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“And of course our major contribution remains to run a decent business there”

Corporate meanings and beliefs expressed in
Shell's crisis management in Nigeria

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Abstract: Like all phenomena of international politics, multinational enterprises (MNEs) are deeply affected by changes in information and communication technologies. In fact, global governance argues that the responsibilities of corporate actors are fundamentally changing and that MNEs are becoming political actors. To explain these changes, MNEs are either conceptualized as “hyper-rational” or as morally responsible actors. Understanding global governance as a crisis for MNEs since these actors are exposed to new and different normative expectations, the paper argues for an alternative actor perspective to look at private business. MNEs are conceptualized as social, creative, and contingent actors. Different meanings and beliefs of corporate agency are expressed, (re-)negotiated, and (re-)defined as MNEs face a high degree of uncertainty, indeterminacy, and contingency in global governance. To illustrate the potential value of this actor conceptualization, the paper looks at the crisis management of *Shell* in Nigeria where the enterprise was directly held responsible and accused internationally for cooperating with a corrupt and inhumane dictatorship. The documents published in this crisis not only show how pressure was exercised through information, but also how the beliefs held by *Shell* changed and new corporate meanings and actions emerged as the corporation slowly and reluctantly reacted to new expectations.

Keywords: multinational enterprises, global governance, *Shell*, Nigeria, pragmatism, action theory, sequence analysis

That captains of industry are creative artists of a sort, and that industry absorbs an undue share of the creative activity of the present time cannot be denied. To impute to the leaders of industry and commerce simply an acquisitive motive is not merely to lack insight into their conduct, but it is to lose the clew to bettering conditions.

(John Dewey, *Human Nature and Conduct*, p. 146)

1. Introduction

Like all sciences, International Relations (IR) is subject to research trends and fashions. Corresponding to real-world experiences in the last 25 years, questioning the “gravitational pull of both anarchy and statism” (Barnett/Sikkink 2008: 62) which served as constitutive discipline narratives has become such a trend. No longer solely the domain of nation states, it is currently argued by many IR scholars that the subject-matter of the discipline has broadened. In fact, the very term *International Relations* has come under scrutiny as “the language of ‘international relations’ leads us to think only about states, which are not central to all interesting questions of world politics” (Keohane 2008: 708, Fn. 1). Underlying this argument is the notion that globalization, understood as accelerating processes of time and space compression, blurs (state) boundaries and diminishes the capacity of state actors to independently govern and regulate (Rosenau/Czempiel 1992). Therefore, as states presumably fail to provide governance, IR (again) asks the question “who governs the globe” (Avant/Finnemore 2010).

To answer this question and to ensure continuous disciplinary coherence, Barnett/Sikkink (2008: 77ff) suggest the narrative of (global) governance. Understood as multi-actor, multi-level governance, this narrative prompts the increased integration of non-state actors into processes and arrangements of rule setting and implementation to (re-)fill governance gaps caused by globalization. Thus, the argument goes, traditional forms of governance *have* to become more complex and *should* involve private actors as “global governors” as states alone can no longer provide all necessary governance functions (Avant/Finnemore 2010: 1).¹ Especially multinational enterprises (MNEs), to many the quintessential manifestation and expression of globalization (Kobrin 2008), are expected to embrace (more) social responsibility and become political actors (Scherer et al. 2006: 508ff).² Global governance is thus “moralizing the corporation”, implying and arguing for

¹ This changing notion of governance and its present popularity in IR (as well as its conceptual imprecision) is reflected by the different terms used in the literature: “private authority” (Hall/Biersteker 2002), “private international regimes” (Cutler 2002), “private participation in governance” (Hauffer 2006) or “transnational private governance” (Graz/Nölke 2008), to name but a few.

² Following the classical definition of Dunning, the paper understands a multinational enterprise as “an

new corporate roles and responsibilities for multinational enterprises (Holzer 2010).

Besides being based on a normative-functionalist bias not related to corporate reality, such a perspective also entails a structural understanding of both global governance and multinational enterprises. More often than not, global governance is thought of in passive terms as structure or process and not as action (Avant/Finnemore 2010: 1ff). The same can be said for MNEs, which are often conceptualized as “structural force” but not as individual actors. Quite often, global governance approaches seem to be more interested in the effects and impacts of corporate participation and not in the implications of participating for the enterprise itself.³ Only recently has private business “received attention within academic debates in international relations – at least as an actor in its own right” Deitelhoff/Wolf (2010: 5). Thus, while the “privatization of world politics” (Brühl et al. 2001) has been studied in broad, structural terms, little has been written on how globalization and global governance influence individual firms and their actions and how MNEs fill both with meanings.

Focused on the actor conceptualization of multinational enterprises, the paper argues that IR so far has not applied a convincing theory of action to explain corporate behavior within global governance. Commonly, corporate actions are explained by referring to fixed interests and rationality. MNEs are imagined to act according to exogenously and presocially defined interests, which are static and allow the rational calculation of costs in order to unidimensionally maximize profit defined in monetary terms (Palan 2000: 6ff; Hodgson 1994: 21ff). Put bluntly, MNEs “have come to be understood as essentially rational actors whose expansionary behaviour can be explained through the profit motive” (Amoore 2000: 184). Thus, corporate agency is essentialized in terms of its aims and rationalized in terms of its mode of action (Cutler 2008: 195). For the sake of simplicity and to enable parsimonious modeling, explanation, and prediction of corporate behavior, the complexity involved in corporate decision-making is reduced (Beckert 2003: 771). By conceptualizing MNEs as “efficiency-driven, positive-sum game institutions” (Cohen 2007:

enterprise which owns or controls producing facilities (i.e., factories, mines, oil, refineries, distribution outlets, offices, etc) in more than one country” (Dunning 1971: 16). While this definition is widely accepted, various terms with different connotations exist to describe the phenomenon. In this paper, the term “multinational enterprise(s)” is used because it offers a precise definition: first, as far as the term “enterprise” is concerned, “all multinationals are enterprises but not all are incorporated” (Eden 1991: 219, Fn. 6). Second, to describe the cross-border activity of these enterprises, the term “multinational” is used to indicate that “states are not transcended” (Wilkins 2005: 45) as corporate activities still take place not beyond but within – albeit multiple – nation states.

³ Translated into the language game of variables, IR research on MNEs understands their participation in global governance as an independent variable causing different effects while the enterprise itself appears to be rather unaffected.

30), their engagement in global governance is either *post hoc* rationalized as the avoidance of (stricter) state regulation and/or the attempt to improve corporate reputation in the form of *greenwashing*.

Contrary to a “myopic view of business actors as simple profit seekers” (Kollman 2008: 397), the paper conceptualizes MNEs as *social actors* whose very meaning is constituted in and through action. The main argument of the paper is to outline a creative and “non-teleological interpretation of intentionality” (Joas 1997: 148ff) for corporate actors. As such, the “individualistic world view woven into traditional economic modeling” (Hogner 1997: 127f) as well as the “assumption that the firm, although a product and part of a social process, is an economic device that exists apart from historical, political and social forces” (Toyne/Nigh 1997: 9) are questioned. It is argued that this alternative actor conceptualization can offer a more nuanced perspective on MNEs in global governance. The political integration of private business is not understood as a necessary consequence to fill governance gaps but rather as an ambiguous and complex process in which conflicts, uncertainty, and indeterminacy prevail. Thus, the paper aims to contribute to a “less deterministic, less reductionist, and, in coincidence with a changing world and world view, more meaningful” (Hogner 1997: 127f) conceptualization of corporate actors to understand how individual firms adapt their behavior on social issues in response to being exposed to new expectations, information, and pressure by different stakeholders on different levels.

