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# With Statoil as a Prism: Revisiting Key Features and Concerns in Western Oil Companies' Evolving Human Rights Awareness, From the Mid-1990s to the 2000s

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This article uses Statoil (Equinor since 2018) as a prism to explore some key features and concerns of Western oil companies' evolving human rights awareness from the mid-1990s to the early 2000s. This period saw the first human rights lawsuits brought against oil companies and a gradual change in their human rights awareness. The article uses insights from the business history literature and new archival material from the oil industry to explain why business ethicists and legal scholars are wrong to argue that the relationship between business and social responsibility, on the one hand, and business and human rights, on the other, are inherently problematic and profoundly disparate due to their divergent historical origins. In so doing, the article offers a historical take on the so-called debate between business human rights (BHR) and corporate social responsibility (CSR), and it repudiates the argument that a so-called minimal understanding of human rights has hindered business from undertaking proactive human rights initiatives. Mapping onto both the business history literature and the BHR–CSR debate, the article aims for a richer understanding of the experiences and ideas that incentivized oil companies to “get serious” about human rights.

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**Keywords:** Business and human rights, CSR, Business ethics, oil

## Introduction

Business ethics and its subsequent hardships, including mounting social and economic inequality, is an age-old topic with debates dating back to the Industrial Revolution. Most historians interested in business ethics will perceive different variants of forerunners to modern human rights discourse and practice as intertwined with the general history of corporate social responsibility (CSR). For business ethicists and legal scholars, however, this issue is somewhat different. Recent debates within the CSR and management literature

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indicate that businesses did not start to care about human rights before the 1990s. A common argument in a long-running debate between business ethicists and legal scholars is that different historical origins have created an unhealthy divide between business' relationship with human rights (BHR) and CSR. This divide, which according to the BHR–CSR debate is rooted in the two fields' different legal statuses, is perceived as problematic. Put simply, human rights are seen as legal or quasi-legal obligations, whereas CSR is seen as voluntary norms. The reason why several legal scholars and business ethicists perceive this divide in legal status to be problematic is that it long has hindered businesses from undertaking voluntary, proactive human rights initiatives. This, in turn, has reduced their potential to positively impact global human rights development. To make businesses engage more actively, central voices in the BHR–CSR debate has argued that the business community's understanding of human rights must change.<sup>1</sup>

From a historical viewpoint, the claim that CSR and BHR are fundamentally different due to disparate historical origins seems incongruent with empirical evidence. To explain why this is, this article uses developments in the oil industry between the mid-1990s and early 2000s as an example. In the oil industry, companies' interest in human rights indeed saw a clear upswing in the 1990s, but there are few traces of a divide between CSR and BHR. To the contrary, leading international oil companies' understanding of human rights obligations are congruent and intertwined with their understanding of other social responsibilities.<sup>2</sup> This observation contradicts the key concern of the BHR–CSR debate but confirms a long line of empirical findings in historical literature. Thus, without dismissing important reflections and insights from the BHR–CSR debate, this article demonstrates why it does not make particularly good sense to talk about a divide between BHR and CSR, neither when discussing the oil industry, nor when considering the business history literature more generally. The article argues that the schism between CSR and BHR, which is so evident in much of the more normative and theoretically oriented literature, is almost invisible in the historical archives of corporations.

To explore significant features and concerns of Western multinational oil companies' relationship with human rights in the period between the mid-1990s and the early 2000s, this article uses the Norwegian oil company Statoil (Equinor from 2018) as a prism. The time period is selected because of the international upswing of general interest in CSR during this period as well as the specific increased scrutiny of oil companies' malpractices in environmental concerns and human rights. Together, these developments led Western oil companies to strategically reorient themselves toward being early adaptors of CSR and BHR policies.<sup>3</sup> For Statoil's part, the 1990s and 2000s was a period of international expansion, ending in partial privatization and listing on the New York Stock Exchange in 2001. The state-owned company liberated itself from political bindings but was still under the influence of political development and priorities in Norway. Although it is not the aim of this article to answer whether state-owned firms are inherently more responsible or more vulnerable to societal expectations

1. See, for example, Wettstein, "CSR and the Debate on Business and Human Rights," Wettstein, "History of 'Business and Human Rights,'" 23–45; Buhmann and Wettstein, "Business and Human Rights," 379–404; Ramasastry, "Corporate Social Responsibility"; Obara and Peattie, "Bridging the Great Divide?"

