The 1980s and 1990s were not good years for the reputation of Big Oil. Exposés of malpractice in relation to the environment, human rights, local communities and conflicts were rife. Against this backdrop, several North American and European oil companies embarked on a makeover in order to win friends and placate enemies. They did this not only through the proverbial use of public relations and philanthropy but also by proactively promoting corporate social responsibility (CSR).

This concept generally conveys two main ideas. First, corporations should go beyond both the minimalist standards laid down in law and the piecemeal interventions that characterise philanthropy by adopting a range of voluntary initiatives aimed at minimising malpractice and improving their social, environmental and human rights performance and impacts. And, second, modern, well-run companies need to be more responsive to the concerns of multiple stakeholders and aspects of management that have to do with risk and reputation management and organisational learning.

This paper examines the evolution and state of CSR in the oil industry, focusing on initiatives and institutions related to environmental management, climate change, human rights, community development and revenue transparency. We explain why some companies have taken a leadership role in CSR, as well as why there have been significant variations in response both within and between companies. Particular attention is paid to political and institutional dimensions, notably the role of transnational activism and civil society organisations, the ‘hegemonic’ strategies of organised business interests, and broader institutional and policy contexts associated with varieties of capitalism analysis. The paper concludes with a discussion on corporate accountability, identifying certain regulatory approaches and political developments that might enhance the contribution of oil companies to social and sustainable development.
The Origins of CSR

Why did the CSR agenda emerge in the 1980s and take off internationally in the 1990s? And, why were several oil companies at the forefront of these developments?

One of the reasons why CSR has attracted so much attention is that it is being propelled by two powerful sets of actors or movements: one comprising non-governmental organisations (NGOs), trade unions and various social movements concerned with sustainable development, labour, human rights, corruption and ‘alternative globalisation’; the other involving organised business interests and policy makers concerned with opposition to economic liberalism and cognizant of the need for institutional arrangements that can minimise and mitigate the perverse effects of economic liberalisation.

The former ‘movement from below’ garnered force not only through the rapid growth of the NGO sector and the environmental movement in the 1980s but also through the rise of transnational activism and new modes of communication, organisation, mobilisation and advocacy involving the Internet, networking, coalitions, international campaigns and transnational advocacy networks. Their voice was increasingly heard by the world’s leaders and elite both through protest actions, literally on their doorsteps—e.g., Seattle, Prague, Genoa and Davos—as well as through engaging collaboratively with mainstream consultative and policymaking processes such as those associated with United Nations (UN) Summits.

Such activism took early aim at the large oil companies that were implicated in several high-profile disasters and scandals. This was the era of the Exxon Valdez oil spill off the Alaskan coast (1989) accusations suggesting the complicity of Shell, Unocal and Total in human and labour rights abuses in Nigeria and Burma and Shell’s clash with Greenpeace over the disposal of the Brent Spar oil rig (1995). The issue of the extent and dynamics of corruption in the oil industry in Africa and elsewhere—and the role of oil companies like Talisman Energy, Unocal, Elf and British Petroleum (BP) in conflict zones such as Angola, Sudan and Colombia—also emerged as high-profile concerns of activists and policymakers. Following the Millennium Declaration and the World Summit on Sustainable Development (WSSD), which focused the attention of the international development community on poverty reduction and partnerships for development, oil companies also were asked to revisit the question of why their operations often take place in contexts
of extreme local poverty and the poor economic performance of host developing countries.

Some have described the upsurge of activism associated with globalisation and liberalisation more generally—and CSR more specifically—in terms of a ‘counter-hegemonic’ or emancipatory social project in which companies are being subjected to, and are responding to, increasing levels of activism and the convergence of disparate struggles and concerns. This is not simply because of the growing strength of civil society organisations and activism but because ‘the more the public domain is privatised, the more that the private is politicised and becomes a matter of public concern.’

In reality, civil society perspectives on CSR are divided, and numerous intra-civil society tensions exist. Furthermore, civil society actors, organisations and networks are engaged in myriad forms of ‘civil regulation’ involving a variety of confrontational and collaborative tactics. These include:

- watchdog activities by groups such as Oilwatch, Corpwatch, Greenpeace and Public Eye on Davos to denounce and publicise malpractice;
- consumer boycotts against companies like Shell, Exxon and Unocal;
- shareholder activism, which involves filing resolutions at Annual General Meetings (AGMs) demanding that management address certain issues, as occurred, for example, in relation to the involvement of Atlantic Richfield Company (ARCO) in Burma;
- legal activism both at home and in host countries, through which companies or governments are prosecuted for malpractice as, for example, in the case of Shell, for its complicity with pesticide poisoning in Nicaragua, or the government of Colombia, for allowing exploration by Occidental Petroleum in the territory of the U’wa people;
- testing and using complaints procedures contained in voluntary CSR codes or guidelines, such as in the case of the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Corporations, in which civil society organisations associated with the OECD Watch network have raised concerns about the activities of BP and the Baku-Tbilisi-Ceyhan (BTC) pipeline in Georgia and Turkey;
- critical research by academic and NGOs examining malpractice and the limits of so-called best practice;
• advocacy for policy change by organisations and networks such as the U.K. Corporate Responsibility Coalition (CORE), the Clean Clothes Campaign, and Global Exchange;
• dialogue and service provision by NGOs that collaborate with companies and CSR institutions to provide advice and technical assistance related to best practice, standard-setting, reporting, monitoring and certification;
• partnerships involving NGOs, local grassroots organisations and companies to design and implement social, environmental and development projects; and
• collective bargaining, Global Framework Agreements (GFAs)9 and campaigns by trade union organisations to improve labour standards and conditions.