The following section introduces and elaborates the concept of MNEs as *social actors*. It is here that the arguments of sociality, creativity, and contingency of agency are spelled out in detail by drawing on the thought tradition of American Pragmatism. The next section then introduces the situation in Nigeria in the 1990s as a crisis in which companies were exposed to different normative expectations as well as a high degree of uncertainty and indeterminacy regarding their role. Focusing on *Shell* as the major extractive enterprise in the region, section four discusses the findings from looking at corporate documents which express different meanings and beliefs as well as constitute, (re-)negotiate and (re-)define the appropriate scope of corporate action for the following years. The concluding section sums up the empirical findings and discusses these in two ways. First, practical implications for the question of how to integrate MNEs in global governance are discussed. Second, theoretical implications for further research on MNEs are outlined.⁴

⁴ As a disclaimer, this paper should not be misunderstood as negating or trumping out other accounts of corporate action. Instead, it only offers an alternative perspective. The decision whether or not this is convincing lies with the reader.

2. Multinational enterprises as *social actors*

Understood as a “coherent theory of thought and action” (Hellmann 2009: 639), this paper draws on American Pragmatism to conceptualize MNEs as *social actors*.⁵ Because of the primacy of practice and its fluid character, reality in this intellectual tradition is conceptualized as “brimming with indeterminacy, pregnant with possibilities, waiting to be completed and rationalized” (Shalin 1986: 10ff). In contrast to rationalist accounts, it is not “ready-made and complete from all eternity” but rather constantly “in the making, and awaits part of its complexion from the future” (James 1975: 123). Neither actors nor their actions are imagined as fixed entities. Rather, as a “philosoph[y] of flux” (Dewey 1958 [1929]: 50), the three main actor assumptions emphasize (1) their primary sociality, (2) their situated creativity, and (3) the double contingency of situations and agency. The following section will spell out each of these actor assumptions in relation to MNEs in global governance.

Being anti-foundationalist in nature and rejecting the notion of a fixed “world out there”, pragmatism questions the essentialization of social phenomena. The epistemological argument here is to reject a separation between acting and thinking – instead of assuming a dualist relation between mind and world, pragmatism is based on a mind-world monism which does not divorce cognition from action (Jackson 2011: 37f). Ontologically speaking, multinational enterprises do not simply act rationally and maximize profit through cross-border economic activities because they *are* multinational enterprises. Such a tautological definition does not suffice, neither for the enterprise to purposively act in light of uncertain and indeterminate economic situations (Zeitlin 2007) nor for the social scientist to explain such action (Beckert 2003). Instead, conceptualized as *social actors*, enterprises constantly (re-)produce their meanings through action. Such actions are necessary to stabilize the boundaries of what it means to be a multinational enterprise at any specific point in time and space (Jackson 2010: 55ff). However, this stabilization of boundaries does not occur arbitrarily. Rather, sociality is constitutive for individual

⁵ The thought tradition of American Pragmatism was initially influenced by Charles Sanders Peirce, William James, George Herbert Mead, and John Dewey. “Second generation” pragmatist thinkers such as Blumer (1969) incorporated pragmatist ideas in his symbolic interactionism, while Glaser/Strauss (1967) translated pragmatist ideas into their research strategy of Grounded Theory. Since the 1980s, various different thinkers such as Richard Rorty, Hilary Putnam, and Richard Bernstein can be listed under the label of *neopragmatism*, marking a resurgent interest in this thought tradition within the social sciences. Lately, pragmatism received some attention in IR (Bauer/Brighi 2009; Hellmann 2010), both on an epistemological level as a research strategy to overcome the positivist “accumulation of law-like statements” (Friedrichs/Kratochwil 2009: 703) as well as on an ontological level to focus on practice and beliefs for action (Franke/Weber forthcoming).

action as boundaries of meanings are identified and (re-)defined in interaction:

“Actors do not behave or decide as atoms outside a social context, nor do they adhere slavishly to a script written for them by the particular intersection of social categories that they happen to occupy. Their attempts at purposive action are instead embedded in concrete, ongoing systems of social relations.”(Granovetter 1985: 487)

Reading Granovetter through a pragmatist lens, the radical implication of this proposition is the comprehensive negation of individual(-istic) means/end calculations. In fact, actors only exist and are able to choose between different actions because of their primary sociality (Joas 1997: 184ff). Being social enables actors to access intersubjectively held structures of meanings required to assess and perform action (Shalin 1986: 10ff). Thus, in the pragmatist perspective, there is no such thing as an atomistic actor because acts receive their meaning and their purpose only in relation with others and their social expectations. Individual preferences and interests, necessary preconditions to act, are constituted “coterminously within contexts that are themselves ever changing and thus always subject to reevaluation and reconstruction of the part of the reflective intelligence” (Emirbayer/Mische 1998: 967f). This reevaluation is necessarily social simply because being a multinational enterprise does not specify courses of corporate action. Instead, only in permanent interaction with relevant others are corporate meanings and thus the appropriate scope of action constituted (Blumer 1969: 4ff).

Primary sociality, however, does not negate individual creativity as the second dimension of action. Rather, precisely because of the social and fluid nature of phenomena, any action “involves defining that which is as yet undefined, rather than simply making a different selection from a reservoir of situation components that are either already defined or have no need of definition” (Joas 1997: 133). Thus, acting is understood as the social yet creative “determination of indeterminacy” and, by definition, depends on the imagination and inventiveness of the actors involved (Shalin 1986: 12). In other words, creativity is a logical consequence of the inevitability not to act as one cannot flee from (inter-)action and constantly face situations in which one has to make decisions. Most of these situations are habitualized and guided by routines. However, in “problematic situations”, we are in need of new beliefs to guide our actions and in such situations of crisis, creative intelligence becomes indispensable (Hellmann 2009: 639).

A pragmatist theory of action thus emphasizes the continuous interplay between routinized situations and situations of crisis. Beliefs as rules for action guide behavior until one stumbles upon a new problem which raises doubts. In this situation of crisis, one (re-)assesses former beliefs and creatively inquires and assumes to develop new beliefs to accommodate the “obdurate character of the empirical world” (Blumer 1969: 22). It is

therefore not only the primacy of social practice but also the situated creativity which lies at the heart of pragmatism: pragmatists are interested in concrete actors involved in concrete situations developing concrete problem solutions to continuously ensure their capacity to act (Jackson 2009: 657f). Creativity in this perspective is a situated actor disposition. Instead of choosing between different pre-defined motives and plans, creativity marks the necessary precondition to deal with crisis by developing and inquiring new motives and plans. Because of the struggle to overcome doubt and establish new beliefs, creative action is necessarily non-teleological in nature (Joas 1997: 160ff). As crises occur in many forms, not only individuals but also multinational enterprises depend on “interpretative acts by which [they] construct perceptions of rationality intersubjectively in the action process itself”, simply because of the “complexity and novelty inherent in economic decisions situations” (Beckert 2003: 770).

As agency is thought of in social and creative terms, it also becomes dynamic and processual and thus contingent as does the situation in which agency is played out. Situations are conceptualized as contingent because they contain “a horizon of possibilities which in a crisis of action has to be rediscovered” (Joas 1997: 133). While the sum of individual situations retrospectively constitute historical developments, each situation itself could have played out in different ways because of being indeterminate and mutable. This is very convincingly argued for and shown by the “historical alternatives approach” (Zeitlin 2007: 120ff), which understands the development of private business as the result of contingent situations and not as a determinist process. At various stages in this process, developments could have taken a different direction and neither of the involved actors – states, business entities or stakeholders – were solely in control of this development.