2. Utting and Ives, "Politics of Corporate Responsibility," 23, 26.

3. Utting and Ives, "Politics of Corporate Responsibility," 11; Dobers and Halme "Corporate Social Responsibility in Developing Countries," 147–193, Jones, *Profits and Sustainability*, 356–386.

than private companies, Statoil's state ownership is a relevant factor in the analysis of how the company perceived its human rights responsibility.<sup>4</sup>

However, Statoil is not selected as a study prism due to its state ownership. Rather, the company is selected because it tended to be an early adaptor of different CSR developments and a follower of other leading Western oil companies, particularly the European ones. As a state-controlled yet commercially oriented company that in the 1990s and 2000s combined an expanding, profit-maximizing behavior with little international experience, Statoil mimicked the CSR policies and human rights approaches of companies like British Petroleum (BP) and Shell. These were companies Statoil was close to both in terms of corporate culture and professional connections.<sup>5</sup> Since Statoil's strategies and behavior reflected sectoral trends in such clear ways, files from its corporate archive serve as a good lens through which to study the sector's growing human rights awareness. On some occasions, however, Statoil appeared as a leader rather than a follower, initiating human rights initiatives that inspired similar efforts at an international political level, carried out under the auspices of the United Nations.

Building on business history literature, essential contributions to the BHR–CSR debate, and sources from Statoil's corporate archive, the archives of the Norwegian Ministry of Foreign Affairs, policy documents, newspaper articles, and interviews with key actors, this article pursues the following questions: How did Statoil understand its BHR obligations, and which strategies for dealing with human rights issues did the company develop between the mid-1990s and the early 2000s? Which general insights about the oil industry's relationship with BHR and CSR can be gathered from studying Statoil? And how does the postulated divide between BHR and CSR appear when a business history perspective is adopted?

To answer these questions, the article begins with a brief account of some historical highlights from the literature on the history of business and human rights-related issues. Then follows an introduction to the main issues in the normative BHR–CSR debate and a short section on the emergence of business and human rights as a distinct field and the oil sector's initial experiences with human rights lawsuits in the 1990s. The article then proceeds to an in-depth examination of Statoil's strategies for defending itself against accusations of human rights irresponsibility, delving into key aspects of the oil industry's interaction with human rights concerns. More precisely, the article first uses the Ogoni crisis in Nigeria to explain how this experience incurred critique that several oil companies sought to ameliorate in the formation of new human rights policies. For Statoil, this effort culminated in some defining human rights initiatives, of which a pioneering human rights training program for the Venezuelan judiciary stands out. The Venezuela program is therefore explored in some detail. Overall, the cases demonstrate why it makes more sense to understand oil companies as political actors than simply private economic actors, and why it makes less sense to distinguish between their understanding of their obligations toward human rights and their perceptions of their social responsibilities.

To obtain a richer understanding of why this is the case, and how the issue of the private versus the political corporation relates to historical developments in business' relationships

4. For more on this, see Nissen, "An Oil Company as a Force for Good?"

5. See, for example, Nissen, "Greener Shade of Black?"

with human rights, it is useful for historians to understand the main arguments and concerns of the BHR–CSR debate. This debate holds significance not only because it has its roots in historical experiences but also because it has contributed to shaping the global discourse and thinking surrounding business and human rights. The debate began around 2012, a year after the United Nations adopted its nonbinding Guiding Principles on Business and Human Rights (UNGP), ending a more than ten-year-long process of unsuccessful attempts at crafting a binding, universal framework for human rights obligations for businesses. Reflecting on this protracted process, the BHR–CSR debate discusses some of its fundamental obstacles. One such obstacle stems from the differing opinions on whether corporations should be viewed as private entities or political actors. This observation, and the discussions surrounding it, bear particular relevance to the historical cases under examination in this article. For Western oil companies, the question of whether corporations hold a private or political role lay at the core of the defense strategies they employed in response to allegations of human rights violations from the mid-1990s onward.