Many of the professional and service-oriented NGOs that were influential in structuring the mainstream CSR agenda assumed certain characteristics that shaped their approaches and the reformist nature of their demands and proposals. Not only ‘neo-liberals,’ but also many activists and NGOs were critical of what they saw as state failure, and they sought a ‘third way’ involving voluntary or softer regulatory approaches, as opposed to ‘command and control’ regulation. They also stressed the role of collaboration and partnerships rather than confrontation.10 Compared to corporatist entities such as trade unions, which had been one of the principal agents of change of previous decades, NGO activism in the 1980s and 1990s was relatively fragmented. Presenting a common, more powerful, civil society front was difficult given the considerable tensions that existed between NGOs and trade unions, which were concerned with the colonisation of the world of labour standards and labour rights by organisations that were unaccountable to workers. North-South tensions were also apparent, given the reality or perception that CSR was very much a northern agenda that had not been shaped through the effective participation of southern organisations and actors. The relative isolation of many NGOs from mainstream democratic politics also meant that this sector of civil society was not empowered through its relations with political parties, as the labour movement had been. Furthermore, the types of demands put forward, as well as the tactics used, were conditioned by the tendency for many NGOs to become involved in the burgeoning CSR industry through service delivery and consultative and commodified activities. There was, in fact, a blurring of the distinction between an important sector of ‘civil society’ and ‘business.’11
Oil’s Hegemonic Strategy

The second grand constituency promoting CSR—organised business interests included several of the largest oil companies. As indicated in the following section, they responded quickly to the pressures and contexts outlined above, not only through vigorous advertising but also by adopting codes of conduct, strengthening environmental management systems, promoting dialogue with NGOs, investing in renewables, increasing their support for local community projects, producing sustainability reports, certifying environmental management systems and joining or collaborating with various national and international CSR initiatives and institutions.

A common reaction of some sectors of civil society has been to dismiss such CSR actions as ‘greenwash’, a term coined at the time of the UN Conference on Environment and Development (UNCED), held in Rio de Janeiro in 1992, to criticise large corporations for grossly exaggerating their environmental credentials. These companies included Shell and others that had joined the Business Council for Sustainable Development (BCSD), established in 1991 to craft a coherent business response to environmental issues and influence the outcome of UNCED. In the 1990s, watchdog organisations like Corpwatch regularly bestowed Greenwash awards on oil companies that had tried to position themselves as CSR leaders. More recently, oil companies have featured prominently in the Public Eye Awards for malpractice, granted at the annual civil society event in Davos that coincides with the World Economic Forum.

Revelations of greenwash have been useful for maintaining the spotlight on malpractice and countering attempts by large corporations to deflect opposition through tokenism, advertising and public relations. But, the notion of greenwash tends to suggest that business simply is reacting defensively and that it has no genuine interest in CSR apart from reputation management.

In contrast, many corporations, business associations and other actors argue that there is a solid business case for CSR, which is associated with ‘win-win’ strategies; doing good environmentally and socially can simultaneously improve a company’s competitive advantage, reduce costs, enhance staff morale and reduce staff turnover. Furthermore, it is part and parcel of sound management in the era of globalisation in which innovation is essential, short and long-term risks need to be anticipated and addressed and companies need to learn and use knowledge more effectively. New concepts and theories deriving from management studies and economics have reinforced these positions. These include stakeholder
theory, which correlates the health of a company with its responsiveness to the concerns not only of shareholders but of multiple stakeholders, and new institutional economics, which highlights the need for firms to pay more attention to transaction costs. Meanwhile, from international relations comes the idea that governance in the complex era of globalisation needs to be multi-playered, with collaboration, partnerships and social learning all key features of 'good governance.'

These explanations of CSR are relevant but need to be complemented by yet another, which recognises that CSR is very much a part of a political agenda in the Gramscian sense. As Gramsci’s concept of hegemony reveals, the longevity and stability of capitalism is related to the capacity of ruling elites to govern not simply through force, but through consensus and by addressing issues of concern to multiple actors. Hegemony involves not only accommodating certain oppositional demands, but also exercising moral, cultural and intellectual leadership. CSR is a classic example of such a hegemonic strategy. So-called CSR companies are not simply reacting defensively, but are proactively trying to shape and lead the CSR agenda. Such an approach was particularly apparent in the build up to, during and following UNCED. Business interests organised and mobilised effectively to influence the outcome of the conference. In the process, they were able to fend off regulatory threats through the promise of voluntary initiatives and corporate self-regulation. Ten years later, active business mobilisation around the WSSD managed to put the idea of public-private partnerships firmly on the international agenda, and, in the process, divert attention from calls for ‘corporate accountability’ and stronger regulation of transnational corporations (TNCs). Corporate proactivity in relation to CSR is particularly evident in relation to big business engagement with multi-stakeholder initiatives. These and other consultative processes also open up spaces for institutional capture and allow organised business interests to shape the public policy process.

