human rights issues.

Proposition 13. The lesser the perceived fit with core activities, the more likely a company is to assume a strategy in collaboration with other actors to address human rights issues.

8.6 Summary

This chapter identified variables that were proposed to determine the selection of strategies that companies use to address human rights issues. The chapter first examined the perceived ontological nature of human rights issues as the variable that determines the selection between substantial and symbolic action. It then discussed the degree of control companies have over issues as the variable that affects the choice between direct and indirect strategies. Another two variables, organisational intrusiveness and relative power of stakeholders, were then argued to have impact on the choice between information/leveraging strategies and stakeholder engagement strategies. Finally, three further variables were identified as influencing whether companies pursue strategies on their own or in collaboration with other actors: organisation size, availability of partners, and perceived fit with core activities.

9 The wider context of corporate human rights policies and practices

9.1 Introduction

This chapter discusses the relevance of the research findings in the context of what companies are generally doing in relation to human rights. The focus will be on the extractive sector, but policy and practice across sectors will be reviewed. The chapter begins with a discussion of the structure of the extractive sector and how it may affect corporate approaches to human rights. The most common activities that companies carry out to address human rights concerns are then reviewed on the basis of available information. As will be seen, little information still exists on the topic, particularly on the activities of state-owned companies. The chapter ends with a review of the principal voluntary initiatives in the area of business and human rights for assessing the significance of the present research in relation to the emerging standards and practice.

9.2 Industry structure and human rights

Companies in the oil and gas industry are often divided into the majors, national companies, and the independents. After a number of mergers between the largest companies during the last ten years, *the majors* now include ExxonMobil, BP, Shell, Chevron (merged with Texaco), and Total. These companies or their

predecessors played an important role in the development of the oil and gas industry and they are still influential due to the scope and geographical spread of their activities. In terms of oil, they account for about 13% of world production, 21% of world refining, and 35% of product sales (Parra, 2004: 329). The *national companies* are state-owned, or partially state-owned, and have control over important oil and gas resources. In comparison to the majors, they operate in a smaller number of countries and, with the exception of some companies, do not have important downstream operations outside their own country. Still, they include some of the largest producers of oil and gas in the world and account for over one third of world production in crude oil (Parra, 2004: 330, also see Table 9.1). The rest of the oil and gas companies are referred to as *the independents*. These companies often have operations in more than one country, but in contrast to the majors, are focused on a handful of countries and have limited refining and marketing operations.

TABLE 9.1. Largest national companies by country of origin (as of January 1, 2006)

Country	Reserves (billion barrels)	Reserves (% of world reserves)	Main national companies
Saudi Arabia	264.3	20.4	Saudi Aramco
Canada	178.8	13.8	Petro Canada
Iran	132.5	10.3	National Iranian Oil Co.
Iraq	115.0	8.9	n/a
Kuwait	101.5	7.9	Kuwait Petroleum Corp.
UAE	97.8	7.6	Abu Dhabi National Oil Co.
Venezuela	79.7	6.2	Petroleos de Venezuela
Russia	60.0	4.6	Gazprom
Libya	39.1	3.0	Libya National Oil Corp.

Nigeria	35.9	2.7	Nigerian National Petroleum Corp.
United States	21.4	1.7	n/a
China	18.3	1.4	China National Petroleum Corp., China National Offshore Oil Co.
Qatar	15.2	1.2	Qatar Petroleum Corp.
Mexico	12.9	1.0	Petroleos Mexicanos (Pemex)
Algeria	11.4	0.8	Sonatrach
Brazil	11.2	0.8	Petrobras
Kazakhstan	9.0	0.7	KazGerMunai, KazMunayGas
Norway	7.7	0.6	Statoil, Norsk Hydro
Azerbaijan	7.0	0.5	Socar
India	5.8	0.4	Oil and Natural Gas Corp. Ltd
Rest of world	68.1		
TOTAL	1,292.5		

Source: Adjusted from Worldwide Look at Reserves and Production, Oil & Gas Journal, Vol. 103, No. 47, 24-25.

Some recent developments suggest that the structure of the oil and gas industry may be changing in a way that affects human rights. The national companies have showed an increasing interest in diversifying their portfolio by investing abroad (see Marcel, 2006: 228). For example, in 2005, Chinese National Offshore Oil Company (CNOOC), the parent of which is controlled by the Chinese government, made a bid for a major US independent, Unocal, but withdrew its offer when faced with strong political opposition in the US. More importantly for human rights, the national companies have acquired interests in projects that have been abandoned by Western companies as a result of the depressing effect of human rights concerns on their share price. For example, as seen earlier in Chapter 5, Petronas purchased Premier Oil's share in the Yetagun project in Myanmar in 2002 and the Oil and Natural Gas Corporation of India acquired

Talisman's interest in the Greater Nile Oil Project in Sudan in 2003. These types of acquisitions have negative consequences for human rights because the state-owned companies, with the exception of some, have not taken similar measures to the majors and Western independents for protecting and promoting human rights (see 9.4 below). The acquisitions also show that the lack of pressure placed on national companies with regard to human rights improves their competitive position in comparison to Western companies.

Companies and their approach to human rights may also be affected by their home government. It is rare for governments to prioritise human rights to economic and security interests in their foreign policy, particularly with regard to countries that have control over considerable oil reserves as identified in Table 9.1 (also see Donnelly, 2003: 178). Instead, governments may put pressure on companies to take action in response to human rights concerns. For example, as seen in Chapter 6, the UK government requested Premier Oil to consider withdrawing from Myanmar, even though no official sanctions had been introduced against investment in the country's oil and gas sector. In contrast, other governments provide financial and political support for their companies operating abroad. France, for example, has been supportive of Total's investments in Myanmar (see Chapter 5).

9.3 What are companies generally doing?

The case studies examined for the present research were purposefully selected to develop a model for corporate human rights strategies. They concerned one major

and three independents headquartered in North America or Western Europe and centred on situations where a company was seeking to address human rights concerns in a particular country. The research findings are therefore not representative of what companies are generally doing in relation to human rights. In what follows, the research findings are discussed in the wider context of corporate approaches to human rights. The focus will be on the largest publicly listed companies of mostly US or Western European origin as little information can be found about the policies and practices of other types of oil and gas companies in this area. Based on the existing evidence, the most commonly used approaches to human rights include the adoption of human rights policies, human rights impact assessments, monitoring of human rights, and partnership projects. These activities are briefly reviewed below.

Human rights policies. Companies are increasingly stating their commitment to human rights in their general business principles or specific human rights policies. An OECD survey carried out in 2002 found that human rights were addressed by 35% of the 59 oil and gas companies included in the survey (OECD, 2002b: 9). Preliminary results of a study conducted four years later in 2006 found that nearly 80% of the Fortune Global 500 companies had incorporated human rights principles into their policies or management practice (United Nations, 2006). The results of the two surveys are not directly comparable as the sample of the companies studied was different, but they suggest that an increasing number of companies are making an explicit commitment to human rights. Because the second survey was based on the Fortune Global 500 which includes companies

from both OECD and non-OECD countries, the results also suggest that the inclusion of human rights considerations into company policies and practice is not exclusive to companies incorporated in North America or Western Europe. No conclusions can however be made about state-owned companies as the Fortune Global 500 only includes a small number of them (Petrobras, Petroleos Mexicanos, and some Asian companies; see Fortune, 2006).

Human rights impact assessment. Human rights impact assessments are typically carried out before final investment decisions are made. The present research did not examine impact assessments as the focus of the research was on the action taken by companies once they had already decided to invest in a particular country. Nevertheless, human rights impact assessments have received considerable attention during the last few years. Notably, they were included in the mandate of the UN secretary general's special representative who was asked to "develop materials and methodologies for undertaking human rights impact assessments" (United Nations, 2006). Also, a significant number of companies are already assessing the impact of their operations on human rights. According to the preliminary results of the survey of the Fortune Global 500, 40% of the largest 500 companies in the world routinely conduct human rights impact assessments and a slightly higher number do so occasionally (United Nations, 2006). These findings are evidence of the attention and resources that companies are allocating to human rights.

Human rights monitoring. There is evidence to suggest that many companies engage in internal and external human rights monitoring. All the companies examined for the present research were monitoring the human rights situation in the countries studied. This monitoring was carried out in sync with other activities aimed at addressing human rights concerns and often involved external organisations. Moreover, according to the Fortune Global 500 survey, nearly 90% of the companies that have adopted human rights policies have an internal system of monitoring and reporting in place (United Nations, 2006). Anecdotal evidence also suggests that companies do not only engage in internal monitoring, but also employ external organisations for the monitoring or use a combination of internal and external monitors. British Petroleum, for example, set up a committee consisting of both internal and external actors to monitor the human rights performance of the Colombian military units that provide security for the company's operations in Colombia (Human Rights Watch, 1999).

Partnership projects. Evidence from several studies suggests that companies are engaging with external stakeholders to develop human rights policies and to address human rights concerns. Based on the survey of the Fortune Global 500, almost 90% of companies work with external stakeholders in developing and implementing their human rights policies (United Nations, 2006). Another study found that partnerships projects are the most common form of action taken for implementing the human rights principles of the Global Compact (McKinsey, 2004; also see 9.4.1 below). Many of such projects have had the objective of improving social and economic conditions in host societies (Human Rights

Watch, 1999; OECD, 2002a). Moreover, based on the survey of the Fortune Global 500, non-governmental organisations are the most popular partner in collaboration projects, followed by industry associations, the UN and other international organisations, labour unions, and finally the governments (United Nations, 2006). Existing evidence does not allow for conclusions to be made about the commonality of partnership projects across different types of oil and gas companies. It does, however, suggest that companies are pursuing human rights strategies in collaboration with other actors rather than on an individual basis (see 7.9).