Corresponding to the contingency of historical developments, pragmatists also understand agency itself to be contingent. As Strauss (1993: 36) argues, “[c]ontingencies are likely to arise during a course of action” and not only bring about change in its duration and pace but also in its intent and purpose. As argued before, neither preferences nor intentions, neither goals nor motives are preceding action but instead are contingent upon it. In fact, pragmatists assume a reciprocally unfolding relation between action and goals as “ends arise and function within action” (Dewey 1922: 223).⁶ However, the contingent character of goals and intentions does not negate their constitutive role within the process of acting. Given the imperative to act despite the non-existence of conclusively pre-defined goals, preliminary and contingent goals structure action and guide decisions.

⁶ In this context, Dewey (1922: 223ff) speaks of ends-in-view which highlights the contingency of goals instead of assuming their final character.

Related to MNEs, the maximization of profit marks such a viable yet contingent goal for corporate actors. As the potential “default option” of corporate agency, it is “only loosely defined at any given moment and constantly being redefined” (Sabel/Zeitlin 1997: 15). How precisely the abstract notion is substantially filled with meaning and translated into concrete action in a specific situation as well as how this notion is related to other corporate goals such as increasing market shares, outrival competitors or conform to social expectations is subject to and the result of contingency.

Taken together, an actor image based on the social primacy of MNEs, their situated creativity, and the double contingency of indeterminate situations and corporate dispositions within such situations allows for a more nuanced perspective on how exposure to and adoption of new social and governance expectations influence MNEs. While the paper shares the view that private business increasingly participates in new modes of governance, it argues at the same time that assessing multinational enterprises in global governance needs to account for the actor assumptions outlined above. More specifically, it needs to consider the meanings and beliefs held by enterprises to understand why and how they act. More often than not, MNEs today find themselves in situations “in which the rules and norms of socially acceptable decision making – the institutionalized environments of the corporation – are in flux” (Holzer 2010: 121). In such situations, multinational enterprises have to (re-)constitute beliefs to answer the “very basic question about the social definition of a corporation” (Kobrin 2008: 267). Corporate action then is neither the result of rational strategies nor based on intrinsic ethics. Rather, it is the ongoing social, creative, and contingent attempt to situationally determine meanings and beliefs. Corporate artefacts and documents are manifestations of this (re-)negotiation and (re-)definition of what constitutes corporate actors and their appropriate scope of actions:

“[M]ultinational enterprises are viewed no longer simply as instrumentalist advantage-maximizing institutions, but as complex organizations which exceed their goals and functions, but in non-utilitarian ways. Their language, their scripts, their histories, their techno-structures and artefacts matter; analysis of which reveals them to be trapped in their own evolutionary logic but also constantly at work to renew themselves.”(Palan 2000: 15)

This paper thus offers another perspective on the complex process of corporate meaning and preference generation. Instead of explaining corporate action based on individualistic or moral assumptions, corporate rationality is not conceptualized in absolute terms but rather “in the sense of pursuing [...] best alternatives” (Sabel/Zeitlin 1997: 6f). It is argued that both the notion of clear and definable alternative courses of action as well as the individual ability to choose between them are questionable assumptions of dominant narratives of corporate agency. Increased complexity and novelty of corporate

decision-making and the integration of private business into structures of global governance understood as the dissolution of the clear separation between public and private puts such notions into perspective (Deitelhoff/Wolf 2010: 7ff). Instead of explaining corporate action by applying rationalist and individualistic assumptions or by assuming intrinsic ethical motivation to behave responsible, the alternative actor image of conceptualizing MNEs as *social actors* allows to reconstruct what currently constitutes multinational enterprises and take into perspective the processes of giving meanings to the otherwise unspecified concept of corporate agency.⁷

3. Oil and conflict in the Niger Delta – A crisis unfolding

The first attempts of commercial oil exploration in today’s Nigeria can be dated back to 1907. By that time, these first attempts were the earliest oil exploration in the Gulf of Guinea region (Soares de Oliveira 2007: 171f). While they were of mixed success until the 1950s, huge oil fields were discovered in the 1960s and Nigeria from then onwards became the biggest oil-producing country in the region. Most of the crude oil reserves were discovered in the massive and environmentally sensitive wetlands of the Niger Delta which implied onshore instead of offshore production (Omeje 2006: 31ff). Today, Nigeria receives more inward FDIs than any other African country (UNCTAD 2004: 41). Roughly 80 % of these investments come from oil companies. As such, this sector played and continues to play a crucial and constitutive role for the economic history and current situation in Nigeria despite ongoing conflicts and partial state failure:

“Oil is an essential part of the continuous historical process of conflict and interaction through which a shared state mythology and national space of politics are created, even where state institutions no longer operate.”(Soares de Oliveira 2007: 55)

From the very beginning, private business actors were strongly involved in the processes of exploring and producing oil in Nigeria. Only in 1971 and thus almost 15 years after intensive activities of foreign enterprises, the federal government-owned Nigerian National Oil Corporation was formed.⁸ However, incorporating a national oil company did not render foreign MNEs unimportant as exploration and production was still organized and

⁷ While the paper acknowledges the heuristic merits of rationalist assumptions and therefore understands the actor image presented here as an alternative conceptualization, Beckert (2003: 770, emphasis added) speaks of a *superior conceptualization*: “If we reject the teleological interpretation of action for the understanding of decision making in economic situations characterized by uncertainty, a substitute is needed to provide for an alternative action theory which allows a *superior conceptualization* as to how actors make such an environment intelligible for intentionally rational decisions.”

⁸ Six years later, this company was re-named to *Nigerian National Petroleum Company* (NNPC).

conducted in joint ventures and production-sharing contracts between the NNPC and private companies. In fact, as the private companies were much more experienced in producing oil, every-day decisions and the management of operations were left in the hands of MNEs (Omeje 2006: 33ff). Among these companies, simply by courtesy of its pioneer access to the region, the Anglo-Dutch company of *Shell* has remained the largest oil enterprise in Nigeria and roughly accounts for almost half of Nigeria’s oil production. Since this production is mainly carried out in onshore facilities, no other company is as present in every-day life as the Nigerian subsidiary of *Shell*, the *Shell Petroleum Development Company* (SPDC) (Soares de Oliveira 2007: 188f).

Despite its long history of corporate activity, until today the Niger Delta remains “one of the world’s most dangerous and difficult oil-producing areas” (Soares de Oliveira 2007: 252). The difficulty lies in the fact that Nigeria has been plagued by various violent conflicts and presents itself today as a complex nexus of various causes for violence. Beyond political issues such as regional struggles for (more) autonomy, the ongoing environmental degradation as well as the failure to improve living standards despite increasing oil production mark further causes for conflict (Zimmer 2010: 61f). In addition, the “socio-graphic composition of Niger Delta is equally complex, comprising, at least, 26 ethnic and language groups that are distributed across nine oil-producing states”, which adds an ethnic dimension to the political, economic, and environmental conflicts (Omeje 2006: 32). Especially the question of how to distribute oil revenues among ethnic groups has become a highly contested issue and caused inter-ethnic strife for control of land containing oil wells. Moreover, the central government allegedly withheld most of the royalties. The largest ethnic group affected by this in the Niger Delta are the *Ogoni* who began campaigning for more political, social, and cultural autonomy in the 1980s (Omeje 2006: 142f).