### Business and Human Rights: Some Historical Highlights from a Growing Literature

Historians have understood the origins and nature of human rights in different ways. The history of business relationships with human rights is also multifaceted and full of contrast. Consequently, providing a comprehensive account of all relevant periods, events, and cases in that history falls outside the scope of this article. Nor is it feasible to construct a consistent or straightforward narrative about the interactions between business and human rights due to the complexity of the issue. Since the BHR–CSR debate argues that CSR and BHR are fundamentally different due to disparate historical origins, I will concentrate on some highlights from the business history literature that offer an alternative way to understand these origins. Rather than seeing the origins as disparate and rooted in legal differences, the business history literature sees them as intertwined, even inseparable. Central contributions to the literature have demonstrated how issues today categorized as human rights were, for a long time, integral to the thinking of influential capitalists and business leaders on their social responsibility and impact. This insight is key as this article proceeds to analyze the argument about a postulated divide between business relationships with CSR and BHR from a wider historical perspective.

When it comes to the numbers of victims, financial rewards, and impacts on continents, the Atlantic slave trade between 1500 and 1870 has no parallel in history. The main story is undoubtedly one of gross human rights violations from which businesses profited substantially. However, a growing body of scholarship by historians has uncovered efforts to use ethical commerce to undermine slavery during the period of abolition (1770–1885). Works by Clare Midgley, Lawrence B. Glickman, Julie L. Holcomb, and Bronwen Everill are examples of this scholarship.<sup>6</sup> In the most recent of these books, *Not Made by Slaves*, Everill uncovers examples of business leaders who, influenced by the consumer revolution and the antislavery movement, tried to turn on the moral compass of consumers to make them reject the products of slave labor.

6. Midgley, *Women against Slavery*; Glickman, *Buying Power*; Holcomb, *Moral Commerce*; Everill, *Not Made by Slaves*.

Among these people were Quaker and Methodist investors who, motivated by moral considerations, gradually repudiated slavery and eventually prohibited their members from enslaving people or engaging in trade and investment with those involved in the slave trade.<sup>7</sup>

The Quakers are recurring figures in the history of business relationships with human rights. In his latest book, the historian Geoffrey Jones explores the challenges and opportunities of value-driven business from early industrialization until the present day. Jones uses the British chocolate manufacturer and devoted Quaker George Cadbury as well as the American retail innovator Edward Filene as examples of business leaders who, in the late 1800s and early 1900s, were committed to what at the time was radical thinking about the social responsibility of businesses. In true Quaker spirit, Cadbury was convinced that his business could and should contribute to a fairer society. He advocated old-age pensions and other social reforms and constructed a garden village for his workers. Motivated by a similar kind of worker solidarity, Filene also developed welfare programs and tried to transfer company ownership to his employees, albeit with little success.<sup>8</sup> These efforts and the thinking they originated resemble the ideas of equality and access to essential social and economic goods, services, and opportunities that inform what today is categorized as the second generation of BHR. There are several examples throughout the 1900s of other business leaders who went beyond Milton Friedman's strict focus on shareholder value and demonstrated thinking and practices that could be reckoned as forerunners to BHR responsibility. In the late 1960s and 1970s, a new generation of socially minded business leaders appeared on the scene, determined to use their companies to achieve positive social and ecological impact. For example, the American industrial chemist Elliot Berman reduced the cost of solar cells to provide electricity in developing countries; and the famous British beauty entrepreneur Anita Roddick used her company, The Body Shop, to raise consciousness about environmental degradation, the exploitation of animals, and violation of human rights. Notably, Roddick supported the Nigerian Ogoni people's struggle against human rights violations and environmental damage caused by the oil company Shell, a case I return to below.<sup>9</sup>

The disparity between how business historians perceive the origins of the connection between business and human rights and how this relationship is understood within management and CSR literature primarily stems from the varying emphasis they put on the introduction of human rights into international law. Historians specializing in the history of business ethics and value-driven leadership tend to see human rights as part of a bigger picture. Compared to business ethicists and legal scholars, they display a greater inclination toward exploring precursors to ideas and practices related to human rights as part of a holistic story rather than as a separate issue.

At one point, however, there is full consensus: historians, business ethicists, and legal scholars see the 1970s as a key decade for general political and legal human rights development. The historian Samuel Moyn has convincingly argued that modern human rights did not emerge as a relevant practice or part of common parlance until the mid-1970s. This is because, by the 1970s, several countries had been decolonized and a global debate about material

7. Everill, *Not Made by Slaves*.

8. Jones, *Deeply Responsible Business*, 17–71.

9. Jones, *Deeply Responsible Business*, 221–258.

equality and development had begun to gain traction. Additionally, theories of global justice gradually evolved. In the 1980s and 1990s, concerns over companies conducting business in apartheid South Africa, abysmal working conditions in sweatshops, and human rights misconduct in the oil industry increased. Over time, the business sector's involvement with human rights matured into a distinct issue, sparking scholarly discussions in the late 1990s. As a result, business ethicists and legal scholars tend to identify the 1990s as the true genesis of businesses' engagement with human rights matters.<sup>10</sup>