9.4 Voluntary initiatives

A large number of voluntary initiatives including principles, certification schemes, and financial indices making reference to human rights have been launched during the last 15 years. The United Nations High-Commissioner on Human Rights identified over 200 such initiatives in 2005 (United Nations, 2005). The emergence and significant number of these initiatives demonstrates that companies are increasingly expected to consider the impact of their operations on human rights and abide by internationally recognised human rights standards. The initiatives are relevant for discussing the significance of the present research because they shed light on the emerging standards and practice in the area of business and human rights. They are here reviewed in two parts: (1) general initiatives applying to all companies and (2) initiatives specific to extractive companies.

9.4.1 General initiatives

Many of the voluntary initiatives applying to all companies set forth principles on corporate behaviour. They typically involve a broad range of stakeholders including companies, governments, labour unions, and civil society groups and cover a variety of issues, not only human rights (United Nations, 2006). The substance of the initiatives frequently overlaps. For example, the Global Compact and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises both include principles on the fundamental labour standards as identified in the ILO Declaration on Fundamental Principles and Rights at Work (1998). Moreover, even though the initiatives often specify procedures for implementation, they rather express what is expected from companies than focus on strict monitoring of compliance.

Only the main general initiatives are reviewed here: the Global Compact, the OECD Guidelines for Multinational Enterprises, and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises. Out of the three initiatives, the Global Compact will be discussed in more detail than the others because comparisons between different types of extractive companies can be made on the basis of the information available on the Compact. The three initiatives carry considerable authority because of the intergovernmental character of the organisations that are behind them (United Nations, 2005). They also have a spill-over effect as a number of financial indices and certification schemes require companies to make a statement of commitment to at least one of them. For example, in order to be listed in the FTSE4Good index, companies are expected to

state their commitment to all core ILO labour standards or, alternatively, the Global Compact, the OECD Guidelines, or the SA8000 (FTSE4Good, *undated*). The Global Compact Office has deliberately sought to enhance the spill-over effect by engaging stock markets and financial market analysts in their efforts (McKinsey, 2004).

The United Nations Global Compact is the most popular voluntary initiative in the area of business and human rights with nearly 3,000 company participants. It is designed for promoting and sharing good practice in relation to ten principles derived from international treaties and declarations in the areas of human rights, labour standards, the environment, and anti-corruption. The Global Compact was launched in 2000 by Kofi Annan, secretary-general of the United Nations, and has enjoyed the support and authority of his office. It encourages companies to improve their practices in relation to the ten principles through direct interaction with managers, policy dialogue, web-based information sharing, and local network creation and support. Participation in the Global Compact therefore signals a commitment to the improvement of performance over time rather than a full realisation of the ten principles.

The participating companies are expected to report on their progress in implementing the ten principles. Failure to do so results in the company being listed as a “non-communicating company”. Companies are therefore pressured through the power of public transparency and the watchdog role of the media and non-governmental organisations to report on the steps that they have taken in

support of the Compact. This has not satisfied critics who allege that some of the participants join the Compact to “bluewash”¹² their image without a serious commitment to human rights (for this and other criticism of the Global Compact, see Williams, 2004). The Compact has also been criticised for the lack of an effective monitoring system; the current system makes it possible for companies to report on the issues of their own choice even if they are performing poorly in another area of the Compact (see Williams, 2004).

The Global Compact brought attention on the concept of complicity through its Principle 2 that asks companies to “make sure that they are not complicit in human rights abuses”. The discussion on complicity has focused on situations where companies have assisted in, benefited from, or failed to use their power to oppose the human rights violations carried out by host government authorities. It has also involved the boundaries of responsibility between companies and their sub-contractors or suppliers. In general, the inclusion of the concept of complicity in the Global Compact principles demonstrates that corporate responsibility for human rights is increasingly considered to extend beyond the immediate acts of companies to the behaviour of other connected actors.

The Compact brings together companies and other actors from OECD and non-OECD countries. In 2005, more than half of the participating companies were from developing countries (United Nations, 2006). Companies from OECD and non-OECD countries have, however, joined the Compact for somewhat different

¹² The term refers to the colour of the UN logo.

reasons. According to a survey carried out by McKinsey in 2004¹³, for companies from OECD countries, the Compact is a sign of continued engagement with corporate social responsibility, whereas for companies from non-OECD countries, the Compact is a way to become more familiar with corporate social responsibility (McKinsey, 2004). Still, only 9% of the respondents to the McKinsey survey reported that joining the Compact was a way to introduce change in the company. Slightly more than half of the respondents said that changes would have happened anyway though participation made change easier. Another 40% of the companies stated that participation had no significant impact on what the company was doing (McKinsey, 2004). These findings suggests that many of the companies that have signed up for the Global Compact, irrespective of whether they come from OECD or non-OECD countries, have already decided to incorporate human rights considerations into their policy and practice.

Nevertheless, only half of the companies that responded to the McKinsey (2004) survey had taken action to implement the ten Global Compact principles. The most common form of action among all the companies were partnership projects. This finding suggests that companies are addressing human rights concerns in collaboration with other actors as discussed in Chapter 7. Most other action taken by companies to implement the Compact principles involved changes in internal policies and practices. For example, 39% of the respondents had discussed or incorporated human rights considerations into company policies and 25% had revised human resources policies to eliminate discrimination. Also, 35% of the

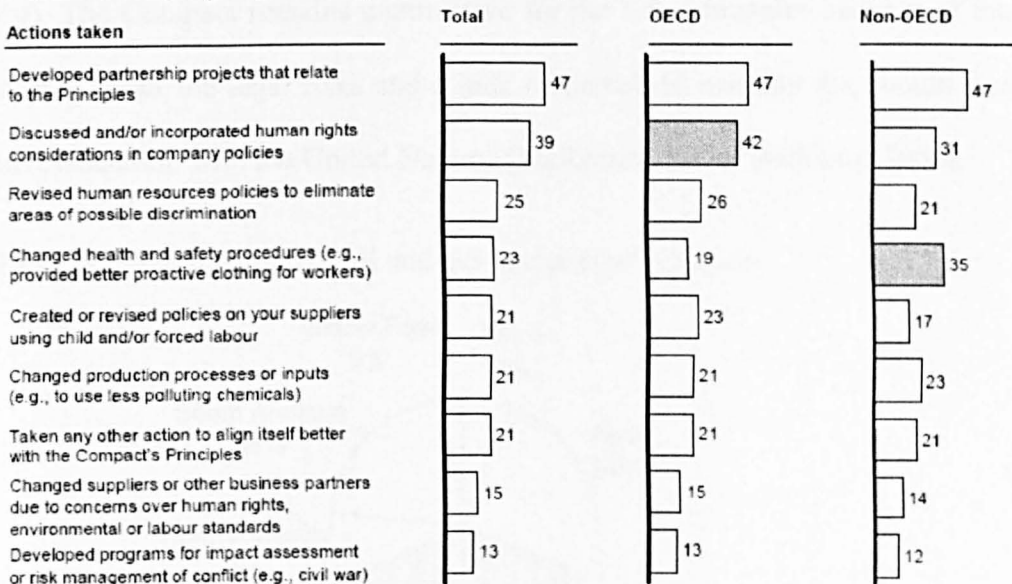
¹³ The McKinsey survey was based on 288 questionnaires filled by individuals from organisations on the Global Compact email database. This represented a response rate of nearly 30%.

companies from outside the OECD had changed their health and safety procedures. The only external actions that companies reported to have taken, in addition to partnership projects, concerned the introduction of policies against the use of child and forced labour among suppliers and the change of suppliers or business partners because of human rights concerns. The companies examined for the present research have therefore carried out a significantly broader variety of external activities as described in Chapter 7, which may be explained by the attention that the operations of these companies have attracted.

CHART 9.1. Participant actions in support of Global Compact goals

PARTICIPANT ACTIONS IN SUPPORT OF GLOBAL COMPACT GOALS

Percent of company respondents (of the 58% that report taking at least one action)



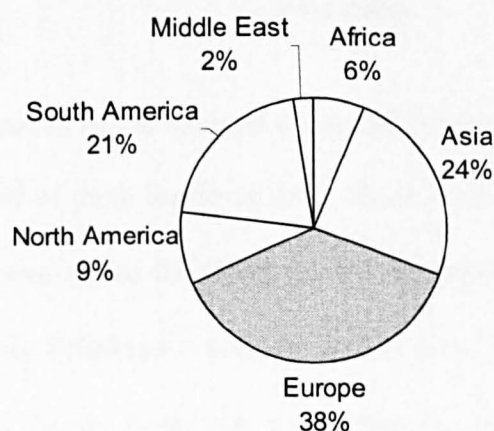
Source: Survey of GC participants

Partnership projects are most common action companies have taken to support Compact's goals. OECD-based companies focused more on closing human rights gap while developing country companies emphasize basic health and safety.

Source: McKinsey 2004

Overall, more than half of the oil and gas companies participating to the Compact come from *outside* Europe or North America.¹⁴ Participation is still concentrated in Europe with 38% of the companies being of European origin. The representation of companies from Asia (24%) and South America (21%) is also significant. Smaller numbers of companies have signed up for the Compact from North America (9%), Africa (6%), and the Middle East (2%). Most of the participating companies from North America are from Canada or Mexico. Only one US oil and gas company, Amerada Hess, has joined the Compact. In general, only a few US companies have signed up for the Compact despite the efforts of the Global Compact office to strengthen support among them (see McKinsey, 2004). The Compact remains unattractive for the US companies because of their concerns about the legal risks and a lack of perceived benefits that would incur from association with the United Nations (McKinsey, 2004; Williams, 2004).