These long-term conflicts erupted into a full-scale crisis situation in the early 1990s when corporate security was increasingly threatened by local militant groups as protest against oil production and foreign enterprises increased in the Delta. Through global media coverage, the crisis as well as the protests quickly gained international attention (Zimmer 2010: 60f). In terms of conflict dynamics, it was the reaction of *Shell* which caused further violence and anti-oil protest by militant groups. On the one hand, *Shell* did not engage in dialogue with these groups. Instead, in reaction to constant harassment and civil unrest, *Shell* shut down some of its production and partly left the region (Soares de Oliveira 2007: 248). On the other hand, in those instances where the company remained active, it relied more heavily on state security forces. These security provisions

came in form of regional “militarization, leading to repression, torture, looting, rape and extra-judicial killings” (Omeje 2006: 142) as the government saw a chance for retribution against the *Ogoni*. In May 1994, the popular *Ogoni* leader Ken Saro-Wiwa and eight other activists were arrested and sentenced to death in what seemed to many as a show trial by the military dictatorship government of Sani Abacha. Culminating in the allegation of complicity in the executions, *Shell* was directly held responsible and accused internationally for cooperating with a corrupt and inhumane dictator. It is in this context of both an immediately manifest crisis in the everyday use of the term as well as in the pragmatist notion of crisis where no routines or beliefs exist in which the following section will analyze meanings and beliefs expressed by *Shell* and how the company is (re-)defining the crisis situation in Nigeria and its own role within it.

4. *Shell* and its corporate meanings in the Nigerian crisis

As argued in the last section, *Shell* faced a serious crisis in Nigeria between 1992 and 1995. To illustrate the actor image derived from pragmatism and to reconstruct meanings and beliefs held and expressed in reaction to the crisis, this section will look at corporate documents understood as temporary manifestations of contingent meanings and the continuous emergence of new beliefs. Assuming that MNEs are the “result of a series of contests” between different actors (Amoore 2000: 184), these documents reflect corporate attempts to establish and justify new meanings and beliefs on which future action can be based (Holzer 2010: 128f). Although rhetorical in nature and published in order to present the enterprise in a positive light, these documents at the same time mark an “indispensable [...] source of information about the range and robustness of the constraints [MNEs] faced and created” (Sabel/Zeitlin 1997: 15). In other words, these documents are not considered as corporate “cheap talk” or “public relation ploy” (Hauffer 2001: 1). Instead, as different expectations towards *Shell* were voiced in the crisis, these documents mark corporate beliefs how to response to the conflict and how to balance and accommodate these new expectations.

The aim of analysis is thus not to explain behavior or tap into individual motives for action. Rather, the idea is to reconstruct manifest meanings and beliefs held by *Shell* as these comprise how the company sees the world and determine how it will choose between different available actions. As such, the argument of “cheap talk” can be challenged on its own turf: especially because of the public character of corporate communication, these moments of determinating meanings and beliefs are justifications and role-definitions

through which the scope of future action is constituted. Especially in crisis situations, the public demands positioning of corporate actors (Holzer 2010: 124f). As routines no longer work, corporate documents as responses to these public expectations reflect the process of establishing new meanings and beliefs which *Shell* had to creatively develop in reaction to a skeptical and well-informed public. These corporate documents were analyzed by drawing on the specific procedures of sequence analysis. Given that this interpretive method is not well-established in International Relations, a brief introduction seems necessary.

4.1. Using sequence analysis to reconstruct *Shell's* corporate meanings

Sequence analysis is a hermeneutic approach to reconstruct meanings established and expressed in social interaction (Oevermann 2000). Fundamentally, it assumes the sequentiality of all human action. Given this sequentiality, meanings can be reconstructed in textual manifestations. As such, the approach takes seriously the text as an expressions of social reality which, in order to reconstruct this reality, needs to be read patiently and in its “own” language, sequence by sequence (Franke/Weber forthcoming). Instead of subsuming a text under pre-defined categories, it is approached openly and unprejudiced. Sequence analysis is thus motivated by an open and anti-essential understanding of social action through which reality is situationally constituted. It is assumed that the words used in a text are not chosen arbitrarily but rather reflect structures of meanings and beliefs held by the author of the document. As sequences continuously open and close meanings, sequence analysis offers a convincing approach to take into account both the structuring character of action as well as the fact that action is structured at the same time. Therefore, by reconstructing sequence by sequence, pragmatist (actor) assumptions of creativity and contingency of action as well as the fluid character of social phenomena are translated into a concrete method of text interpretation which can reconstruct the emergence of new meanings as the result of the sequential interplay of opening and closing within a text (Oevermann 2000: 64).

Given the sequential emergence of human action, sequence analysis allows to reconstruct which meanings structured the document in the first place. Since the very same structures of meanings also determines the life practice of the actor, documents are considered as “protocols of social action”. It is in such documents where the underlying beliefs and meanings of action become manifest and where change can be analyzed as documents reflect the same decisions the author was facing in a concrete situation of ac-

tion. The sequential interpretation of documents thus accesses underlying structures of meanings and beliefs by reconstructing the rules and decisions by which these meanings were generated in the first place. Methodically, this is done by analyzing two parameters in each sequence. The first parameter determines the total sum of available sequences which could follow the current one (Franke 2010: 63). The second parameter structures the decision between all meaningfully possible sequences and determines which sequence is realized. As such, it includes all disposition factors on which an actor acts and in sum represents the individual “case structure”.⁹ Based on the “case structure”, actors cast their decisions in recognizable patterns. Accordingly, by hypothetically generating all case-specific sequences that could possibly follow (parameter 1) and then contrasting these with the one realized by the actor in the next sequence (parameter 2), one can reconstruct structures of meanings and beliefs held by the actor (Oevermann 2000: 64ff).

Since all documents published by a specific actor reflect the same “case structure”, sequence analysis presupposes that the careful and comprehensive analysis of only a few documents is sufficient to comprehensively reconstruct the specific selectivity of sequences of the individual actor at hand. Assuming a *pars pro toto* principle, the notion of establishing representativeness by looking at as much documents as possible is replaced by the interpretive obligation to extensively and thoroughly generate as many hypothetically meaningful interpretations as possible for each and every sequence. In order to sample documents, sequence analysis starts out with any document which the author reasonably considers to be important. Each following document is then chosen to maximally contrast the previous document with regard to case-specific characteristics. The reference point for the selection of the next document is thus always the last document. This successive development of a collection of documents is continued to the point where even the most contrasting protocol of the life practice under study does not offer any new insights into the already reconstructed patterns of the individual “case structure” (Franke 2010: 115f).

Following this line of thought, any document of *Shell* referring to the Nigerian crisis could in principle be analyzed as long as its authenticity is proven and it has been published by the enterprise. Timewise, the author scanned for corporate publications with regard to Nigeria from 1992 onwards. For reasons of immediacy, the sequence analysis started out with a newspaper advertisement published on November 21, 1995, in which *Shell* took a stand on the issue of the *Ogoni* executions. This was the first document published by *Shell* explicitly dealing with the crisis. To maximally contrast the findings

⁹ Note that in this context the term “case” is used in a very different way than commonly in IR research designs.

of this early document, a routinized publication from the web page of *Shell* published after 2009 was chosen. As a third document, the very first sustainability report from *Shell* from 1998 was analyzed. This report was also a direct response to what happened in Nigeria and falls in between the two first protocols. Finally, to allow for any potential changes in the corporate “case structure”, a publicly available statement in the *Guardian* by Malcolm Brinded from June 12, 2009, was analyzed.¹⁰ This statement was published in response to the out-of-court settlement of the Saro-Wiwa case. These four documents and their contrasting characteristics are summarized in table 1:

Table 1: Analyzed documents and their contrasting characteristics

title of document	date of publication	contrasting characteristics
<i>Clear Thinking in Troubled Times</i>	November 21, 1995	published immediately after the crisis in various international newspapers
<i>The Ogoni Issue</i>	after 2009	corporate statement available on http://www.shell.com.ng , routinized and not in immediate response to crisis
<i>Shell Sustainability Report 1998</i>	1998	first official sustainability report, directly related to crisis
<i>It is time to move on</i>	June 12, 2009	short-term statement by Malcolm Brinded following the out-of-court settlement of the Saro-Wiwa case, published in <i>The Guardian</i>

These documents were interpreted by first sequentializing each text into short yet meaningful sequences. These sequences were chosen so that they include both parameters, at the same time opening and closing the range of possible follow-up sequences (Oevermann 2000: 70ff).¹¹ While sequentializing, it is important to adopt the original text word by word and not modify it by looking for “useful sentences” to consolidate one’s hypotheses (Wernet 2009: 28). Second, meanings and beliefs expressed in each individual sequence

¹⁰ By the time the statement was published, Malcolm Brinded was Executive Director of *Royal Dutch Shell* in charge of Exploration & Production.