The above analysis of a dual movement characterised by ‘pressures from below’ and hegemonic strategising and manoeuvring to fend off threats and gain influence would suggest some scope for convergence, with laggards gradually coming on board the CSR bandwagon. This trend would seem to be relevant particularly for oil companies from the OECD countries. The learning processes, networking and corporate participation that are features of the rapidly expanding ‘epistemic communities’ that characterise the world of CSR also reinforce the tendency for incremental change. Such convergence has been noted, for example, in the case of Exxon, which was overtly hostile to climate change issues in the 1990s but has since softened its position.
Referring to the case of the oil industry as a whole, others scholars suggest that company responses to CSR are likely to remain extremely diverse given the complex array of factors that shape company policy and performance. Indeed, divergence may be occurring, with the large western corporations reinforcing their CSR role and image to gain competitive advantage, and other, smaller companies or national oil corporations from non-OECD countries using the ‘business-as-usual’ approach also to position themselves favourably in the market. Such would seem to be the case, for example, of some of the state-owned oil companies such as Petronas (Malaysia), the China National Petroleum Corporation and India’s national oil corporation, which acquired the assets of Western corporations that had to withdraw from developing countries because of pressures resulting from their association with human and labour rights abuses.

The interplay of civil society pressures and influences and hegemonic strategising and leadership explains, to a large extent, both the vibrancy and rapid evolution of the CSR agenda since the early 1990s. This evolution is apparent in relation to the expanding number of issues on the agenda, CSR instruments and national and international institutions. As a result of all these developments, we see some broadening and deepening of CSR in terms of the numbers of companies and sectors involved, and more rigorous CSR standards and implementation procedures. Nevertheless, the engagement of companies with the CSR agenda and CSR performance remains highly fragmented, in terms of the number of companies that overtly associate themselves with CSR policies and practices, the meaningful application of CSR standards within corporate structures and the contribution of CSR to development.

**CSR and the Oil Industry**

As in any industry, the engagement of large oil companies with CSR can be judged, to some extent, by their adoption of codes of conduct, reporting practices and interaction with leading CSR institutions. In the aftermath of two major setbacks in 1995, Shell proved to be an initial leader, revising its 1976 Statement of General Business Principles to include reference to sustainability and human rights. Most of the oil majors followed suit and now have their own company code of conduct. Many also subscribe to relevant industry or civil society-led voluntary regulation across a range of issues. In the social arena, the Global Sullivan Principles and the Voluntary Principles on Security and Human Rights are particularly relevant to the oil industry. The latter were developed by the International Business
Leaders Forum in 2000 and refer to issues that should be considered in risk assessments, as well as guidelines on working with public security organisations and contracting private security firms. They have been signed by 16 oil corporations, including most of the larger companies, with the notable exception of Total.

Most of the oil majors now produce annual sustainability or CSR reports. Shell was the first in the industry to produce a report that considered social and community responsibility, through the publication of 'People and the Environment: Annual Report 1996' by Shell Nigeria, and subsequent reports by Shell, including the seminal 'Profits and Principles,' published in 1998. A survey by KPMG, the network of professional firms providing audit, tax and advisory services, found that corporate responsibility reporting by the oil and gas companies listed in the top 250 corporations of the Fortune 500 rose from 58 percent in 2002 to 80 percent in 2005. In fact, the oil and gas sector is now the third largest reporter on social and environmental issues, having produced just under 700 reports since 1992.

The considerable criticism that has emerged about glossy, superficial reporting has prompted some improvements in the quality of reporting. An increasing number of companies are applying reporting standards such as those developed by the Global Reporting Initiative (GRI). However, of the 26 oil or oil-related companies that report using the GRI guidelines, only nine are said to be 'in accordance,' which denotes a more systematic application of the guidelines.

Several oil companies are closely associated with high profile CSR institutions, such as stock market sustainability or ethical indexes, the UN Global Compact (UNGC), and the GRI. BP, Shell and Statoil are Organisational Stakeholders of the GRI; BP, Total and Shell are among the top 20 largest components of the Dow Jones Sustainability Index (DJSI); and BP and Total are in the top ten of the largest components in the FTSE4Good Global. The criteria to qualify for these indexes are set higher for 'high impact' industries, such as oil. They include the existence of environmental management systems, a public commitment to internationally recognised human rights treaties and stakeholder consultations in countries of concern. Some of the key players, such as Exxon, Chevron and Eni, are not listed.