CHART 9.2. Participation of oil and gas companies by region

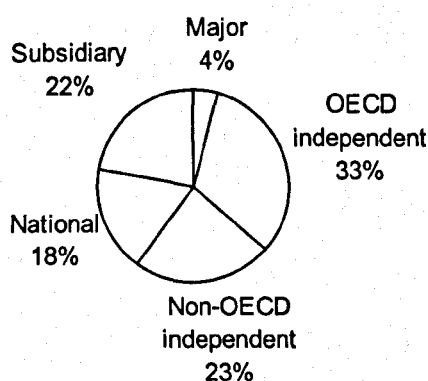


The country of origin of the companies participating to the Compact reflects the structure of the oil and gas industry. Three out of the five majors have joined the

¹⁴ Research on the participating oil and gas companies was carried out on the basis of information that was available on the Global Compact website (see Appendix).

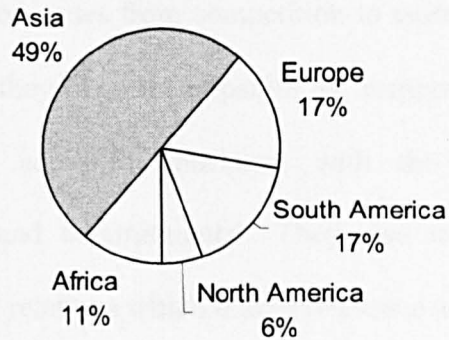
Compact. Only Chevron and ExxonMobil have stayed outside the Compact, which echoes the generally low take-up of the Compact by US companies. The national companies have also signed up for the Compact; they account for 18% of the participating companies. Also independents from both OECD (33%) and non-OECD (23%) countries are well represented. The rest of the participating companies are subsidiaries of different types of companies. This balanced participation of different types of oil and gas companies suggests that human rights are embraced by all types of companies.

CHART 9.3. Type of participating oil and gas companies



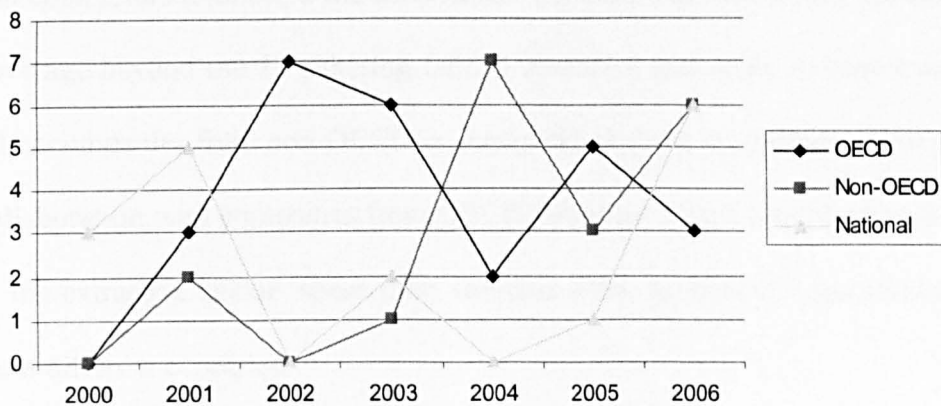
A closer inspection of the national companies participating to the Compact reveals that nearly half of them are from Asia. None of the national companies from the Middle East have joined the Compact. Of the important South American national companies, only Petrobras is participating to the Compact. The relative number of European and North American companies is low because most oil and gas companies from these regions are public with the exception of Norwegian and some Eastern European companies. The number of African companies is also low, even though many resource-rich African countries have state-owned oil and gas companies.

CHART 9.4. Origin of participating national oil and gas companies



No trends can be identified in the number of oil and gas companies joining the Compact over time (see Chart 9.5). Instead, sign-ups have spiked in the run-up or aftermath of activities carried out by the Global Compact Office to recruit new participants in different regions and countries (McKinsey, 2004). Also, sign-ups increasingly result from peer recruitment and general interest (*ibid.*).

CHART 9.5. Number of oil and gas companies joining the Global Compact annually



The OECD Guidelines for Multinational Enterprises are recommendations by governments to multinational companies. The Guidelines were first launched in

1976, but reviewed and re-launched in 2000 with significant changes. They encompass a broad range of issues from competition to sustainable development. In terms of human rights, they require companies to “respect the human rights of those affected by their activities consistent with the host government’s international obligations and commitments”. They also include a chapter on employment and industrial relations which makes reference to a number of human rights including the freedom of association and the abolition of child labour. Chapters on combating bribery and protecting consumers were added to the Guidelines in 2000.

The coverage of the Guidelines was expanded in the review carried out in 2000 in two ways. First, the scope of the Guidelines was extended from companies operating *in* OECD countries to also include companies operating *from* OECD countries. Also, companies were asked to encourage their business partners and sub-contractors to observe the Guidelines. The renewed Guidelines therefore have coverage beyond the 38 adhering OECD countries and apply to state-owned and other companies from non-OECD countries when these companies are working in collaboration with companies from OECD countries. Such collaboration is typical in the extractive sector where joint ventures often include a range of companies from different countries.

The promotion of the Guidelines takes place through National Contact Points that are also responsible for gathering information on experiences with the Guidelines, discussing related matters, assisting in solving problems that may arise, and

dealing with enquiries relating to the Guidelines. Moreover, any individual or organisation can ask the National Contact Points to investigate “specific instances” relating to the behaviour of companies in relation to the Guidelines. By 2004, the National Contact Points had considered 79 such instances. Critics have however complained that the National Contact Points do not provide sufficient information on the investigation of specific instances to build confidence in the implementation of the Guidelines (OECD Watch, 2003). Critics have also alleged that few of the National Contact Points are actively promoting the Guidelines (*ibid.*).

The inclusion of new human rights principles and the expanding coverage of the Guidelines demonstrate that companies are increasingly expected to consider the impact of their operations on human rights and abide by human rights standards. Even though the Guidelines are not focused on human rights, they provide some clarification on what is expected from companies in terms of human rights and make available a channel for enquiring the behaviour of companies from the perspective of human rights.

The ILO Tripartite Declaration of Principles Concerning Multinational Enterprises is addressed to multinational enterprises and all three types of ILO members including governments and employer’s and worker’s organisations. It makes specific reference to the Universal Declaration: “All the parties concerned by this Declaration ... should respect the Universal Declaration of Human Rights and the corresponding international Covenants adopted by the General Assembly

of the United Nations” (para 8). Its main body covers the four fundamental labour rights identified in the ILO Declaration on Fundamental Principles and Rights at Work (1998): (1) freedom of association and the right to collective bargaining, (2) the elimination of forced or compulsory labour, (3) the abolition of child labour, and (4) the elimination of discrimination in respect of employment and occupation.

The implementation procedure consists of three elements: a periodic survey whereby the permanent members of the ILO provide information on their experiences in implementing the Declaration, a clarification procedure for interpreting the Declaration, and promotional and research activities. It therefore enables the permanent members of the ILO, including worker’s organisations, to scrutinise and document the behaviour of companies with regard to key labour standards. These reports are made publicly available but only after the names of companies have been taken out.

Like the OECD Guidelines, the ILO Declaration is a normative instrument that shows that companies are expected to abide by internationally recognised human rights standards. Focused on labour rights, it is a more specialised initiative than the OECD Guidelines, but covers a wider number of countries and other actors including employer’s and worker’s organisations. Overall, it has attracted less attention than the OECD Guidelines, which may reflect the exclusion of other than the permanent members from the implementation procedures.

9.4.2 Sector specific initiatives

Several voluntary initiatives are specific to the extractive sector. Each of these initiatives covers a particular issue that gives rise to human rights concerns for extractive companies. As will be seen below, governments have played a particularly important role as the convenors of the initiatives, but some companies have also actively participated in the development and design of the initiatives. The number of participating companies has increased over time, but the initiatives are still only endorsed by a minority of extractive companies. They therefore provide a benchmark of best practice developed by the first-movers in this area rather than a set of standards that most companies comply with.

The Voluntary Principles on Security and Human Rights (2005), launched in 2000, are a set of principles designed to ensure that human rights and fundamental freedoms are respected when security of company operations is maintained. The Voluntary Principles were developed by a small number of extractive industry companies and non-governmental organisations together with the United States and United Kingdom governments in response to incidents where multinational companies were criticised for alleged human rights violations committed by public security forces. The Principles provide clear responsibilities for the participant companies. For example, companies are expected to record and report allegations of human rights abuses by security forces in their areas of operation to appropriate host government authorities and “urge investigation and that action be taken to prevent any recurrence”.

As of July 2006, the number of participants to the Voluntary Principles had grown from the initial six companies, two governments, and seven non-governmental organisations to sixteen companies, four governments, and a slightly different set of non-governmental organisations. All the oil majors are endorsing the Voluntary Principles, but the initiative does not currently include any companies from outside OECD countries and therefore provides support for the argument that Western companies are more likely to address human rights concerns than companies from developing countries. The number of governments and companies endorsing the Principles should however grow in the future as participation was opened in 2006 for new governments and companies. Even though the number of participating companies is still low, the initiative shows that the behaviour of security forces gives rise to human rights concerns as discussed in Chapter 6.