¹¹ Sequentializing a text marks a critical step of interpretation since it is always based on preliminary assumptions by the researcher because only in hindsight and after finishing the reconstruction it turns out whether or not the decisions prove to be adequate and helpful (Wernet 2009: 65f).

were interpreted. By analytically detaching each sequence from the flow of sequences, the author generated possible alternative interpretations and readings for each individual sequence. All possible interpretations were then contrasted with the sequence at hand to answer why this sequence was structured in its specific way and which meanings were conveyed in this structure (Franke 2010: 62ff). In a third and final step, the next sequence was considered and the actual selection of closing the last and opening a new sequence was interpreted. Thus, the decision between possible sequences was reconstructed by interpreting the actualization of one specific sequence from a variety of possible ones. Using the following sequence to reassess the previous one thus allowed to reconstruct the individual “case structure” as the recognizable pattern of how the actor opened and closed sequences throughout the document (Overmann 2000: 69).

4.2. The “case structure” of *Shell* in the Nigerian crisis

For the sake of brevity, the paper focuses on the presentation of the results of the four sequence analyses and forgoes the reproduction of the complete interpretations in their own process.¹² The findings are discussed in two ways. First, each document and its specific “case structure” is presented. Second, as the paper is mainly interested in potential change and contingency of corporate action and meanings over time, the individual documents are discussed collectively. Background for both is table 2, which in keywords summarizes the findings on *Shell*’s corporate meanings expressed and generated in the context of the Nigerian crisis. As shown in the table, elements of the corporate “case structure” and its related meanings of corporate agency were found in all documents. These were disaggregated into specifications of self-perception held by the enterprise and definitions of the conflict itself, appropriate responsibilities within it as well as the relation to other actors and. In total, these aspects mark the rhetorical crisis management of the enterprise in the Nigerian context.

As the table shows, the first document is a reactive and self-righteous attempt to blame the protester and critics for what happened in Nigeria. *Shell* claims a morally superior position which is (paradoxically) characterized by a comprehensive rejection of any criticism. Instead of substantially engaging in debate, any criticism is quickly dismissed and those who raised it are discredited. As a multinational enterprise, the only responsibility

¹² Since it decreases transparency, the main reason for this decision was a practical one as the sequence analyses in the first place were conducted in German. Thus, in this paper, only some of the “most telling” sequences are presented. As a supplement, however, the author provides the four documents as an invitation for all readers to engage in interpretation themselves.

Table 2: The “case structure” of *Shell’s* crisis management in Nigeria

	document 1 (1995) <i>Clear Thinking in Troubled Times</i>	document 3 (1998) <i>Shell Sustainability Report 1998</i>	document 4 (2009) <i>It is time to move on</i>	document 2 (after 2009) <i>The Ogoni Issue</i>
character of document	reactive, yet self-righteous and aggressive in tone	open and detailed, yet contradicting at the same time	personal and emotional without engaging in debate	moderate and evasive, “putting the conflict” into context
expressed self-perception	<i>Shell</i> exclusively an economic actor and as such morally superior	<i>Shell</i> as an economic actor socially engaged, distinguishing itself from other enterprises	<i>Shell</i> as a prudent economic actor important for regional development	<i>Shell</i> primarily an economic actor which provides other functions too
definition of corporate responsibility	minimalistic responsibility, which is limited to economic activity	imprecise, besides economic responsibilities also social and ecological engagement	besides economic also vague social responsibilities, yet only in supporting position	primarily economic activities; engagement beyond that presented as “bonus contribution.”
definition of corporate scope of action / competences	incapable of solving conflict, dependent on Nigerian government	<i>Shell</i> not incapable but somehow unwilling to act / intervene	capable of acting and decision-making	limited, at best only supporting other actors
definition of crisis	crisis caused by protester and critics	explicit description of crisis, caused by missing infrastructure investments by the government	disaggregating and thereby denying the conflict in its relevance, rather evading than defining crisis	separating the conflict into a political, an economic and an ecological dimension
relation to other actors	cautious towards Nigerian government, aggressive towards critics and protester	despite being open in character rather cautious and noncommittal towards other actors	relation to other actors not explicitly elaborated	no reference to civil society; careful articulation of slight discontent with Nigerian government
reaction to criticism	no understanding at all; instead explicit rejection	criticism not explicitly referred to, yet incorporated in own rhetoric	constant rhetoric references to criticism without engaging it	evading and relativizing by contextualizing and adding additional “facts”

expressed in the document is to avoid conflict and the involvement in political issues. Instead of acting as a political actor, *Shell* rhetorically defines itself exclusively as an economic actor. To remain as such, the enterprise willingly presents itself as incapable of action and at the mercy of the Nigerian government as well as an erratically protesting civil society, hoping “that knee-jerk reactions won’t do more harm than good”. *Shell* concludes on its own corporate role that “[p]olitics is the business of governments and politicians” and that a “world where companies use their economic influence to prop up or bring down governments would be a frightening and bleak one indeed”.

The second document represents a different reaction to the crisis as *Shell* tries to evade and deescalate the criticism and the crisis. Despite addressing the *Ogoni Issue* directly, the document remains distanced and vague. *Shell* tries to evade criticism by separating the conflict into different dimensions for which in each case the enterprise is ultimately not responsible. While defining itself primarily as an economic actor, *Shell* is much more moderate and defensive in doing so. Although not comprehensively supported, civil society concerns are no longer denied nor are protesters blamed for what happened. While neither the enterprise nor civil society is responsible for the conflict, *Shell* very cautiously addresses the Nigerian government as, “in the past, not enough oil revenue has been returned to the oil producing areas for developmental purposes”. Emphasizing their core business as providing jobs and assuring the effective exploitation of oil, the crisis is presented as a crisis of governance and the unjust distribution between a centralized government and federal states in Nigeria. Thus, almost 15 years later, *Shell* at least addresses the issue although this is done in an evasive way and the company continues to define its own corporate responsibilities in a minimalistic way. Corporate engagement beyond economic activities remains a “bonus contribution”. Once again, its own role and its scope of action is not proactively defined by *Shell*.

The third document reflects a certain uncertainty of *Shell* with regard to the crisis. In fact, the document presents itself in contradicting ways. On the one hand, the crisis is described in much detail and even specific actions of the enterprise are mentioned as *Shell* urged that Ken Saro-Wiwa “should be treated fairly in prison and should be given the necessary medical attention”. In comparison to the other two documents, *Shell* thus presents a rather broad yet imprecise understanding of its own role as it states that “[w]e will continue to promote humanitarian values in Nigeria”. As such, the enterprise itself expresses meanings of corporate agency which go beyond a narrow understanding of MNEs as economic actors. On the other hand, the actions mentioned in the document are characterized by a certain hesitancy and presented in a submissive way, as *Shell* only

“asks for granting clemency” and states its arguments very carefully. Thus, the document does not mark a thorough change of *Shell* but rather indicates that *Shell* was struggling to define its own role and meanings in 1998. In fact, it appears that *Shell* is hesitant to play an active role in the conflict although it somehow feels obliged to act and potentially intervene. This leads to the contradicting situation where *Shell* accepts to some degree responsibility beyond being an economic actor while at the same time not acting up to this responsibility. At least, the crisis is present for the enterprise and *Shell* is aware that it implies embracing more responsibility, yet it appears uncertain how to realize these new responsibilities.