As of January 2006, there were 65 oil and gas companies participating in the UNGC, of a total 2,324 companies. However, just eight of the 32 petroleum companies listed in Fortune's Global 500 are members. The three largest US-based oil companies, Exxon, Chevron and ConocoPhillips, are notable exceptions. Companies from developing countries, in general, are well-represented in the Compact, and Argentina and India are the top two countries when it comes to oil and gas Compact signatories.
The specific CSR issues that the oil majors have engaged with and prioritised—and the evolution of the CSR agenda through time—reflects, to a large extent, the state of play regarding activist and global concerns on social and environmental issues. Consequently, much of the early CSR focus was on environmental management and protection. In the run-up to UNCED, the BCSD coined the phrase ‘eco-efficiency,’ and member companies such as Shell, Chevron and Eni proclaimed their commitment to environmental protection. Eni’s development of a lead substitute for gasoline, for example, featured as a case study in the BCSD’s Changing Course.²⁸ Chevron was already advertising its positive contributions towards environmental management and conservation in the ‘People Do’ campaign, which ran from 1985 to 2001.

Not all oil companies have engaged proactively with environmental management. In 1999, Total was pressured to address the issue of tanker safety following the Erika shipwreck off the coast of Brittany. While initially denying any responsibility, NGO protests and boycotts, as well as the intervention of French President Jacques Chirac, forced Total to tighten its vessel-vetting criteria and cooperate with the EU and shipping authorities to update tanker-safety legislation.²⁹ At the WSSD in 2002, the World Bank initiated the Global Gas Flaring Reduction Partnership (GGFR), which ten oil companies and several oil-producing countries have signed. The GGFR aims to reduce the flaring and venting of gas associated with the extraction of crude oil. Other activity in relation to environmental management for the oil industry has covered a range of areas and approaches, as demonstrated by Statoil’s overarching ‘Zero Harm’ policy, Exxon’s Biodiversity Action Planning and environmental management certification (such as ISO 14001).³⁰

Much of the industry was initially defensive about the issue of climate change, with many of the oil majors joining the now-defunct Global Climate Coalition that lobbied against the Kyoto Protocol. It was not until 1996, when BP walked out of the Coalition that the industry position began to change. Several other oil companies, including Shell and Texaco³¹ soon followed BP’s example. Both BP and Shell have committed themselves to reduce emissions to 1990 levels by 2010 and are the only oil companies to have joined the Environmental Defence’s Partnership for Climate Action.³² Moreover, they are the only companies listed in KLD Research and Analytics’ Global Climate 100 Index, the first investor index comprised of companies focusing on solutions to global warming.

US companies tend to be more cautious and emphasise the role of research and development and eco-efficiency improvements. But, as research increasingly links human action with global warming, Chevron and Exxon’s approaches are shifting, so that instead of questioning the
validity of climate change science, they now emphasise the economic costs of alternative strategies. The ten largest oil and gas companies based in the US are now working with the Coalition for Environmentally Responsible Economies (CERES) towards developing better climate change policies.

Human rights have played a prominent role in oil companies’ CSR agendas. As a result of growing local resentment where indigenous, land and environmental rights have been violated, attacks on oil operations have increased in some oil producing areas such as the Niger Delta. Many oil companies recruit local security firms to protect their sites. As documented by several NGOs, including Human Rights Watch, Christian Aid and Global Witness, these firms frequently associate themselves with government or paramilitary security personnel that use force against local communities. There are currently four court cases brought under the U.S. Alien Tort Claims Act (ACTA) against oil companies for their complicity in human rights violations in Colombia, Indonesia and the Niger Delta.

The major oil companies have generally responded to human rights issues by including references to human rights or international human rights agreements such as the Universal Declaration on Human Rights in their codes of conduct. The Global Sullivan Principles, initially drafted to guide company behaviour on equal opportunities and human rights in apartheid South Africa, were one of the first human rights codes of conduct. The Voluntary Principles on Security and Human Rights were developed by the U.S. and United Kingdom (UK) governments, NGOs and extractive and energy companies specifically to address the issue of public and private security.

CSR initiatives relating to community development have undergone significant change from ad hoc ‘assistance’ to development partnerships with government agencies and NGOs. Spending on community development programmes by the oil, gas and mining sector was estimated at over US$500 million in 1999. Shell alone spent US$106 million on ‘social investment’ in 2004, although this still represents less than 0.6 percent of its net income. Such investment, however, is highly contested, as numerous projects have failed and some have exacerbated already fraught community and intra-community relations due to poor design, low community participation and the failure of companies to improve core business practice. An external review of Shell’s projects in the Niger Delta found that ‘of the 81 projects visited...20 did not exist, 36 were partly functioning or partly successful and only 25 worked properly.’ In 2005, ChevronTexaco reportedly stated that its system of investment in the Niger Delta had been ‘inadequate, expensive and divisive.’ As a result, Chevron aims to pay more attention to regional development, multi-stakeholder approaches and greater transparency in project implementation.
The Angolan Partnership Initiative led by Chevron has involved a move away from conventional infrastructure projects to skills development and the promotion of small and medium-sized enterprises (SMEs). There has been considerable movement by oil companies in recent years in relation to other CSR issues, notably revenue transparency, which is a huge problem in an industry that is known to have lined the pockets of corrupt dictators and aggravated civil wars. In Angola, where up to 90 percent of government revenues are derived from the oil industry, it has been claimed that nearly US$1.4 billion went unaccounted for in 2001. The late Nigerian dictator, Sani Abacha, is said to have robbed the country of US$2.2 billion, again, largely from revenues made from oil. Pressure from NGOs such as Transparency International and the coalition ‘Publish What You Pay,’ have played an important role in bringing the issue to attention. To date, Canadian companies Talisman Energy and TransAtlantic Petroleum are the only two oil companies that systematically disclose details of royalties, taxes and bonuses in all the countries in which they operate. This is primarily the result of Canadian securities law that requires such disclosure.