The Extractive Industry Transparency Initiative (2006) encourages governments and companies to publish information about the taxes, royalties, and fees paid by oil, gas, and mining companies to host governments in developing countries. It is aimed at preventing corruption through the promotion of transparency of payments and government revenues from oil, gas, and mining operations. Disclosure of similar information is already common practice in developed countries. The Transparency Initiative was launched by Tony Blair in 2002 and can be seen as an effort of the international donor community to promote transparency and good governance in resource-rich countries and level the playing field between companies of which some may have gained unfair advantage

through bribes and facilitation payments. It is supported by a secretariat based in the UK's Department for International Development and a team in the World Bank.

The Transparency Initiative is based on the willingness of governments to join the Initiative, although it is supported by a variety of actors including donors, some of the largest oil and mining companies in the world, investors in these companies, and civil society groups. As of July 2006, more than twenty governments had endorsed or were actively implementing the Initiative. The number of companies concerned was much higher because once a government joins the Initiative, companies are required to make available information on their payments to this government, irrespective of the home government or ownership structure of the companies. The Initiative therefore covers all types of companies in the extractive sector, including the majors, independents based in OECD and non-OECD countries, and state-owned companies.

Corruption did not occur as one of the human rights related concerns addressed by the companies studied for the present research. The Transparency Initiative however shows that corruption has been a concern in the extractive sector. More generally, corruption has been seen to infringe on many of the human rights enumerated in the Universal Declaration. For example, it hinders the realisation of the right to the equal protection of the law as the application of law can be affected through bribes. The increasing international efforts to fight corruption were highlighted by the adoption of the United Nations Convention against

Corruption in Merida, Mexico, in December 2003. The United Nations Commission on Human Rights had already earlier recognised the link between good governance and the enjoyment of human rights in its resolution 2000/64. The role of business in the prevention of corruption was emphasised when anti-corruption was included as the tenth principle in the Global Compact in 2004.

Other initiatives in the extractive sector include *the Kimberley Process Certification Scheme* which is designed to control the origin of rough diamonds to prevent the trade of conflict diamonds. The participants consist of countries, the international diamond industry, and civil society organisations. Because the Kimberley Scheme is not directly related to human rights, but the financing of conflict, it is not discussed here in more detail.

9.5 Conclusion

The analysis of what companies are generally doing in relation to human rights sheds further light on the human rights strategies presented in Chapter 7. In particular, it shows that companies frequently pursue different types of human rights strategies in collaboration with other actors. The collaboration takes two main forms. First, companies form partnerships with non-governmental organisations to address human rights concerns (McKinsey, 2004; United Nations, 2006). Second, companies engage in voluntary initiatives to show their commitment to human rights and to deal with specific human rights issues. In this way, companies gain more leverage and level the playing field between competitors.

Evidence also shows that an increasing number of different types of extractive companies give consideration to human rights. All the majors in the oil and gas sector have adopted human rights policies and taken measures to address human rights concerns. They have also participated in the launch and development of important sector-specific initiatives, particularly the Voluntary Principles, and thereby showed leadership in the area. The US companies have, however, been less willing than their European counterparts to participate in voluntary initiatives such as the Global Compact because of the general concern among US companies about litigation.

Relatively little information is available about the national companies than other types of companies in the oil and gas sector. However, the fact that a number of national companies, including Petrobras and Petroles de Mexicanos, have signed up for the Global Compact shows that also national companies give consideration to human rights. Nevertheless, the important national companies from the Middle East and Africa show little signs of acknowledging that companies are increasingly expected to abide by human rights standards. This reflects the fact that the companies are controlled by governments that are frequently criticised for human rights violations. In fact, it is the behaviour of some of these governments that has brought attention on the role of companies in human rights violations.

The independents from both OECD and non-OECD countries have showed signs of taking human rights into consideration. Both types of companies have, for

example, joined the Global Compact (see Chart 9.2). However, based on the survey on the impact of Global Compact, the independents coming from non-OECD countries are only starting to take action in relation to human rights whereas companies coming from OECD countries have already taken measures to incorporate human rights into company policies and practice (McKinsey, 2004).

In general, companies have not engaged in the same variety and extent of actions as the companies studied for the present research. However, given that companies are increasingly recognising their commitment to human rights and showing their willingness to take action, the measures taken by the case study companies shed light on how a more important number of companies may be addressing human rights in the future. They also provide a repertoire of strategies that companies can pursue in the area of human rights.

10 Summary and discussion of the findings

10.1 Introduction

This chapter summarises the research findings and discusses them in the context of earlier research. The chapter consists of two main parts. In the first part (10.2), the research findings and their contribution to extant literature are discussed at a general level and in relation to each of the three research questions. In the second part (10.3), the research findings are discussed at a more general level in terms of the limits of the power of companies and the role of non-governmental organisations with regard to human rights. The chapter concludes with a discussion of the directions for future research (10.4) and implications for policy and practice (10.5).

10.2 Summary of findings in the context of earlier research

10.2.1 Relevance for extant literature

This thesis shed light on the range of strategies that companies can pursue in order to deal with human rights concerns in countries where the host government is responsible for systematic human rights violations. As seen in the literature review, little research exists on the ways in which companies address human

rights issues in such situations or in general. Previous research has focussed on examining the impact of foreign investment on human rights, even though one author admits that because of the complexity of human rights concerns and the factors that affect them, “[w]e do not know what really happens to human rights as multinationals invest abroad” (Spar, 1999: 56). Given the lack of research on the specific behaviours that companies use to impact human rights, the present thesis makes a contribution to the literature on business and human rights in three main ways: first, it explores the nature of the human rights issues addressed by companies; second, it identifies a set of human rights strategies through which companies have influenced human rights issues, and finally, it proposes a number of variables that affect the choice of human rights strategy. These three elements form a holistic framework for addressing human rights concerns.

Corporate approaches to human rights were examined in the context of corporate social responsibility defined as *voluntary activity aimed at accommodating corporate behaviour to society's values and expectations*. Because human rights concerns were assumed to embody a set of society's values, corporate human rights strategies were viewed as a way to implement corporate social responsibility. The present research therefore draws on and contributes to three main areas of research that have investigated how corporate behaviour is adapted to society's norms, values, and expectations: (1) social responsiveness (Carroll, 1979; Sethi, 1975; Wartick & Cochran, 1985; Wood, 1991), (2) issues management (Arrington & Sawaya, 1984; Dutton & Duncan, 1987b; Dutton & Ottensmeyer, 1987; Greening & Gray, 1994; King, 1982; Mahon & Wartick,

2003; Wartick & Rude, 1986), and (3) stakeholder management (Clarkson, 1995; Hillman & Keim, 2001; Mitchell et al., 1997; Post et al., 2000; Savage et al., 1991).

The present research contributes to the literature on social responsiveness by identifying a set of strategies and attached activities that companies carry out to address human rights concerns. As pointed out by Clarkson (1995), there has been a lack of knowledge about actual activities pertaining to responsiveness. Previous research in the area has provided general categories of responsiveness rather than examined particular behaviours that companies adopt to accommodate their behaviour to society's values and expectations (e.g., Carroll, 1979; Wartick & Cochran, 1985). Carroll (1979), for example, suggested that corporate action can be described on a continuum from "doing nothing" to "doing much" without elaborating on the specific activities that can be carried out under these categories.

The analysis of the cases also provides support for the extended view of corporate citizenship. Accordingly, companies protect, facilitate, and enable rights particularly when governments fail to do so (Crane & Matten, 2004). Nevertheless, as was seen in Chapter 2, the ultimate responsibility and authority still rests on states as the main duty-bearers of human rights obligations under international law.

10.2.2 Contribution to stakeholder theory and models of issues management

Issues management. The corporate human rights strategies identified through the analysis of the cases make an important contribution to the literature on issues management by providing a new way of classifying corporate responses to social concerns. Previous research in the area has focused on the identification and evolution of issues. Relatively little is therefore known about the strategies and activities that companies employ to address issues. As Wartick and Rude (1986) found in their study of issues management in eight companies, responses to issues vary to such a degree that commonalities between them are not always recognised. More theory and testable hypothesis building has therefore been called for on responses to issues for improving the predictive and explanatory power of issues management theory (Wartick & Mahon, 1994).

The present research also provides support for the view that the process of issues management should be divided into separate phases (see 3.5.2). More specifically, it shows that the characteristics that are important in identifying issues from other developments in the business environment are not equally important in describing and explaining how companies respond to issues. For example, only one of the elements of the issue construct was found relevant for categorising responses to issues (see Table 3.13 and 7.3). This suggests that even though there are connections between the different phases and practical activities pertaining to the process of issues management, they are affected by a different set of factors and should therefore be examined separately.

Stakeholder theory. The proposed strategies also contribute to a better understanding of the ways in which companies can address stakeholder demands. In contrast to previous research on stakeholder management strategies (see 3.5 and 3.6), the present findings are based on a detailed examination of four separate cases rather than on theoretical reasoning without empirical basis. They also differ from the stakeholder management strategies put forward by previous researchers in that they establish issues rather than stakeholders as the target of action. Overall, the model of corporate human rights strategies goes beyond a normative approach to stakeholder theory by seeking to describe and explain the way in which stakeholders are part of issues and responses to issues. It therefore challenges the argument that the fundamental basis of stakeholder theory is normative by showing that explanatory research can be carried out in this area (for a discussion on the theoretical nature of stakeholder theory, see Donaldson & Preston, 1995).