The most striking feature of the fourth document is its paradoxical “case structure” between engaging criticism and evading responsibility. As such, it reflects the uncertainty and hesitancy already expressed in the previous document. While it is not explicitly referred to, civil society criticism towards *Shell* is widely incorporated into the rhetoric of the document. Apparently, the speaker sees himself in a situation of justification as he continuously refers to potential civil society criticism. However, at the same time, the criticism is quickly dismissed and *Shell* in this document more vigorously denies responsibility beyond being an economic actor in the region than in the previous ones. For the most part, the speaker reacts to criticism with personal assertions and suggestions. Thus, while not explicitly denying or rejecting criticism, *Shell* also does not engage it proactively nor defines its own corporate role explicitly. Consequently, the responsibilities of the enterprise remain vague as the “major contribution” of the enterprise in Nigeria “remains to run a decent business there”. What precisely constitutes a “decent business” for *Shell* in the context of human rights violations and environmental degradation, however, remains undefined.

Across the four documents, it is apparent that there is no clear case structure of *Shell* with regard to expressed corporate meanings in Nigeria. Predominantly, the enterprise is defining its own role in economic terms. Responsibility beyond that is mostly denied. However, especially the third and fourth document also discussed aspects such as “humanitarian values” and the (unsolved since undefined) issue of “decent business”. Interestingly, whenever corporate activities in other areas such as community development or cleaning up the environment are referred to, they are portrayed as additional contributions not constitutive for being an enterprise. Thus, across all documents *Shell* is very hesitant to proactively define new corporate responsibilities or engage in deliberative dialogue with civil society. Denying responsibility goes hand in hand in the documents with a minimalistic definition of the corporate scope of action. It appears that it is more important for

Shell not to be responsible for the crisis than presenting the enterprise as capable of action. Given that *Shell* became more involved in community development and other social activities in Nigeria since the 1990s, it is surprising that this engagement is not presented in the documents. According to Soares de Oliveira (2007: 249), the enterprise increased its social spendings from \$ 100.000 in 1991 to \$ 69 million in 2002. However, this is almost not discussed in the corporate publications. One can argue that despite engaging in social activities beyond the narrow definition of an economic actor, *Shell* is not willing to accept new responsibilities. Single corporate measures therefore can be understood more as “damage limitations” and not so much as an expression of a fundamentally changed role of the enterprise in Nigeria.

However, with regard to its own role, a certain hesitancy and uncertainty also resonates in at least two of the four documents. *Shell’s* “case structure”, thus, is also characterized by change throughout the 15 years covered with the four documents. Most striking, the enterprise does not seem to have a clear crisis management strategy since the way it refers to criticism changes dramatically from the first to the fourth document. The aforementioned “damage limitations” do not fit into a consistent pattern, indicating that the enterprise did not rationally set its strategy but rather constantly assessed, failed, and reassessed the situation. In fact, the enterprise appeared to be overwhelmed and overtaxed by the expectations and persistence of civil society criticism and did not know how to react accordingly. Given the surprisingly aggressive tone of the first document, one can argue that *Shell* had to learn the crisis lesson the hard way, probably not expecting those discredited in the document to be as powerful and influential as they were. Strategies of keeping quiet and evading criticism surely characterized “Shell’s sluggish response to the unfolding debate” (Holzer 2010: 49) in the beginning. In this context, the first document marks an early example of being unable to cope with the crisis in any productive way.¹³ However, the third document shows an enterprise in a situation of doubt and transition and also in the other two documents, *Shell* did change its tone and fully took into account the potential threat of civil society criticism.

Apparently, the crisis lesson for *Shell* then was to present itself more cautiously and defensively. Instead of engaging the crisis and its related criticism head-on as it did in the first document, *Shell* in the later documents appeared to be much more experienced in how to rhetorically deal with the crisis. Within this crisis, one can thus see how a multinational enterprise was effectively targeted by increasingly influential civil society

¹³ This could also be the reason why the first document is no longer available at the web page of *Shell*.

which created a situation of justification for the MNE. Novel corporate meanings were developed and succeeded in the public discourse. Thus, the enterprise had to incrementally adapt its own role and responsibilities in Nigeria which, in turn, increased the pressure on the enterprise to change its behavior. Although reluctant and in an indecisive way, *Shell* began to very carefully voice criticism towards the Nigerian government and after 1995 no longer blamed the protester for what happened to Ken Saro-Wiwa and his eight companions. While at first the enterprise almost subserviently avoided any criticism of the Nigerian government, in the later documents a slight discontent with the treatment of political prisoners and the distribution of revenues is carefully articulated.¹⁴

Such changes are interpreted as moments of corporate uncertainty in which routines no longer work because of crisis experiences. Due to that, new modes of actions are introduced to reassess corporate meanings. Further moments of uncertainty and attempts to reassess corporate meanings and responsibilities became most visible and explicit in the third document which appeared to be not yet “skilled” enough to conceal the contradictions involved in being a multinational enterprise in such a crisis. In this document, neither the aggressiveness of the first nor the evasive character of the later two documents paper over the cracks in the very definition of corporate agency the enterprise held itself. Instead, it became obvious that *Shell* in 1998 itself believed that adaptations to its own role were necessary. However, the enterprise never fully realized these changes but instead in the later documents went back to a mode of evasion as it put much more effort into playing down the crisis and presenting it as the result of different dynamics for which *Shell* ultimately was not responsible. All in all, although experiencing the situation in Nigeria as a full-scale crisis and creatively and contingently generating new meanings of corporate agency, *Shell* in the end only adapted selectively to new expectations and did not comprehensively redefine its own role as a multinational enterprise in Nigeria.

5. Conclusion

In her criticism of dominant corporate actor conceptualizations, Amore (2000: 185) argued that “[t]he view of the firm as a coherent and identifiable actor in world politics has many parallels with the neorealist view of the state as atomised, unitary and essentially rational”. Sharing this impression, this paper can now in light of its own analysis extend the argument: not only is the conceptualization of a firm as a coherent and identifiable

¹⁴ Interestingly, no references whatsoever to the home countries were found, indicating that these were not important for *Shell* or did not position themselves in the crisis.

actor as one-sided and limiting as the neorealist view of the state, recent real-world developments have also put both into question. While the end of the Cold War questioned the monopoly of neorealist explanations and made it necessary for the paradigm to develop a protective belt of auxiliary hypotheses (Lakatos 1970), it appears that globalization makes it necessary to rethink our conceptualizations and images of multinational enterprises in international relations. In this vein, global governance approaches convey the idea that MNEs become political actors. Since processes of globalization apparently change the relation between state and non-state actors, it is argued that MNEs assume more political and social responsibility.

For the author, there are two implicit arguments given in global governance to explain the changing role of corporate actors becoming political actors. On the one hand, MNEs are portrayed based on the idea of what Zeitlin (2007) critically calls “hyper-rationality”. MNEs in this perspective are conceptualized *as if* they hold clearly defined interests, know precisely what alternative courses of action were available, and which one they have to choose to maximize profit. Changes in corporate behavior such as the engagement in voluntary partnerships, the publication of codes of conduct or the assumption of new responsibilities such as community development or environmental protection are explained as reactions to civil society pressure or as the corporate attempt to avoid stricter state regulations by putting into place voluntary and for the most part ineffective PR ploys. As such, there seems to be a rational “business case” for MNEs becoming political actors. The other argument often recited is the “ethical case”. Prominent within the CSR discourse, this approach argues that simply by virtue enterprises are morally responsible. Because of their sheer size and influence, MNEs have to use their resources in order to promote common goods. For this reason alone, they should be integrated into global governance and this, in turn, will change the nature of the firm from being not only an economic but also a moral actor.