Progress has been slower where disclosure is voluntary, as in the cases of BP, Shell and Chevron, all of which have displayed patchy performance. One such approach to revenue transparency is the multi-stakeholder Extractive Industries Transparency Initiative (EITI). Launched in 2002 at the WSSD by the U.K. government, the EITI encourages companies to work with resource-rich countries. Participating companies include eight of the top ten publicly quoted oil producing companies. There have been recent calls for strengthening the process through developing an International Financial Reporting Standard for the extractive industries.

Despite the attempts made by the oil majors to engage proactively with the CSR agenda, they remain regular targets of civil society activism and litigation concerned with malpractice. A recent survey of 65 reported instances of malpractice found that oil, gas and mining companies account for two-thirds of the total. Oil companies are also frequent recipients of ‘greenwash’ and other awards for corporate irresponsibility, such as the Public Eye on Davos and Multinational Monitor’s annual list of top ten misbehaving corporations. Table 1 contrasts apparent evidence of the oil majors’ CSR ‘good practice,’ such as their involvement in multi-stakeholder initiatives, the quality of social and sustainability reporting, and listings in sustainability indexes, with apparent indicators of ‘bad practice.’ The table also reveals significant variations in the extent to which different companies have engaged with CSR institutions or been targeted for malpractice.
Table 1: Good versus bad practice

<table>
<thead>
<tr>
<th>Company</th>
<th>Year</th>
<th>Reason</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chevron</td>
<td>1992</td>
<td>Corrupt labour</td>
</tr>
<tr>
<td>Reo</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Exxon</td>
<td>1989</td>
<td>Human Rights</td>
</tr>
<tr>
<td>BP</td>
<td>2000</td>
<td>Corporate Crime</td>
</tr>
<tr>
<td>Shell</td>
<td>1988</td>
<td>Human Rights</td>
</tr>
<tr>
<td>Total</td>
<td>2002</td>
<td>Human Rights</td>
</tr>
<tr>
<td>Elf</td>
<td>1997</td>
<td>Human Rights</td>
</tr>
<tr>
<td>Statoil</td>
<td>2005</td>
<td>Human Rights</td>
</tr>
</tbody>
</table>

See notes for Table 1.
The considerable diversity of company responses to CSR suggests that the polarised perspectives that abound about the inherent worth or irrelevance of CSR are misplaced. While many critics dismiss it as greenwash, proponents often suggest that CSR represents a fundamental departure from ‘business-as-usual.’

To some extent, these categorisations may be a more accurate reflection of civil society and public perceptions. Reality is often more complex with so-called CSR leaders performing poorly in relation to certain issues while some of the ‘bad guys’ are not only playing catch-up, but also being proactive in some areas. Among the large western oil companies, BP and Statoil generally are recognised for their proactive CSR policies and practices, while others, such as Occidental Petroleum, are heavily criticised for their ‘business-as-usual’ approach. Shell has attempted to position itself as a CSR leader but is regularly singled out for both good and bad practices. Firms such as Exxon, Chevron, Total and Talisman Energy are often portrayed as CSR laggards but have belatedly engaged with some aspects of the CSR agenda.

There are two types of analysis that explain heterogeneity. The first involves identifying specific ‘drivers’ or factors and processes that promote or constrain CSR. The relevance or impact of such factors varies by company. Particularly important in this regard are the intensity and nature of activism, traditional business interests and pressures associated with shareholders and profit maximisation, the contribution of CSR to competitive and political advantage and the mode of internalisation of CSR within companies.

For many years, the activist spotlight tended to focus on specific issues, countries and companies, without any rigorous correlation between the cases identified and the extent of malpractice. Issues, such as environmental degradation and the rights of indigenous peoples, which have been at the forefront of northern CSR activism, often receive the most attention. For many years, other issues, such as tax avoidance, corruption and corporate lobbying for regressive social and labour market policies, received less attention, although this has begun to change. Some developing countries, such as Nigeria, Angola, Colombia and Burma, are profiled far more than others. And, CSR activism tends to target specific companies, notably those connected with the countries where strong activist organisations and networks are centred, notably the US, the UK and the Netherlands. Companies like Shell, BP, Exxon, Occidental Petroleum and Unocal have been very much in the activist spotlight. The world’s largest
oil companies (in terms of reserves)—state-owned corporations from the non-OECD countries—have, until recently, received little attention. Such is the case even when they take over the assets and operations of companies like Talisman Energy and Total when they leave countries like Sudan and Burma, where human rights abuses in oil zones are prevalent.46

All the oil majors, of course, must prioritise shareholder interests and basic management goals associated with profitability and market share. Despite the prominence in CSR discourse of ‘win-win’ scenarios and the so-called business case for CSR, there are numerous tensions between these traditional objectives and CSR. Skilful company leadership is crucial for managing these tensions. Indeed, the McKinsey Global Survey of Business Executives suggests that executives believe overwhelmingly that the key responsibility for promoting CSR within corporate structures rests with Chief Executive Officers or Chairs.47 In the oil industry, only a few such leaders have emerged, such as Lord Browne (BP), Mark Moody-Stuart (formerly Shell) and Philip Watts (formerly Shell).