Integrating stakeholder theory and issues management. The model of corporate human rights strategies also makes a contribution by providing new insight on the relationship between issues and stakeholders. Such exploration of links between research in issues management and stakeholder management has been called for by, for example, Wartick and Heugens (2003). Taken as a whole, the analysis of the activities that the companies carried out in Myanmar and Sudan provides support for the view that issues management and stakeholder management are complementary rather than conflicting ways of conceptualising the way in which companies accommodate to society's values and expectations

(Carroll & Buchholtz, 1999: 616-617; Wood, 1991). It therefore takes a different view to Clarkson (1995) who argued that managing corporate social responsibility equals to managing stakeholder groups. In contrast to Clarkson, the analysis of the cases shows that the concept of issues is useful in interpreting and organising stakeholder expectations because it brings together the perceptions and views that different stakeholders have about some circumstances or developments and thereby provides a link between various stakeholder groups and makes their management more efficient.

More specifically, the model of corporate human rights strategies brings together stakeholder theory and issues management by building on some distinctions and variables previously explored in these two areas of research. Most importantly, it draws on the distinction made by Mahon and Waddock (1992) between 'substantial' and 'symbolic' and makes it a basis that defines all corporate behaviour taken in response to issues or stakeholder demands and, in this way, links the concepts of issues and stakeholders. The distinction between action that seeks to impact the issue in question and action that is geared at influencing stakeholder perceptions and expectations has been previously made by researchers in the area of issues management and was discussed as the 'response target' in the literature review (see 3.5.4.2). In the present research, the distinction forms a key element of the model of corporate human rights strategies through the separation of substantial from symbolic action. Strategies are therefore defined as to their purpose rather than their magnitude (Ansoff, 1975; Dutton & Jackson, 1987; Dutton & Ottensmeyer, 1987), organisational focus (Buchholtz, 1992: 508, 510;

Dutton & Jackson, 1987b; Nigh & Cochran, 1987), or degree of involvement with stakeholders (Friedman & Miles, 2002; Harrison & St. John, 1996; Rowley, 1997; Savage et al., 1991). Framing action in this way provides a useful way of conceptualising corporate behaviour because, first, it sheds light on the characteristics of activities and, second, it provides a basis for assessing behaviour based on how well the behaviour succeeds in achieving its aims.

The model also corroborates the relevance of some of the variables that have been argued to affect the way in which companies deal with their external environment including organisational intrusiveness (Daft & Weick, 1984), stakeholder power (Freeman & Gilbert, 1987; Frooman, 1999; Hill & Jones, 1992; Mitchell et al., 1997; Rowley, 1997; Savage et al., 1991), and company size (Greening & Gray, 1994). At the same time, it shows that some of the variables discussed in previous literature have little relevance for strategy selection as defined in the present research. It seems that the variables lack relevance because strategies have been previously defined as to their magnitude rather than essence. For example, top management commitment may have an effect on the extent of action taken by companies in response to issues and stakeholder demands (Greening & Gray, 1994), but the findings of the present research suggest that top management commitment has little impact on the nature of the activities carried out by companies.

In addition to integrating research in the areas of stakeholder theory and issues management, the present research proposes a number of new ways to combine the

concepts of issues and stakeholders. First, it was argued that the perceived degree of power a company has over an issue in comparison to other actors affects the way in which the issue is addressed (see 8.3). The analysis of the cases suggested that the relevant stakeholder in this respect is often the host government. Second, the construct of 'organisational mode' was presented as part of the model of corporate human rights strategies to acknowledge that stakeholders may or may not play an active role in the delivery of activities that are targeted at addressing issues. More specifically, it was argued that the organisational mode of strategies is affected by a number of variables including the availability of stakeholders that are able and willing to collaborate with companies (7.10 and 8.5). Taken as a whole, the two constructs show that stakeholders affect the way in which companies seek to influence their environment even when the environment is framed as issues.

10.2.3 Characteristics of human rights issues

10.2.3.1 Ontological nature

The analysis of the human rights issues addressed by the case study companies in Myanmar and Sudan shed new light on the way in which issues can be characterised. Evidence from the cases suggested that human rights issues can be divided into substantial and symbolic issues on the basis of their ontological nature. *Substantial issues* concern material or physical circumstances that affect the enjoyment of human rights or constitute a direct violation of the entitlements enshrined in the Universal Declaration of Human Rights. In Myanmar and Sudan,

the case study companies addressed two major substantial issues: the behaviour of security forces in the areas of operations and the quality of life in local communities. They also addressed a number of other substantial issues that were not directly connected to their operations (see 6.2). In distinction to substantial issues, *symbolic issues* involve conflicting views and interpretations between companies and their stakeholders about policies, behaviours, or conditions related to the entitlements enlisted in the Universal Declaration. One such issue addressed by the case study companies involved the inconsistent views that the companies and some other actors had about the legitimacy of investment in Myanmar and Sudan. As showed by this example, symbolic issues are a result of the different ways in which companies and their stakeholders interpret events and situations. The role of interpretation in the emergence of issues has been previously highlighted by researchers who have studied the development of social problems (Daft & Weick, 1984; Hilgartner & Bosk, 1988) and corporate issues (Dutton & Jackson, 1987; Lamertz, Martens, & Heugens, 2003). These researchers have argued that the same phenomenon may be perceived in a different way by different actors because individuals make specific interpretations of conditions and events from a multiplicity of possibilities.

The distinction into substantial and symbolic issues reflects the way in which Mahon and Waddock (1992) divided responses to issues into substantial and symbolic responses. The fact that the ontological nature of issues has not been previously extended to issues may be explained by the focus of the present research. Earlier research has centred on the identification of issues from other

conditions and developments in society (see 3.5.2), whereas the present research examined those issue characteristics that affect the way in which companies respond to issues. The research findings therefore suggest that the characteristics that distinguish issues from other phenomena in society differ from the characteristics that determine the way in which companies respond to issues (see 10.2.2.).

The distinction into substantial and symbolic issues emerged from the analysis of data and is therefore a second order concept as defined by van Maanen (1979). In an empirical context, the ontological nature of issues is not always immediately clear. For example, the sometimes vivid discussion surrounding the socio-economic programmes set up by the case study companies in Myanmar and Sudan seemed to suggest that the economic and social situation in the local communities was a symbolic issue over which the different actors disagreed. Instead, the programmes were conceptualised as a substantial issue because they were only referred to in connection with discussions on other issues that gave rise to disagreements including, for example, the impact of investment on the overall situation of human rights in the two countries. The separation of substantial from symbolic issues therefore requires a careful analysis of the points of disagreement surrounding a company's operations in a country.

10.2.3.2 Factors underpinning symbolic issues

A further analysis of symbolic issues revealed that they are underpinned by conflicting views about (i) perceptions of reality and/or (ii) boundaries of

responsibility between companies and other actors. Many of the symbolic issues addressed by the case study companies were based on both types of incongruencies. For example, the conflicting views about whether forced displacements had taken place near the oil fields in Sudan stemmed from incompatible views on whether forced displacements had taken place in the first place as well as on the boundaries of responsibility between companies and the Sudanese government (see 6.4.1.3).

Symbolic issues and perceptions of reality. The analysis of the cases suggested that symbolic issues are often underpinned by conflicting perceptions of objective conditions or what Wartick and Mahon (1994) referred to as factual gaps between views about “what is”. According to Wartick and Mahon, factual gaps arise from incompatible perceptions of corporate behaviour. Evidence from the cases shows that factual gaps may also arise from differing perceptions of some state of affairs. For example, Total and Premier maintained that human rights violations had become increasingly rare as a result of their presence in the pipeline area (e.g., Jones, 2003b; Total, 2003c: 15), whereas a number of non-governmental organisations alleged that the army still perpetrated systematic human rights violations in the area (e.g., EarthRights International, 2002; EarthRights International, 2003; Zandvliet & Fraser, 2004: 19). The analysis of the cases also showed that symbolic issues are exacerbated by mistrust and animosity between companies and non-governmental organisations. Total's head of mission in Myanmar, for example, believed that activist groups connected the company's

operations to unrelated incidents of forced labour and other human rights violations (du Rusquec, 2003).

Symbolic issues and boundaries of responsibility. Evidence from the cases also suggested that in addition to inconsistent perceptions of objective conditions, symbolic issues may be underpinned by conflicting views about the boundaries of responsibility between companies and other actors. Such inconsistencies resemble what Wartick and Mahon (1994) called ideals gaps emerging from incongruent arguments about “what should be”. A further analysis of the cases showed that ideals gaps emerge when companies and their stakeholders have differing views about boundaries of responsibility relating to (i) geography, (ii) time, and/or (iii) legitimate role of different actors. First, symbolic issues based on ideals gaps arise when other actors question the way in which companies define the physical or geographical boundaries of their responsibility. For example, in Sudan, Talisman and Lundin denied responsibility for forced displacements on the basis of their investigations in the immediate vicinity of their infrastructure, while human rights groups argued that the companies bore responsibility for forced relocations in a much wider geographical area affected by their operations. Symbolic issues also emerge when companies and their stakeholders have conflicting views over the temporal limits of responsibility. For example, some human rights groups kept Total and Premier Oil responsible for the human rights violations that the Myanmar army had perpetrated in what became the pipeline area even before the companies started their operations in the country. The companies denied their responsibility, but the disagreement shows that the temporal proximity of human

rights violations can give rise to conflicting views about the boundaries of corporate responsibility. Finally, symbolic issues emerge when companies and their stakeholders hold a different view on the legitimate role of companies and other actors, particularly the host government. The debate on whether the case study companies should have continued their operations in Myanmar and Sudan illustrates how incongruent views over the legitimate role of companies can give rise to symbolic issues.