Being deliberately presented in caricatured ways, one can see the limits of both arguments. As the term “hyper-rationality” suggests, this approach is not related to the (business) reality of corporate actors. Corporate decisions are not based on optimizing strategy calculations. Rather, the enterprise finds itself often in a crisis and has to develop new courses of action whose outcomes remain unclear until the course is realized. As to the other argument, emphasizing the political character of enterprises and assuming that MNEs become morally responsible actors reflects a normative-functionalist bias of global governance. It ignores the obvious fact that participating in governance is not a logical imperative or necessity but rather the “result of a political process [that] is shaped by

power, access, mobilization, leadership, and other political variables” (Avant/Finnemore 2010: 7). How individual enterprises deal with the uncertainty, ambivalence, and contradicting expectations immanent in the process of becoming political actors remains unclear and marks the result of ongoing negotiation and contestation.

To better consider multinational enterprises in these processes of negotiation and contestation, the paper suggested an alternative actor conceptualization. Instead of essentializing MNEs and their rationality or normatively overemphasizing their moral responsibilities, an alternative actor conceptualization derived from the pragmatist thought tradition assuming primary sociality, situated creativity, and contingency of aims and action was introduced. As with all social phenomena, it was argued that there is no clear and final meaning to be associated with multinational enterprises. Neither rationality nor profit-maximizing suffices to explain corporate actions when MNEs find themselves in moments of crisis where routinized beliefs are put in doubt and no longer offer convincing courses of actions to choose from. As the global spread of information has exposed multinational enterprises and made them subject to the critical scrutiny of a civil society, MNEs are being exposed to new expectations, information, and pressure by different stakeholders on different levels (Prakash 2002: 514ff). In order to ensure continuous action, corporate actors (have to) creatively and contingently (re-)establish beliefs in social interaction. Thereby, they (re-)define what constitutes MNEs as such.

It was argued that conceptualizing MNEs as *social actors* offered an alternative and more nuanced perspective to the complex process of corporate meaning and preference generation in global governance. To illustrate the potential of this alternative actor conceptualization, *Shell's* crisis management and held corporate meanings in Nigeria in the last 15 years were reconstructed using the method of sequence analysis. It was shown that *Shell* appeared to be hesitant and reluctant to engage socially and become involved in the crisis as a political actor. While evading a comprehensive debate on what it means to be a multinational enterprise, *Shell* presented itself in contradicting ways and did not communicate a coherent crisis management strategy. Neither “hyper-rationality” nor normative assumptions can convincingly explain or take into account the hesitancy, uncertainty, and ambiguity expressed in the rhetoric of the enterprise. Instead, it appears that *Shell* underestimated the crisis and the role and persistence of civil society. As this was learned the hard way, corporate documents resonate with moments of uncertainty and attempts of reassurance, indicating that *Shell* had a difficult time dealing with changing expectations and responsibilities.

Two implications follow from this, one practical and one theoretical. In terms of the

first, creating space for historical contingency as well as corporate creativity broadens the “debate about the range of strategic choices open to us in the present and future” on how to integrate MNEs in global governance (Zeitlin 2007: 135). As suggested by Dewey (1922: 146) a long time ago, imputing to corporate actors acquisitive motives only risks to lose the means necessary to actually better conditions. Thus, global governance initiatives need to be carefully designed and precisely engage MNEs in their uncertainty about their roles and responsibilities. Vice versa, global governance needs a plurality in accompanying theoretical discussions. Considering how often the analogy of blind men touching an elephant is evoked to describe research on MNEs, it almost seems compelling to develop plural conceptualizations of corporate agency. The short illustration in this paper has at least indicated that there is potential for a new and complementing language to (re-)conceptualize MNEs as *social actors*. Given the dynamic changes inherent in global governance, it is important to understand how precisely interaction and expectations constitute the contingent phenomenon of corporate agency in multi-level interaction processes at the beginning of the 21st century. In the end, the “definition of what it means to be a successful firm” (Kollman 2008: 415) remains an open research question which depends on as many theoretical perspectives as possible to be answered convincingly.

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The following is a message from Shell International Petroleum Company Limited, London, England

Clear Thinking in Troubled Times.

In the great wave of understandable emotion over the death of Ken Saro-Wiwa, it's very easy for the facts to be swamped by anger and recriminations. But people have the right to the truth. Unvarnished. Even uncomfortable. But never subjugated to a cause, however noble or well-meaning. They have the right to clear thinking.

The situation in Nigeria has no easy solutions. Slogans, protests and boycotts don't offer answers. There are difficult issues to consider.

First, did discreet diplomacy fail? Perhaps we should ask instead why the worldwide protests failed. Our experience suggests that quiet diplomacy offered the very best hope for Ken Saro-Wiwa. But as worldwide threats and protests increased, the Government position appeared to harden. As Wura Abiola, daughter of the imprisoned unofficial winner of the last Nigerian presidential election said, "The regime does not react well to threats. I believe that this is the way of showing that they will not listen to threats." Did the protesters understand the risk they were taking? Did the campaign become more important than the cause?

There have also been charges of environmental devastation. But the facts of the situation have often been distorted or ignored. The public — who rightly care deeply about these issues — have too often been manipulated and misled.

There are certainly environmental problems in the area, but as the World Bank Survey has confirmed, in addition to the oil industry, population growth, deforestation, soil erosion and over-farming are also major environmental problems there.

In fact, Shell and its partners are spending US\$100 million this year alone on environment-related projects, and US\$20 million on roads, health clinics, schools, scholarships, water schemes and agricultural support projects to help the people of the region. And, recognising that solutions need to be based on facts, they are sponsoring a US\$4.5 million independent environmental survey of the Niger Delta.

But another problem is sabotage. In the Ogoni area — where Shell has not operated since January 1993 — over 60% of oil spills were caused by sabotage, usually linked to claims for compensation. And when contractors have tried to deal with these problems, they have been forcibly denied access.

It has also been suggested that Shell should pull out of Nigeria's Liquefied Natural Gas project. But if we do so now, the project will collapse. Maybe forever. So let's be clear about who gets hurt if the project is cancelled.

A cancellation would certainly hurt the thousands of Nigerians who will be working on the project and the tens of thousands more benefiting in the local economy. The environment, too, would suffer, with the plant expected to cut greatly the need for gas flaring in the oil industry. The plant will take four years to build. Revenues won't start flowing until early next century. It's only the people and the Nigerian Government of that time who will pay the price.

And what would happen if Shell pulled out of Nigeria altogether? The oil would certainly continue flowing. The business would continue operating. The vast majority of employees would remain in place. But the sound and ethical business practices synonymous with Shell, the environmental investment, and the tens of millions of dollars spent on community programmes would all be lost. Again, it's the people of Nigeria that you would hurt.

It's easy enough to sit in our comfortable homes in the West, calling for sanctions and boycotts against a developing country. But you have to be sure that knee-jerk reactions won't do more harm than good.

Some campaigning groups say we should intervene in the political process in Nigeria. But even if we could, we must never do so. Politics is the business of governments and politicians. The world where companies use their economic influence to prop up or bring down governments would be a frightening and bleak one indeed.



The Ogoni Issue

The Shell Petroleum Development Company (SPDC) started operations in Ogoni land in Rivers State in 1958, drilling a total of 96 wells to bring nine oil fields onstream. By the end of 1992, Ogoni production was some 28,000 barrels of oil a day, about 3% of SPDC's total production

The Movement for Survival of Ogoni People (MOSOP) was established in 1990 and began campaigning for greater control over oil and gas resources on their land, for economic development, and autonomy over their affairs, (including cultural, religious and environmental matters). MOSOP's demands were summarised in their 1990 'Ogoni Bill of Rights', which were mostly of a political nature and addressed to the Nigerian Government. By November 1992, MOSOP was also demanding US\$6 billion in royalties from past oil production and US\$4 billion for alleged environmental damage, and SPDC was given 30 days to accept or leave Ogoni land.