But, even the most senior executives are highly constrained in what they can do, and their tenure can prove fragile if traditional shareholder interests are not protected. This was apparent when Philip Watts, the chairman of the Shell Transport and Trading Company and a strong advocate of CSR both within the company and internationally, was forced to resign in 2004, when the company was found to have overstated its proven oil reserve figures. While Lord Browne has attempted to rebrand BP as going ‘Beyond Petroleum,’ the task of transforming investment patterns has proven more difficult. The growing awareness of global warming may sensitize shareholders and companies to the need to pay more attention to investment in renewables and natural gas, but the more immediate reality of energy shortages, high oil prices and extraordinary profits appears to divert their attention not only to greater investment in traditional exploration or sites, but also to so-called unconventionals that have extremely worrisome environmental implications. Shell reportedly claims that, within a decade, unconventionals—such as tar sands, shale and coal-bed methane—could make up more than one-fifth of the company’s total resource base.48

The uneven trajectory of CSR, both within and between firms, is explained partly by its opportunistic and strategic value which varies by company. This is apparent not only in terms of its usefulness for risk and reputation management, but also in relation to competitive and political advantage. Referring to Angola, Jedrzej Frynas provides evidence suggesting that ChevronTexaco conveniently entered into a partnership with U.S. Agency for International Development (USAID) and UN Development Programme in 2002, when negotiations with the government
were taking place for a long-term oil concession. Furthermore, when the
concession was granted, the company committed US$80 million to a so-
cial fund. Frynas notes other instances where corporate social giving was
undertaken to curry favour with politicians and government officials and
bring managers closer to policymakers.\(^4^9\) The ongoing tightening and
improvement of CSR policies and performance in proactive companies can
be explained partly by the amount of scrutiny that companies preaching
good practice are subjected to by watchdog organisations and other NGOs.
It is also explained by the need for such companies to ensure that they
gain an advantage by cultivating stronger relations with civil society
organisations ‘to distinguish themselves from other companies, turning
their ethical advantage into a competitive advantage,’ as well as greater
political influence.\(^5^0\)

Variations in response also arise from differences in the way CSR is
internalised within corporate structures. Very often, CSR is championed
by specific individuals or public or corporate-affairs departments. In
the case of CEOs or chairpersons, such individuals may carry consider-
able weight. They are, nevertheless, highly constrained in their ability
to change structures and practices throughout the operations of giant
corporations which are often located in numerous countries, as well as
in remote locations where the institutional environment and corporate
culture are often hostile to CSR. In this regard, trade unions potentially
have an important role to play as they can act as eyes and ears through-
out the corporate structure. But, only three oil corporations have signed
a Global Framework Agreement with the International Federation of
Chemical, Energy, Mine and General Workers’ Union (ICEM): Statoil

Transforming management systems and developing competencies
conducive to CSR requires considerable training, new types of recruit-
ment and penalty and incentive systems.\(^5^1\) The difficulties encountered by
Shell in translating its corporate discourse and commitment to resolve
the issues of conflict and social and environmental justice involving the
Ogoni people in the Niger delta into an effective strategy at the local level
can, to some extent, be explained by such aspects.\(^5^2\) Other companies like
Suncor, BP and Statoil have been more successful in this regard.\(^5^3\) The annual
bonus of the CEO of Statoil is reportedly partly linked to CSR performance
criteria.\(^5^4\)

It is important to analyse, however, not only the state of play and
interaction of specific drivers or factors but also the institutional context,
history and legacies that shape corporate policy and practice. The differ-
ences in the response of US and European oil majors to CSR suggests the
relevance of so-called varieties of capitalism and policy regimes analysis.\(^5^5\)
These analytical approaches explain significant variations in both state-market and company-stakeholder relations with reference to the different regulatory, policy, ideological, cultural and political settings in which companies operate; the relationships between different policies and regulatory institutions; and the importance of history, policy legacies and ‘path dependency.’