## The BHR–CSR Debate

In the last decade or so, business ethicists and legal scholars have debated the issue of business human rights and its relationship with corporate social responsibility. A common viewpoint in this debate is that although BHR and CSR overlap, the two phenomena are—contrary to what most historians argue—fundamentally dissimilar because of their different origins. According to the debate, CSR precursors can be traced to at least the Industrial Revolution, and business scholars have discussed the issue as a distinct concept since the 1950s and 1960s. The issue of BHR, on the other hand, is a much more recent topic. BHR was introduced as a conceptual discussion by legal scholars in the late 1990s and early 2000s, focusing on the relationship between companies and international human rights law. This was also the period when the UN made its first attempt to launch a mandatory framework for human rights obligations for businesses. The UN began the process of elaborating the *Draft Norms on the Responsibilities of Transnational Corporations with regard to Human Rights* in 1998 and launched a final proposal in 2003. However, these norms never became influential because the business sector was unwilling to commit to binding norms and preferred the voluntary UN Global Compact launched in 2000, and later the UNGP launched in 2011, as noted earlier.<sup>11</sup>

In contrast to the legal scholar-dominated field of business and human rights, CSR was dominated by management and business scholars focusing on voluntarily accepted norms of conduct that went beyond legal compliance. From the CSR point of view, BHR obligations were the opposite of voluntary norms; namely, they were legal or quasi-legal obligations. This implied that BHR and CSR did not speak the same language. CSR scholars and practitioners accepted that companies were obligated by international law not to violate human rights, but they maintained that it was primarily states and not companies that had a duty to proactively protect and promote human rights.<sup>12</sup> This fundamental categorical difference—law versus norms, or the “accountability versus responsibility” perspective, to use the words of law professor Anita Ramasastry—has been at the core of the BHR–CSR debate. A central issue has been how the lack of a common perspective has blocked the ability of scholars and

10. Moyn, *The Last Utopia*; Wettstein, “History of ‘Business and Human Rights,’” 23–45.

11. See, for example, Wettstein, “CSR and the Debate on Business and Human Rights,” Buhmann and Wettstein, “Business and Human Rights,” 379–404; Ramasastry, “Corporate Social Responsibility”; Obara and Peattie, “Bridging the Great Divide?”; Wettstein, “History of ‘Business and Human Rights,’” 23–45.

12. Wettstein, “CSR and the Debate on Business and Human Rights,” 741–745; Wettstein, “History of ‘Business and Human Rights,’” 29–30; Santoro “Business and Human Rights,” 158.

practitioners to seriously consider the potential of businesses to proactively promote human rights.<sup>13</sup>

Florian Wettstein, a business ethicist and a leading voice in the debate, has demonstrated that CSR has been the main obstacle. Although CSR has gradually opened up to BHR discussions, its advocates long insisted on treating human rights obligations as something fundamentally different from other social responsibilities. This led to a widespread understanding of business' human rights obligations as "minimal."<sup>14</sup> The minimal understanding implies that a business is not responsible for proactively protecting or promoting human rights but is only obligated not to violate them. In Wettstein's view, this "human rights minimalism" has reduced the potentially positive impact businesses can have on global human rights development.<sup>15</sup> Wettstein therefore suggested that businesses should look upon human rights obligations in a different way. That is, to make these obligations appear as voluntarily accepted norms of conduct in line with other CSR norms, they should be understood as moral rights, not only legal rights.<sup>16</sup> By the same token, Wettstein suggested that multinational corporations should be understood as political actors rather than simply as private, economic actors. This is because political actors can be charged with wider human rights responsibilities than private actors.<sup>17</sup>

From a historian's viewpoint, this CSR–BHR debate is intriguing but also enigmatic. Since the debate has taken place in the social sciences, most of the contributions are either conceptual in nature or from contemporaneous case studies. The conceptual contributions typically discuss the issue either as a theoretical exercise or as attempts at international regulation whereas the case studies tend to emphasize BHR after the United Nations introduced UNGP in 2011.<sup>18</sup> Influential scholars such as Wettstein and the management scholar Michael A. Santoro have incisively discussed the primary features and central concerns in the history of the BHR–CSR relationship, but the lack of historical depth is still present.<sup>19</sup> This is mostly the fault of historians because none have participated in the discussions. This is perhaps because historians perceive the divide between CSR and BHR as a theoretical construct, which the corporations and business leaders they study do not really relate to. The question then becomes: Could it be that the postulated dichotomy between CSR and BHR has been less significant for the development of businesses' awareness than what the management and CSR literature suggests? A good place to start looking for answers is in the oil sector, which came to play a central role in the development of business human rights awareness during the 1990s and 2000s.