10.2.3.3 Families of rights

The analysis of the cases suggested that the companies were initially reluctant to address issues involving civil and political rights (see 7.2). This reluctance was highlighted by the companies' policies on political neutrality and non-interference. Over time, however, all the companies modified their policies or made exceptions in relation to the circumstances in Myanmar and Sudan. Still, most of the issues addressed by the case study companies pertained to either security rights or economic and social rights. The high-level human rights incidents addressed by Total and Premier Oil in Myanmar were the only issues pertaining to civil and political rights. These incidents, which included the arrest of Aung San Suu Kyi in 2003 and the national reconciliation process, were some of the key issues underpinning the criticism presented against foreign investment in Myanmar (see 6.3.1.2). The companies therefore seemed to address civil and political rights only when it was essential for their "social licence" to operate. In general, they refrained from taking action on issues that were seen as "political", particularly if these issues were not directly relevant to their operations on the

ground. However, as expectations on the role of companies in the protection of human rights grow, companies may begin to take more action towards the realisation of civil and political rights.

10.2.3.4 Issue focus

The response of non-governmental organisations to some of the activities that the companies carried out showed that it is important for companies to focus on the main human issues associated to their operations in a particular country. For example, said an interviewee to Christian Aid with regard to Talisman's community development programme in Sudan: "It is not a question of how many schools are built or how adequate they are. [...] What good are these schools to you when you can be shot, burned and killed in the villages?" (Christian Aid, 2001: 29). This quote demonstrates that in order to avoid criticism by human rights groups, companies are expected to address the main human rights issues connected to their operations. It also shows that company efforts to contribute to the realisation of social and economic rights can be viewed as futile in a situation where basic physiological and safety needs are not satisfied.

10.2.4 Activities assumed to address human rights issues

The analysis of the cases suggested that the activities carried out by the companies to address human rights issues can be separated into five different strategies: (1) *direct strategies* involving concrete action that companies take to influence the objective conditions that give rise to human rights issues, (2) *indirect strategies*

pertaining to attempts to persuade other actors to take action over the conditions that give rise to issues, (3) *information strategies* involving attempts to affect stakeholder views through the provision of information, (4) *leveraging strategies* aimed at affecting stakeholder views through verification measures or appeals to authority, and (5) *stakeholder engagement strategies* concerned with attempts to affect stakeholder views by increasing mutual understanding between companies and their stakeholders through two-way communication. The strategies are summarised in Table 10.1 below.

TABLE 10.1. Corporate human rights strategies

Target	Strategy	Description
Substantial issues	Direct strategy	Affect objective conditions directly through concrete action
	Indirect strategy	Affect objective conditions through persuading another actor to take concrete action
Symbolic issues	Information strategy	Affect stakeholder views through the provision of information and viewpoints
	Leveraging strategy	Affect stakeholder views through appeals to authority or verification measures
	Stakeholder engagement strategy	Affect stakeholder views through two-way communication aimed at increasing mutual understanding between companies and their stakeholders

The proposed strategies mirror the way in which Mahon and Waddock (1992) divided corporate responses to social issues into substantial and symbolic action. The first two of them involve activities that companies carry out to have an impact on material conditions that give rise to human rights concerns. They therefore represent what Mahon and Waddock called substantial action. As seen in the

literature review, Mahon and Waddock (1992) defined substantial action as "definitive moves that attempt to actually change or deal with the existing situation in specific, identifiable ways" (p. 27). The other three strategies are directed at influencing views and perceptions that stakeholders have of physical conditions or more abstract ideas relating to human rights. They correspond to what Mahon and Waddock (1992) referred to as symbolic action which pertains to the framing of an issue from the viewpoint of the organisation or its key constituents. As seen in the literature review, the distinction into substantial and symbolic responses resembles the way in which other researchers have described responses to issues (e.g., Arcelus and Schaefer, 1982; Buchholtz, 1992: 510; Dutton & Ottensmeyer, 1987; Nigh & Cochran, 1987; Sethi, 1979; Strand, 1983). Strand (1983), for example, classified responses to social demands based on whether they involve changing the environment or affecting the constituent demands placed on companies.

The proposed strategies do not only reflect the distinction on substantial and symbolic action, but also provide new insight on the nature of symbolic and substantial action as defined by Mahon and Waddock (1994). The analysis of the cases shows that what Mahon and Waddock called substantial responses can be divided further into direct and indirect strategies. Accordingly, direct strategies involve activities that have a direct impact on material conditions. For example, all the companies pursued a direct strategy by running a community development programme aimed at improving the social and economic conditions in the communities in which they operated in Myanmar and Sudan. In distinction to

direct strategies, indirect strategies involve attempts to influence material conditions indirectly through persuading other actors to take direct action. For example, the case study companies employed an indirect strategy by communicating their concern over the behaviour of security forces to relevant government authorities with the expectation that the government would take appropriate action.

The analysis of the cases also sheds new insight on symbolic action by identifying three strategies that can be carried out under symbolic action: (1) information strategies, (2) leveraging strategies, and (3) stakeholder engagement strategies. Information strategies involve attempts to influence stakeholder views by providing stakeholders with relevant information and viewpoints. The strategy is similar to Hillman and Hitt's (1999) corporate political strategy of the same name which seeks to influence political decision-makers by providing them with information that is useful in some way. Leveraging strategies involve attempts to increase the trustworthiness of the information and viewpoints provided by companies through verification measures or appeals to other actors who possess some form of authority. These strategies are pursued to address the lack of trust in companies that are seen to have a vested interest in presenting situations from their own perspective. Finally, stakeholder engagement strategies involve attempts to increase mutual understanding between companies and their stakeholders through two-way communication. In difference to the other strategies, stakeholder engagement strategy is relational rather than issue-specific; it aims to create a rapport or a sense of understanding between companies and their stakeholders

with the expectation that this relationship helps in addressing any issues that may arise.

The analysis of the cases also shows that the organisational mode of strategies varies from internal development to different forms of collaboration (see 7.9). For example, Total's socio-economic programme in the pipeline region in Myanmar was managed by company staff, whereas Premier Oil delivered a similar programme in collaboration with Save the Children US. What is more, the strategies are not mutually exclusive; companies can use more than one of them to address a particular issue. The interconnectedness of strategies was discussed in more detail in section 7.8.

To summarise, five strategies were identified on the basis of the analysis of the activities that the case study companies carried out in response to human rights issues. The proposed strategies reflect the way in which Mahon and Waddock (1994) divided corporate responses to social issues into substantial and symbolic action and shed new light on the nature of substantial and symbolic action by identifying several strategies that can be pursued under each type of action.

10.2.5 Variables affecting the selection of the strategies

The present research also made a contribution by identifying variables that affect the selection of human rights strategy. The variables and related proposition are listed in Table 10.2 below. They are based on the analysis of the cases and the

review of previous literature. In what follows, they are discussed in relation to extant literature.

Perceived ontological nature of a human rights issue. The analysis of the activities carried out by the case study companies in Myanmar and Sudan suggested that the choice between substantial and symbolic action is affected by the perception that managers have about the ontological nature of the issue that they are seeking to address. A number of researchers have already previously linked the interpretation of issues to the actions assumed by companies in response to issues (e.g., Daft & Weick, 1984; Dutton, 1993; Dutton & Duncan: 1987a; Dutton & Jackson, 1987; Mitchell, Agle, & Wood, 1997). These researchers assert that there is a multitude of possible interpretations of events and conditions. They also argue that the way in which managers perceive and interpret a particular issue has an impact on which organisational resources and processes are evoked to respond to the issue. Previous literature therefore provides support for the observation made based on the cases that it is the perception of managers about issues rather than the actual nature of issues that determines whether companies assume a substantial or a symbolic approach to human rights issues.

Degree of control. The analysis of the cases further suggested that human rights issues vary according to the degree of control that a company holds over them and that the choice between direct and indirect strategies is affected by the company's control over the issue. In Myanmar and Sudan, the companies held a high degree of control over the issues underpinned by conditions that they were able to

influence through the mobilisation of appropriate resources. In contrast, the companies held a low degree of control over the issues that arose from the policies and behaviour of other actors, particularly the host government and the army. It was also seen in this connection that companies could affect the degree of control they had over particular issues (see 8.3.3).

Company's intrusiveness into its external environment. Evidence from the cases also showed that in line with Daft and Weick (1984), the choice between (i) information and leveraging strategy and (ii) stakeholder engagement strategy is affected by the extent to which companies intrude into their external environment to comprehend it. In the context of Myanmar, it was argued that Premier Oil was an example of an organisation that actively searched information about its environment, whereas Total tended to accept it as given (see 8.4.1).

Power that stakeholders hold relative to the company. The analysis of the cases also showed that companies employ stakeholder engagement strategies to communicate their views to stakeholders that have formal or social power as defined by Freeman and Gilbert (1987) and Etzioni (1964). For example, journalists have what Etzioni called social power because they are in a position to affect the prestige and esteem of companies. In Myanmar and Sudan, the case study companies sought to engage with journalists by inviting them to visit their areas of operations in Myanmar and Sudan (see 8.4.2).