The fact that U.S. companies like Exxon, Chevron, and Occidental Petroleum, or French companies like Total (and formerly Elf), were, far less engaged, or overtly resisted some aspects of the CSR agenda for many years, is partly explained by the different institutional and political context in which they operate. At the most general level, relevant in this regard are the variations in pressures and ideologies associated with so-called shareholder capitalism (à la US) and ‘stakeholder capitalism’ (à la continental western Europe), terms that suggest greater degrees of responsiveness to shareholder interests and a broader range of actors, respectively. Also relevant are variations in state-market relations and perceptions of the boundaries of corporate responsibility and government regulation. Varieties of capitalism analysis contrasts the strong legalistic tradition and culture of U.S. corporations like Exxon56 and the political strategising of U.K. corporations not simply to resist regulation, but also to gain legitimacy and appease governments and society.57 This analytical approach also helps to explain the apparent ‘vanguard’ position of a company like Statoil, which is associated with a ‘Nordic’ model characterised by consensus building and a relatively strong corporatist pact between state, capital and labour.58

The case of France is exceptional in the sense that one might expect French companies to have taken a leadership role given their association with the so-called stakeholder model of capitalism. Yet, the CSR performance of French oil companies in Africa and Burma has been extremely negative. This partly reflects the fact that transnational activism tends to target ‘Anglophone’ companies and has largely spared French companies. But it is also explained by the history of the French oil industry and its close relations with the state, which turned a blind eye to malpractice in developing countries so as not to undermine the fundamental policy priority of securing independent energy sources. Perverse features of post-colonial relations and the French development aid business also reinforced this culture of malpractice.59

The contemporary situation of some of the non-OECD national oil corporations, noted above, shares certain characteristics of the French situation. Not only are these companies largely ignored by activists and the media, but they too are supported by states in their home countries that are narrowly fixated on securing energy sources for their rapidly
developing economies. But even within this category of firms, sharp differences in approach exist. In ‘neo-populist’ Venezuela, for example, the state oil corporation PDVSA reportedly spent US$4.35 billion on social projects in 2005, or six per cent of its 2004 revenues.

Variations in the institutional contexts and policy regimes of host countries also need to be taken into account, notably those related to regulatory frameworks and capacities, and governance structures. But the worst instances of malpractice related to human rights abuses and environmental mismanagement appear to take place in settings that share certain characteristics. Oil companies often operate in geopolitical areas characterised by ‘weak governance.’ Such may be the case at both the national level, for example in countries affected by or emerging from conflict, and the local level, particularly in remote areas where regulatory institutions are few and far between.

Institutional analysis is also important at the micro level of individual companies. Firms that have positioned themselves as CSR leaders, like BP, Shell and Statoil, often have a corporate cultural history that makes the jump from business-as-usual to CSR seem less daunting. The notion of path dependency is highly relevant in this regard. This helps to explain both the variations in levels of engagement with CSR in general and differential responses to specific aspects of CSR within companies. Respect for labour rights, for example, is fairly well embedded in European companies, which have a long history of cooperative engagement with governments and trade unions promoting labour rights. Similarly, the ease with which the tenth principle on anti-corruption was added to the UNGC in 2004 is partly explained not just by the entry into international law of the U.N. Convention Against Corruption and transnational activism on this issue, but also the fact that U.S. companies had become accustomed to anti-corruption regulation since the 1977 Foreign Corrupt Practices Act was passed.

The comparison of the strategic responses of the oil majors to climate change reveals the relevance of this type of institutional analysis. Examining the strategies of Exxon, Shell, BP and Texaco, David Levy and Ans Kolk characterise their responses as ‘resistant’ in the case of Exxon, ‘avoidant’ in the case of Texaco, and ‘proactive’ in the case of BP and Shell. They explain these varied responses in terms of ‘regulatory expectations, norms concerning the conduct of business-government relations and cognitive assumptions regarding the future of fossil fuels and substitute technologies.’ Particularly relevant, therefore, were the institutional context of the home country and the specific history and culture of each company.
Beyond CSR

The above analysis suggests that neat categorisations of CSR as greenwash or as a fundamentally new departure towards sustainability are both misconceived. Responses have varied considerably both among and within companies, reflecting considerable differences in institutional settings and in the way companies are positioned in relation to activism and other key drivers of CSR and company behaviour.

In this paper we have paid particular attention to political and institutional factors. Such analysis suggests that the future trajectory of CSR will depend not only on activism and the business case, but also on national and international regulation and the role of the state. The ideology and practices of ‘voluntarism’ that characterise the discussions of CSR have diverted attention from government-business relations and the importance of regulation and regulatory threats as drivers of CSR. Furthermore, the polarised debate between critics and proponents of corporate self-regulation and voluntary CSR initiatives has diverted attention from the possible synergies and complementarities between legalistic and voluntary, or softer and harder, regulatory approaches. Also relevant in this regard is the growing attention to the crucial relationship between civil society activism and law.

There are signs, however, that the contemporary focus on ‘corporate accountability’ within some civil society and academic circles, as well as the overdue critique of neo-liberalism by some international organisations, may be ‘bringing the state back in.’ The concept of corporate accountability goes beyond CSR and mainstream voluntary approaches by emphasising that corporations should be obliged to answer to different stakeholders and incur some sort of cost or penalty in cases of non-compliance with agreed standards. It also suggests a need for far greater involvement of governments and inter-governmental processes in the design and implementation of CSR standards and processes and a greater reliance on hybrid or complementary forms of regulation that articulate voluntary CSR initiatives and legal frameworks.