13. Ramasastry, "Corporate Social Responsibility," 237–259.

14. See Wettstein, "CSR and the Debate on Business and Human Rights," 739–740, 751–753.

15. Wettstein, "CSR and the Debate on Business and Human Rights," 740, 745–747.

16. Wettstein, "CSR and the Debate on Business and Human Rights," 739–741, 751–753; Ramasastry, "Corporate Social Responsibility," 239.

17. See Wettstein, "CSR and the Debate on Business and Human Rights," 739–740, 751–753, 760.

18. See, for example, Hsieh, "Should Business Have Human Rights Obligations?"; Ramasastry, "Corporate Social Responsibility"; Ruggie, "Business and Human Rights"; Wettstein, "History of 'Business and Human Rights,'" 23–45, 40–41; Seppala, "Business and the International Human Rights Regime."

19. Santoro, "Business and Human Rights," 155–161; Wettstein, "History of 'Business and Human Rights,'" 23–45.

## Business, Human Rights, and the Oil Industry

The powerful oil industry is known for its long association with violence and human rights abuses, yet—or perhaps because of this—many Western oil companies were early adaptors of CSR and human rights policies.<sup>20</sup> According to the human geographer Michael J. Watts, the industry in the late 1990s and early 2000s was perhaps the most important testing ground for global business ethics, with human rights as a focal point.<sup>21</sup> At this point, the increase in the social gaze on multinational corporations and their responsibility for society and the environment was a general phenomenon, but when individuals, communities, and organizations around the world began to seek compensation for the environmental and human costs of business operations, it was the oil industry that saw the first lawsuits. In the United States, human rights lawyers began to challenge the involvement of oil companies in human rights abuses, using the federal Alien Tort Statute (ATS) from 1789 to mount cases in US courts. The backdrop of this development was the rapid expansion of human rights activism in the 1970s, the *Filártiga* decision in 1980, and several ATS cases in its aftermath.<sup>22</sup> The *Filártiga* decision, which is reckoned as the modern revival of ATS, involved US federal courts penalizing a foreign national for extraterritorial tortious acts violating international law. After this case, legal scholar Beth Stephens explains, observers welcomed ATS litigation as a key part of a movement to offer redress, accountability, and justice to victims of human rights abuses.<sup>23</sup> In the 1990s, however, a backlash movement against the use of ATS started as more claims targeted powerful defendants like government officials and multinational corporations.<sup>24</sup>

Among the latter were the oil companies ExxonMobil, Chevron, Texaco, Union Oil Company of California (Unocal), Shell, and Occidental Petroleum, which were all sued with varying results. Three lawsuits were particularly decisive for human rights in the sector. Litigations against Texaco, Unocal, and Royal Dutch Shell filed in the mid-1990s alleged that the companies' overseas subsidiaries had been complicit in human rights abuses.<sup>25</sup> In 1993, Ecuadorian plaintiffs sued Texaco on behalf of thirty-thousand Oriente region residents, claiming pollution-related harm. Despite its dismissal without reaching the merits of the ATS claims, this case marked an early catalyst for subsequent ATS lawsuits. In the 1996 Unocal case, villagers accused the company of complicity in murder, rape, and forced labor by Myanmar's military during a pipeline project. In 2004, the Los Angeles Superior Court finally ruled in favor of Unocal, but the company nevertheless settled, paying the plaintiffs US \$30–60 million. The decision to let the case proceed beyond a motion to dismiss inspired other plaintiffs, and that made other oil companies more fearful of human rights litigation.<sup>26</sup> The third significant lawsuit involved three family suits against Shell in 1996. After major local protests against Shell's environmentally damaging operations in the Niger Delta, where the

20. Yergin, *The Prize*; Woolfson and Beck, "Corporate Social Responsibility Failures," 114–124; Utting and Ives, "Politics of Corporate Responsibility"; Frynas, *Beyond Corporate Social Responsibility*.