Company size. What is more, evidence from the cases suggested that organisational size affects whether companies pursue strategies on their own or in collaboration with other actors. Researchers in the area of issues management have already previously proposed that a connection exists between company size and issues management (Greening & Gray, 1994). This proposition was supported by the fact that Total, a significantly larger company than Premier Oil, employed a direct strategy on its own to run a socio-economic programme in the pipeline region, whereas Premier Oil collaborated with Save the Children US to deliver a similar programme (see 8.5.1).

Availability of collaboration partners. The analysis of the cases also suggested that the availability of collaboration partners affects the choice between individual action and collaboration. For example, even though few organisations were willing to collaborate with Total in Myanmar, the company ceased the opportunity for collaboration when one emerged. For example, given the opportunity, it asked Mr. Bernard Kouchner to examine its socio-economic programme in the country (see 8.5.2). Evidence from the case also showed that the availability of collaboration partners can vary over time depending on how company operations are perceived by stakeholders (*ibid.*).

Perceived fit with core activities. Finally, the analysis of the cases suggested that fit with what managers consider as the companies' core activities also affects the choice between individual action and collaboration. This was particularly evident with Premier Oil that formed a partnership with Save the Children for delivering a

socio-economic programme in the pipeline region because the company did not consider social and economic activities as its core capability; instead, it preferred to find an organisation specialised in such activities to design and run the programme (Jones, 2003b; see also Anderson et al, 2002: 8).

TABLE 10.2. Variables affecting strategy selection

Variable	Proposition
Ontological nature of the human rights issue	<i>Proposition 1.</i> Companies are likely to adopt a substantial approach to influence human rights issues that are perceived to concern objective conditions.
	<i>Proposition 2.</i> Companies are likely to adopt a symbolic approach to influence human rights issues that are perceived to involve stakeholder perceptions and views.
Degree of control over the issue	<i>Proposition 3.</i> The lower the control the company holds over a substantial human rights issue, the more likely it is to employ an indirect strategy for addressing the issue.
	<i>Proposition 4.</i> The higher the control the company holds over a substantial human rights issue, the more likely it is to assume a direct strategy for addressing the issue.
Organisational intrusiveness	<i>Proposition 5.</i> The greater the extent to which the company intrudes into its environment to comprehend it, the more likely it is to assume a stakeholder engagement strategy to address symbolic issues.
	<i>Proposition 6.</i> The lesser the extent to which the company intrudes into its environment to comprehend it, the more likely it is to assume an information/leveraging strategy to address symbolic issues.
Stakeholder power	<i>Proposition 7.</i> Companies are likely to assume a stakeholder engagement strategy to communicate their views to stakeholders that hold a relatively high degree of power over corporate behaviour.
Company size	<i>Proposition 8.</i> The larger the size of the company, the more likely it is to assume individual action to address human rights issues.
	<i>Proposition 9.</i> The smaller the size of the company, the more likely it is to assume a strategy in collaboration with other actors to address human rights issues.
Availability of partners	<i>Proposition 10.</i> Unavailability of partners increases the likelihood that a company assumes individual action to address human rights issues.
	<i>Proposition 11.</i> Availability of partners increases the likelihood that a company assumes a strategy in collaboration with other actors to address human rights issues.
Perceived fit with core activities	<i>Proposition 12.</i> The greater the perceived fit with core activities, the more likely a company is to assume individual action to address substantial human rights issues.
	<i>Proposition 13.</i> The lesser the perceived fit with core activities, the more likely a company is to assume a strategy in collaboration with other actors to address human rights issues.

10.3 Limits of the power of companies

The analysis of the cases showed that many of the human rights issues addressed by extractive companies are caused by the policies and behaviour of the host government. The present research hence highlighted one of the main dilemmas and weaknesses of international human rights law: it is states that are the main guarantors and violators of human rights. It also drew attention to the fact there are no formal mechanisms through which companies can seek to put pressure on governments to respect their human rights obligations. This lack of formal power shows the limits of the power of companies that still operate in an inter-state system underpinned by the principle of sovereignty. Even though globalisation may have increased the power of companies in terms of their size, territorial coverage, and geographical flexibility, the analysis of the cases showed that once a state refuses to behave in a certain way, companies have relatively little clout to persuade them to do so. As seen in Chapter 7, company efforts to address human rights may even give rise to other human rights concerns or become tools in the pursuit of other objectives by the host government (see 7.8).

Evidence from the cases further suggested that companies have two types of action available when seeking to influence the government approach to human rights. First, they can attempt to persuade the host government to change its behaviour through informal and formal lobbying. Such attempts were discussed in Chapter 7 as indirect strategies through which companies seek to persuade other actors to take action with regard to particular human rights issues. Alternatively,

companies can attempt to increase their control over the relevant issue in order to deal with it themselves. For example, the case study companies asked for a government permission to deliver community programmes in the areas in which they operated for ensuring that some of the benefits of their projects were directed at local communities.

10.4 Role of non-governmental organisations

Non-governmental organisations have played an important role in the emergence and development of corporate human rights strategies. Not only have they been the principal actors pressuring companies to operate in line with internationally recognised human rights standards, they have also been popular partners in projects through which companies have sought to address human rights concerns. Accordingly, relationships between companies and non-governmental organisations have varied from adversarial to mutually beneficial.

As seen in Chapter 6, human rights concerns encountered by companies are not always concrete issues; they may also emerge from the perceptions and views held by different stakeholders. When faced with such symbolic issues, it was found that there is a lack of neutral communication channels through which companies can engage with their stakeholders, particularly non-governmental organisations. Without such channels viewed impartial by all the parties, symbolic issues are difficult to resolve as companies and non-governmental organisations have little trust in the information and arguments provided by the other.

The United Nations, which offers various procedures through which the realisation and violation of human rights by individual states can be considered, does not currently provide similar fora for discussing the behaviour of companies. The issue of business and human rights has still been elaborated upon within a variety of UN bodies. As seen in Chapters 2 and 9, it has been considered by the inter-governmental UN Commission on Human Rights which asked the UN Sub-Commission on the Promotion and Protection of Human Rights to develop the “Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights”. However, when considering the Norms in 2004, the Commission decided to call for more studies on the topic instead of recommending their endorsement. The Norms have also attracted criticism from the business community and the secretary-general’s special representative (see Chapter 2). In addition to the Norms, the learning networks and policy dialogues of the Global Compact have offered a venue for interested parties to debate the issue of business and human rights. Unlike the Norms, the Global Compact has had appeal within the business community and is currently the most popular voluntary initiative in the area of corporate social responsibility. As seen in Chapter 9, a number of well-known human rights organisations have also participated to the work and events organised by the Global Compact office. The Compact is however unlikely to be able to offer a forum that is perceived as neutral by all the parties as far as there are non-governmental organisations that, in the absence of effective implementation criteria, criticise the Compact for providing a vehicle for “bluewashing”. So, even though the UN has sought to offer opportunities for interested parties to discuss the issue of business and

human rights, no permanent structure through which the behaviour of companies with regard to specific human rights standards could be raised has yet been established.

As seen in Chapter 9, in addition to the UN, the behaviour of companies with regard to human rights can be raised through the “special instances” procedure of the OECD Guidelines and the reports of the permanent ILO members on the implementation of the ILO Tripartite Declaration. Nevertheless, neither of these procedures is sufficiently transparent for providing a forum that would be perceived as neutral by non-governmental organisations (for a critical review of the procedures, see Clapham, 2006: 201-218). The OECD Guidelines are also too narrow in scope as they only involve companies operating in or from OECD countries.

There are therefore some channels through which companies and non-governmental organisations have been able to express their views on business and human rights. None of them, however, provide a regular and transparent forum for discussing the behaviour of specific companies in relation to human rights. The establishment of such a forum has also proved difficult because the business community is generally against the introduction of a mechanism through which their behaviour would be scrutinised on a regular and formal way and many NGOs, disappointed with voluntary initiatives, are advocating for the introduction of binding regulation on companies. At the moment, only the Global Compact seems to have realistic potential for developing into an instrument through which

corporate behaviour could be discussed in an impartial and constructive atmosphere.

10.5 Implications for policy and practice

The present thesis showed that not only are there increasing pressures placed on companies to comply with international human rights standards, but companies are also taking concrete action to address human rights concerns. The review of what companies are generally doing in relation to human rights revealed that an increasing number of companies give consideration to human rights (see Chapter 9). In 2006, almost 80% of the largest companies in the world had included human rights principles into their policies or management practice (United Nations, 2006). Nevertheless, companies have not engaged in the same variety of activities than the companies studied for the present research. However, given that companies are increasingly recognising their commitment to human rights, the measures taken by the case study companies shed light on how human rights concerns can be addressed.

The present research provides a repertoire of strategies and activities that companies can pursue in response to human rights concerns. This repertoire is based on the observation that human rights issues do not only involve material conditions that prevent people from enjoying human rights or constitute a direct violation of their rights. Human rights issues may also pertain to the way in which stakeholders perceive or view a particular situation. For example, the conflicting views about whether the Myanmar army perpetrated human rights violations in

the pipeline area shared by Total and Premier Oil in Myanmar are a human rights related concern that had important consequences for the reputation of the two companies. The nature of the human rights issue is important because it affects the way in which the issue can be addressed.

The present research proposed that human rights issues relating to material conditions can be addressed through direct and indirect strategies that seek to alter the conditions that give rise to the issues. Such strategies include community development programmes, assistance of human rights victims, and human rights monitoring. Issues underpinned by conflicting perceptions and/or views between companies and their stakeholders can be addressed through three types of strategies that attempt to influence the way in which stakeholders interpret particular circumstances or more abstract ideas: information strategies, leveraging strategies, and stakeholder engagement strategies. The strategies are not mutually exclusive; more than one of them can be used to address a particular issue. The content of the strategies is explained in Table 10.1 above.