SPDC stopped production in Ogoni land and withdrew from the area in 1993 after violence against our staff and action targeting our facilities. Violence in Ogoni land continued, and in May 1994 four prominent Ogoni leaders were murdered by a mob. Ken Saro-Wiwa (President of MOSOP) and eight others were accused of complicity in the murders, tried by military tribunal in 1995, found guilty and executed. ([Read more](#))

SPDC has produced no oil or gas from Ogoni fields since 1993, although Ogoni land continues to serve as a transit route for pipelines transporting both SPDC and third-party oil production from other areas. SPDC has publicly called for calling for reconciliation among Ogonis and between the Ogonis and SPDC and continues its SPDC's community development programme in the area despite the fact it is no longer an oil producing area. It also offered to clean up oil spills that had occurred in the area since it left, regardless of their cause.

SPDC agrees that, in the past, not enough oil revenue has been returned to the oil producing areas for developmental purposes. SPDC and other Shell companies in Nigeria pay tax and royalties each year into the federal budget. The government then decides how to spend and distribute this money among the states. The division of revenues is the subject of intense political discussion. SPDC has made its views known and contributed to debates aimed at improving governance of the allocation of oil revenue to oil-producing communities, which includes the Ogonis.

Shell initiated and was a leading sponsor of the Nigerian Extractive Industry Transparency Initiative, which openly publishes payments made to the government by the energy industry and the allocation of money to states by the federal government. We are keen that oil producing state governments adopt similar initiatives.

SPDC supports the government-initiated reconciliation

process in Ogoni land. The government agreed to commission an environmental study from the United Nations Environment Programme (UNEP), which expects to start work in the middle of this year and complete the study next year. It is a scientific survey that will establish the environmental status of Ogoni land. Shell is funding this study and hopes it will provide the basis for a proper cleanup of the environment. SPDC is committed to cleaning up oil spills irrespective of the cause.

In June 2008, the Nigerian government announced it would replace SPDC with another operator (possibly the Nigerian National Petroleum Corporation) in Ogoni land as the best solution to end the "stalemate" between SPDC and the community. SPDC is ready to accept the appointment of any of the partners in the Joint Venture (JV) as operator of the licence in accordance with the Joint Operating Agreement (JOA) and will cooperate with the government on the proposed plan to transfer operatorship.

You may also be interested in:

- **Ogoni Land**
- **8 June 2009 - Shell settles Wiwa case with humanitarian gesture**
- **11 June 2009 - It is time to move on, op-ed by Malcolm Brinded, Executive Director, Upstream International**

Supporting fundamental human rights

Shell operates in 132 countries worldwide. Human Rights groups claim that the authorities in over 90 countries have violated the rights of their people, as defined by the United Nations. It is inevitable that many Shell companies will be doing business in such countries (see page 32).

Our position on two high-profile cases: Nigeria

The execution in 1995 of Ken Saro-Wiwa and eight other Ogonis shocked and saddened all of us.

Before Mr Saro-Wiwa's arrest we said that while we did not necessarily agree with all of his views, he had the right to voice his opinions. After his arrest we said he should be treated fairly in prison and should be given the necessary medical attention. We did not seek to influence his trial, but after the verdict the Chairman of the Group's Committee of Managing Directors sent a letter to the Nigerian head of state urging him to grant clemency for all those sentenced.

Twenty Ogonis are currently detained in Nigeria in connection with the same incident. We are the only major company operating in the country to call publicly, and repeatedly, for humane treatment, a fair trial for the detainees and clemency for those found guilty. We have made these appeals both publicly and privately. We will continue to promote humanitarian values in Nigeria.

For example, when oil unions took part in the general strike of 1995, production by Shell Petroleum Development Company (SPDC) fell by a half. We took the position that we would not work under military protection to increase the flow of oil.

Nigeria is poor, despite being Africa's leading oil producer. Its population of more than 100 million has a gross domestic product of only US\$ 260 per person. It has many development challenges.

There is a lack of government investment in the social infrastructure of the area in which we operate. We recognise a responsibility to act. In 1997, the Shell joint venture spent US\$ 32 million on a wide range of community and development projects, including the building of hospitals and schools (see the Shell Nigeria website www.shellnigeria.com).

SPEECHES AND ARTICLES

It is time to move on

11/06/2009

Malcolm Brinded, Executive Director Exploration and Production, writes in the English newspaper The Guardian about Shell's decision to settle out of court in the Saro-Wiwa court case.

This op-ed was published 11 June 2009 in The Guardian.

It is time to move on

This week's settlement is not so much about an ending. I hope rather it is the start of something new for the Ogoni people as well as for Shell in Nigeria. Settling out of court was not a comfortable or soft option. We wanted an opportunity to prove our innocence and we were ready to go to court.

We knew the charges against us were not true. And we were confident that the evidence would have shown this - that Shell was not responsible for the tragic events of 10 November 1995. The execution of nine leaders of the Ogoni tribe shocked us all. And we wanted others to see and understand that too.

I am aware that settlement may - to some - suggest Shell is guilty and trying to escape justice. Some newspapers have leapt to that conclusion. But we felt we had to move on. A court hearing would have dragged us backward, dug up old feuds and painful memories, not only for the plaintiffs but for many others who has been caught up in the violence. In a way this 13-year-old lawsuit has always been a bitter legacy, potentially undermining any reconciliation initiative, even among the Ogoni people themselves. When the judge, through the court mediation process, asked us to consider making a humanitarian gesture to settle the case, we saw an opportunity to help banish this legacy and advance the process of reconciliation and support a better future for Ogonis - in a way that winning in court may not have done. As Shell's country chairman in Nigeria, Basil Omiyi, said to me, this was a way of drawing a line under the past. Not forgetting it, but placing it in context and helping us all get on with our lives.

He's right. There is a generation of Ogoni people who have grown up in the shadow of the violent events of the 1990s. Most are looking for peace. Shell is looking for peace. Not because we want to go back to produce oil and gas in Ogoni land. But because we live and work in the Niger Delta too where 25,000 Nigerian families depend on our operations for their livelihoods - and where we want good relations with all our neighbours.

What does a humanitarian settlement look like? My concern was the thousands who suffered during the violence and turmoil in the 1990s, not just the 10 plaintiffs. This made a trust fund a good option to benefit all Ogoni people. And there was no single view in Ogoni land about this court

case, about Shell or Ken Saro Wiwa. There are many factions who disagree. We had to seek an approach to help everyone move forward together.

The trust fund will hopefully contribute to development in Ogoni land. It will support local initiatives in education and agriculture, small businesses and literacy. It is independent of Shell and the plaintiffs. The trustees will be responsible for ensuring funds reach the greatest places of need. I hope it can make a difference where it matters.

We have continued community investment in Ogoni land, despite the fact we have not produced any oil there for 16 years. Shell-run companies in Nigeria contributed \$240m in 2008 in Niger Delta community projects. And of course our major contribution remains to run a decent business there from which 95% of revenues pass to the Nigerian government in one way or another.

So this was not about lawyers winning or losing. Or Shell winning or losing. Our decision was aimed at helping different factions to talk more effectively to each other and to Shell - and to help move along the vital reconciliation process. We are supporting a UN-led survey of Ogoni land to meet environmental concerns. We have promised to clear up any damage from oil spills - whatever their cause. Ultimately I hope to see oil being produced in Ogoni land again one day. This time bringing economic opportunity and better livelihoods, not bloodshed.

Malcolm Brinded is executive director for exploration and production at Royal Dutch Shell