21. Watts, "Righteous Oil," 375.

22. *Filártiga v. Peña-Irala*, 630 F.2d 876 (2d Cir. 1980).

23. Stephens, "Curious History of the Alien Tort Statute," 1468–1469.

24. Stephens, "Curious History of the Alien Tort Statute," 1468–1469.

25. Kropf, "Human Rights Litigation."

26. Kropf, "Human Rights Litigation."



Ogoni people live, the Nigerian military government arrested and executed nine protest leaders, including the famous writer and environmental activist Ken Saro-Wiwa.<sup>27</sup> A global outcry followed, leading to condemnations by the UN and NGOs, as well as expulsion of Nigeria from the Commonwealth. In the lawsuit, the principal plaintiff was Ken Saro-Wiwa's son, who accused Shell of complicity in the executions. Shell denied any wrongdoing, but finally agreed to settle in 2009 for US\$15.5 million, a major payout for human rights violations. Following the Unocal and Shell cases, the number of ATS lawsuits surged temporarily before the US Supreme Court limited them by deciding that the ATS only applied when there was a strong connection to the United States.<sup>28</sup>

In the 1990s, though, the ATS still posed a threat to multinational corporations. In the oil industry, executives and board members grew wary of complicity issues and human rights litigation. Simultaneously, pressure from influential NGOs increased. Amnesty International, Human Rights Watch, OXFAM, and International Alert formed a global advocacy network that followed the industry closely.<sup>29</sup> The NGOs criticized companies such as Enron in India, ExxonMobil in Indonesia, and BP in Colombia for using violent security forces at their local installations, among other baneful practices. This critical inspection drove companies like BP and Shell to launch multistakeholder human rights initiatives, introduce explicit human rights policies, and integrate human rights into business principles and sustainability reports. Several American oil companies and Statoil followed suit.<sup>30</sup> In the following, I discuss Statoil's self-defense after the Ogoni crisis and the broader question of whether corporations should best be understood as private or political actors in human rights matters. I then move on to the company's development of a more long-term human rights strategy.

## Human Rights: Foreign Policy or Business Ethics?

Shell bore the brunt of the Ogoni crisis. The company had experienced several reputational setbacks during the 1970s and 1980s, but nothing as massive as after the Ogoni incident, which triggered Shell and eventually other oil companies to transition from defensive to more proactive stances on human rights.<sup>31</sup> Several companies came under heightened scrutiny after the crisis as Nigerian and international NGOs, civil society representatives, and parts

27. Manby, "Role and Responsibility of Oil Multinationals in Nigeria," 284–286.

28. Kropf, "Human Rights Litigation"; Petch, "Remains of the Alien Tort Statute."

29. Idowu, "Human Rights, Environmental Degradation"; Sluyterman, *Keeping Competitive*, 343–355; Frynas, "Political Instability"; United Nations, General Assembly, "Assembly Condemns Arbitrary Execution of Ken Saro-Wiwa and Eight Co Defendants in Nigeria by Vote of 101–14–4," press release, December 22, 1995, <https://press.un.org/en/1995/19951222.ga9046.html>; Human Rights Watch, *The Ogoni Crisis*; Amnesty International, *Nigeria: A Criminal Enterprise?*

30. Watts, "Righteous Oil," 375, 394–395; BP Amoco, *Environmental and Social Report 1998*; Royal Dutch Shell, "1997 Shell Statement of General Business Principles," <https://www.documentcloud.org/documents/4425676-Shell-Documents-Trove-2-9.html>; Statoil, *The Future Is Now: Statoil and Sustainable Development* (2002), Equinor, Sustainability Reports Archive; Wettstein, "CSR and the Debate on Business and Human Rights," 742; Wettstein, "History of 'Business and Human Rights,'" 28; interview with Johan Nic Vold, former vice president of Statoil Group, August 31, 2018.