Such approaches are evident in institutional reforms and initiatives that currently or potentially affect oil companies. They include, for example, the regulations governing the use of revenues generated by the Chad-Cameroon Pipeline Project involving Exxon, EITI, the OECD Guidelines for Multinational Enterprises, and the draft U.N. Norms on the Responsibilities of Transnational Corporations and other Business Enterprises. They are also evident in instances where, for example, the Voluntary Principles on Security and Human Rights have become binding for certain
projects, or when the contracts of CEOs, such as in the case of Statoil, specify the use of CSR indicators in performance reviews and the calculation of bonuses.

The challenge for the future involves not only ‘bringing the state back’ but also recapturing the state, in the sense of increasing the influence of certain actors and coalitions. This will require confronting some of the major weaknesses noted above regarding civil society activism; overcoming, for example, NGO-trade union tensions; reconnecting NGOs with social movements, governments and mainstream political processes; and building stronger and more equitable alliances between northern and southern organizations and networks. Also key is the difficult issue of forging alliances and crafting compromises with business interests prepared to work proactively for a more sustainable world.

Notes


2 Now part of Chevron.

3 Total Fina became TotalFinaElf after the acquisition of Elf Aquitaine in 2000. The company was renamed as Total in 2003.


5 Ronen Shamir, ‘Corporate Social Responsibility: A Case of Hegemony and Counter-hegemony,’ in Santos and Rodríguez-Garavito, Law and Globalization from Below, 93.


8 OECD Watch, Five Years On: A Review of the OECD Guidelines and National Contact Points (Amersfoort, the Netherlands: SOMO Centre for Research on Multinational Corporations/OECD Watch, 2005).

9 A number of international (trade) union secretariats and transnational corporations have signed GFAs that commit corporations to implementing a set of standards throughout their global structure.

10 Utting, ‘Corporate Responsibility and the Movement of Business.’
11 Ibid.


26. Includes integrated, exploration and production, refining and marketing, and oil service companies. See http://www.globalreporting.org.

27. Companies participating in the UNGC agree to adhere to ten principles.


30. ISO 14001 was established in 1995 by the International Organization for Standardization (ISO) as a set of guidelines for improving environmental management and a certification system that indicates that a company has put in place an environmental management system that conforms to the guidelines.

31. Now part of Chevron.


34. J. B. Wells, M. Perish and L. Guimares, ‘Can Oil and Gas Companies Extend Best Operating Practices to Community Development Assistance Programmes?’ (paper presented at the SPE Asia Pacific Oil and Gas Conference and Exhibition, Jakarta, Indonesia, 17-19 April, 2001).


36. Christian Aid, *Behind the Mask: The Real Face of Corporate Social Responsibility* (London: Christian Aid, 2004). 27, referring to a review commissioned by Shell, the findings of which were reported by *The Economist*.


38. Miller, ‘The Development Diminision of Corporate Responsibility.’

39. Ibid.


45 Pegg, ‘World Leaders and Bottom Feeders.’


48 *The Economist*, ‘A Survey of Oil.’


53 Wheeler et al, ‘Paradoxes and Dilemmas for Stakeholder Responsive Firms,’ 310.


56 Van den Hove *et al*, ‘The Oil Industry and Climate Change,’ 4-5.


58 Ibid.


60 Pegg, ‘World Leaders and Bottom Feeders.’


Levy and Kolk, ‘Strategic Responses to Global Climate Change,’ 296.

Utting, ‘Rethinking Business Regulation: From Self-regulation to Social Control,’

Santos and Rodríguez-Garavito, ‘Law, Politics and the Subaltern in Counter-hegemonic Globalization.’


Peter Evans, Dietrich Rueschemeyer and Theda Skocpol, eds., *Bringing The State Back In* (Cambridge: Cambridge University Press, 1985).


The draft U.N. Norms incorporate a wide range of standards that are derived from international law, and which are commonly found in multistakeholder initiatives associated with CSR. They also contain an implementation and monitoring mechanism, and go further by stipulating ‘adequate reparation’ for stakeholders affected by non-compliance.


Notes for Table 1

1 Some of the examples listed below refer to the same instance of malpractice. Such cases are marked with a, b, c etc.

2 Denotes participation in the following initiatives: UN Global Compact (UNGC), World Business Council for Sustainable Development (WBCSD), EITI and GGFR.

3 ‘In Accord.’ refers to companies reporting ‘in accordance’ with the GRI Guidelines, and ‘OS’ denotes Organisational Stakeholders that play a role in GRI’s governance and decision-making structure.

4 Indexes include the Dow Jones Sustainability Index (DJSI), the FTSE4Good and KLD Research and Analytics’ Global Climate 100 (KLD100).


6 In 2005 and 2006, nominations were received and awards granted for corporate irresponsibility in several categories, including labour law, environment, taxes and human rights.

7 This refers to the listing compiled by Russell Mokhiber of corporations that pled guilty to a range of crimes during the 1990s. The data refers to the size of fine paid and their rank in the Top 100 ‘Corporate Criminals.’ See http://www.corporatepredators.org/top100.html.

8 The U.S. Alien Tort Claims Act (ACTA) allows foreign nationals to bring a case to a (U.S.) domestic court for a civil wrong committed in violation of international law. The cases referred to are ongoing at the time of writing.