10.6 Suggestions for future research

Out of the four companies studied, three pulled out as a result of the effect that association with human rights violations had on their profitability. The divestments by Premier Oil, Talisman Energy, and Lundin Oil show that companies may prefer withdrawal to the development of policies and practices that deal with human rights concerns, particularly in situations where their financial performance is being affected by investment in a country where the

government is involved in human rights violations or unable to secure the respect for human rights. The probability of withdrawals merits further investigation.

As seen in the literature review, previous research in the area of business and human rights has focussed on investigating the impact that foreign investment has on the condition of human rights (see 3.2). The present research did not directly contribute to this research, but the effectiveness of the proposed human rights strategies could be examined to shed light on how companies influence the state of human rights in a particular country.

A number of suggestions for future research also arise from the delimitations of the present thesis as identified in Chapter 1. More specifically, the generalisability of the research findings to a larger population could be tested by investigating a larger number of companies. The relevance of the research findings could also be examined in other than the extractive industries. Moreover, it is possible that there are other variables than the ones put forward in Chapter 8 that influence the choice of human rights strategy. In particular, it is possible that country specific factors that were excluded from this research affect strategy selection.

10.7 Summary

This chapter summarised and discussed the research findings in the context of previous research. It first argued that relatively little is known about the strategies and specific behaviours that companies use to address issues and stakeholder demands of which human rights are an example. The research findings were then

discussed in relation to each research question. In this connection, it was seen that the thesis sheds light on the way in which issues can be characterised by distinguishing substantial issues from symbolic issues. It was also seen that the thesis makes an important contribution by providing a new way of classifying corporate responses to social concerns by identifying five strategies that companies can pursue to address human rights concerns. The proposed strategies provide new light on the nature of substantial and symbolic action as defined by Mahon and Waddock (1994). Moreover, the thesis makes a contribution by proposing that a number of variables affect the selection of human rights strategy. The power of companies with regard to human rights was then seen to be limited by the central role of states in international human rights law. Next, the lack of communication channels between companies and non-governmental organisations was discussed as a challenge for companies that are seeking to address human rights concerns. The chapter concluded with a discussion of implications for policy and practice and directions for future research.

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Appendix: Global Compact participants in the oil and gas sector

As of 19 July 2006

Company	Type	Country	Region	Joined
Total	Major	France	Europe	07/03/2002
BP Plc	Major	United Kingdom	Europe	26/07/2000
Royal Dutch/Shell Group	Major	United Kingdom	Europe	26/07/2000
China Petroleum and Chemical Corporation	National	China	Asia	01/01/2001
Chennai Petroleum Corporation Limited	National	India	Asia	22/11/2000
Indian Oil Corporation Ltd.	National	India	Asia	21/04/2001
Oil India Limited	National	India	Asia	06/07/2001
Hindustan Petroleum Corp. Ltd.	National	India	Asia	23/08/2001
Oil & Natural Gas Corporation	National	India	Asia	17/09/2003
National Company 'KazMunayGas'	National	Kazakstan	Asia	07/02/2006
Pakistan Petroleum Limited	National*	Pakistan	Asia	04/04/2006
Sui Southern Gas Company Ltd (SSGC)	National*	Pakistan	Asia	04/04/2006
AB Mazeikiu Nafta (PCL)	National	Lithuania	Europe	14/06/2005
Norsk Hydro ASA	National	Norway	Europe	26/07/2000
Statoil ASA	National	Norway	Europe	26/07/2000
Petroleos Mexicanos	National	Mexico	North America	24/01/2006
Petrobras SA	National	Brazil	South America	26/11/2003
Petrolera Nacional (ACCEL)	National	Panama	South America	30/08/2001
Vidagas	Non-OECD	Mozambique	Africa	11/05/2006
B.H.I Holdings Nigeria Ltd.	Non-OECD	Nigeria	Africa	10/08/2005
Superpower Nigeria Limited	Non-OECD	Nigeria	Africa	25/08/2005
Sino Union Petroleum & Chemical International Ltd.	Non-OECD	China	Asia	09/11/2004
Petrovis	Non-OECD	Mongolia	Asia	17/02/2006
Bosicor Pakistan Limited	Non-OECD	Pakistan	Asia	05/04/2006
TGT Tehnogas a.d Laktasi	Non-OECD	Bosnia And Herzegovina	Europe	16/05/2005
Makpetrol A.D.	Non-OECD	Macedonia, The Former Yugoslav Republic of	Europe	21/10/2004
Yukos Oil	Non-OECD	Russian Federation	Europe	15/08/2001
Aerofuels Group	Non-OECD	Russian Federation	Europe	22/06/2006
Mannai Corporation QSC	Non-OECD	Qatar	Middle East	27/02/2003
Qatari Group and Sister Group of Companies	Non-OECD	Qatar	Middle East	06/03/2003
Grupo Hidrosina	Non-OECD	Mexico	North America	30/06/2006
Camuzzi Gas Pampeana S.A. y Camuzzi Gas del Sur S.A.	Non-OECD	Argentina	South America	27/07/2004
CAPSA (Companias Asociadas Petroleras S.A.) / CAPEX S.A.	Non-OECD	Argentina	South America	12/10/2004

Gasnor S.A.	Non-OECD	Argentina	South America	14/10/2004
Sintaryc S.A.I.C.	Non-OECD	Argentina	South America	14/10/2004
Empresa Petrolera Chaco S.A.	Non-OECD	Bolivia	South America	03/02/2006
Copagaz Distribuidora de Gas Ltda-Grupo Zahran	Non-OECD	Brazil	South America	19/10/2001
Nova Gas S.A.	Non-OECD	Peru	South America	20/04/2004
Japan Energy Corporation	OECD	Japan	Asia	23/09/2002
Cosmo Oil Co., Ltd.	OECD	Japan	Asia	06/02/2006
OMV Aktiengesellschaft	OECD	Austria	Europe	22/01/2003
Technip	OECD	France	Europe	14/10/2002
Gaz de France	OECD	France	Europe	10/04/2003
Oil Recovery Services	OECD	France	Europe	27/08/2003
ILF Beratende Ingenieure GmbH	OECD	Germany	Europe	05/04/2006
MOL Group	OECD	Hungary	Europe	14/07/2005
ENI	OECD	Italy	Europe	01/07/2001
Edison Spa	OECD	Italy	Europe	07/07/2005
Saybolt International	OECD	Netherlands	Europe	12/11/2002
PKN Orlen S.A.	OECD	Poland	Europe	02/03/2004
Catalana de Tractament D'Olis Residuals S.A.	OECD	Spain	Europe	24/06/2002
Gas Natural SDG, S.A.	OECD	Spain	Europe	24/06/2002
Repsol YPF	OECD	Spain	Europe	01/11/2002
Elcogas, S.A.	OECD	Spain	Europe	02/10/2003
Cepsa (Compania Espanola de Petroleos)	OECD	Spain	Europe	22/03/2005
Petrolin Group	OECD	Switzerland	Europe	17/06/2005
Premier Oil Plc	OECD	United Kingdom	Europe	13/05/2003
BG Group plc	OECD	United Kingdom	Europe	11/01/2005
Centrica plc	OECD	United Kingdom	Europe	15/02/2006
Nexen Inc.	OECD	Canada	North America	01/03/2001
Petro-Canada	OECD	Canada	North America	31/08/2001
Enbridge	OECD	Canada	North America	16/12/2003
Talisman Energy Inc.	OECD	Canada	North America	10/02/2004
Amerada Hess Corporation	OECD	United States of America	North America	31/08/2002
The Shell Petroleum Development Company of Nigeria, Limited	Subsidiary	Nigeria	Africa	12/06/2006
Total Zambia Ltd	Subsidiary	Zambia	Africa	10/06/2004
Jiangyin Tianli Gas Co., Ltd.	Subsidiary	China	Asia	21/02/2006
Bongaigaon Refinery and Petrochemicals Ltd.	Subsidiary	India	Asia	07/11/2001
Pakistan Refinery Limited	Subsidiary	Pakistan	Asia	17/09/2004
Pakistan Oilfields Limited	Subsidiary	Pakistan	Asia	07/07/2005
National Refinery Limited	Subsidiary	Pakistan	Asia	07/04/2006
Petronas Energy Philippines, Inc.	Subsidiary	Philippines	Asia	20/06/2002
Opet Aygaz Bulgaria EAD	Subsidiary	Bulgaria	Europe	12/05/2004
Limited Liability Company TNK-BP Ukraine	Subsidiary	Ukraine	Europe	08/05/2006
Metrogas S.A.	Subsidiary	Argentina	South America	19/07/2004
Total Gas y Electricidad Argentina	Subsidiary	Argentina	South America	19/07/2004
Transportadora de Gas del Norte S.A.	Subsidiary	Argentina	South America	19/07/2004

Pan American Energy LLC	Subsidiary	Argentina	South America	21/07/2004
Gas Natural S.A. ESP	Subsidiary	Colombia	South America	11/02/2005
Gas Natural Del Centro S.A. Esp	Subsidiary	Colombia	South America	26/06/2006
Petroleos Delta, S.A.	Subsidiary	Panama	South America	09/09/2003
Aguaytia Energy del Peru S.R.L.	Subsidiary	Peru	South America	21/10/2004

*Being privatised in 2006.

Source: Global Compact Participant Search available from <http://www.unglobalcompact.org>, accessed 19 July 2006.