31. Sluyterman, *Keeping Competitive in Turbulent Markets*, 314–359.

of the Nigerian political opposition accused all oil companies with operations in Nigeria of corporate complicity. One of these companies was Statoil, which explored the possibilities for production off the Nigerian coast in an alliance with BP. Unlike Shell, the BP–Statoil alliance did not operate in the Niger Delta and was never subject to the same amount of criticism or legal actions. Yet, Statoil received massive criticism at home in Norway. Compared to its privately owned and much more internationally experienced alliance partner BP, Statoil faced more reputational damage, partly because the company was a novice in international markets and partly because, at this point, it was still fully owned by the democratically elected Norwegian government, thus making Norwegian citizens its ultimate shareholders.<sup>32</sup>

Since Norwegian industrial leaders typically faced deeply ingrained democratic norms at home, such as civil and political freedom, social and economic equality, and solidarity with less privileged people, the average Norwegian citizen expected all Norwegian companies, but especially the state-owned ones, to follow these norms abroad as well. If or when companies failed to do so, reactions were often strong, and the legitimacy of owners and management became subject to public scrutiny and debate.<sup>33</sup> Although the exact nature of a Norwegian state-owned company's responsibilities abroad was unsettled in the 1990s, it was clear that Norwegian citizen-shareholders who had no possibility to sell their shares (unlike shareholders of private companies) also had no desire to be forced into complicity in what they considered to be unethical business in Nigeria.

When Statoil in 1995 refused to condemn the Ogoni executions on the grounds that it would mean interfering in a sovereign state's politics, the company was strongly rebuked by Norwegian NGOs, leading newspapers, members of Parliament, industry unions, and prominent individuals.<sup>34</sup> According to the critics, Statoil's nonreaction was a disavowal of social responsibility because Statoil's investments secured large revenues for the Nigerian military government that it could then use to finance exploitation and abuse. Statoil's moral responsibility was discussed for months in national media and parliamentary debates. The company was forced to establish a stand-by leadership group for day-to-day damage control, while its chief executive officer ran from one TV studio to another, maintaining that it was naïve to believe that an international oil company could stand up against Nigeria's policies.<sup>35</sup>

In Wettstein's writings about businesses' responsibility for human rights, he makes a point about the need to understand multinational corporations as political actors in their dealing

32. Statoil was partly privatized and listed on the New York Stock Exchange in 2001.

33. Sejersted, *Age of Social Democracy*, 381–387; Lammertjan and Scholtens, "Does Ownership Type Matter?"

34. "Alle har et visst moralsk ansvar," *Aftenposten*, November 24, 1995, press clipping; *Aftenposten*, "Hvorfor Statoil må ut av Nigeria," December 20, 1995; *Bergens Tidende*, "Bred boikott eneste middel," November 13, 1995; *Bergens Tidende*, "Statoil bør forlate Nigeria," April 1, 1996; Gro Harlem Brundtland, "Menneskerettigheter og markeder," *Aftenposten*, December 2, 1995; *Dagbladet*, "Støtter ikke Nigeria," November 24, 1996; *Dagbladet*, "Viktigst å boikotte oljeselskap," July 2, 1996, all in Eaf-0053, Pa 1339, Regional State Archives in Stavanger, Series Eaf–The Corporate Management's Archive, Statoil ASA Private Archive; Norwegian Parliament, "Debatt vedr. utenriksministerens, handelsministerens og bistandsministerens redegjørelse om menneskerettighetsspørsmål."

35. "Redaksjon 21–Spørsmål og svar," December 11, 1995, Eaf-0053, Pa 1339, Regional State Archives in Stavanger, Statoil ASA; interview with Harald Norvik, former Statoil CEO, March 14, 2019; interview with Vold, August 31, 2018.

with human rights, not as simply private economic actors.<sup>36</sup> As mentioned earlier, this is because political actors can be charged with wider human rights responsibilities. For Statoil, the difference between the private and the political was central to its self-defense. Despite its hybrid character as a state-owned multinational company with historically close ties to domestic politics, Statoil had long refused to be perceived as a political actor. This attitude resembled the viewpoint of most other international oil companies. Shell had also argued that it was beyond the company's responsibility to criticize human rights violations in a host state.<sup>37</sup> Statoil's corporate management maintained that it was a duty to keep away from politics in host countries, arguing that "involvement today can become accusations of political interference and neo-colonialism tomorrow."<sup>38</sup>

Historically, states have been the only entities bound by legal human rights obligations through their institutions of jurisdiction, and thus the sole bearers of direct human rights obligations. All other institutions have only indirect human rights responsibilities, and only if their respective governments include them in their domestic legislations. The status quo of this system, in which corporations are excused from human rights obligations beyond those incorporated in national law, has been the preferred alternative for the business community. All high-level attempts at developing a universally accepted framework for BHR obligations, first and foremost in the UN, have derailed because of the business community's view that treaty-bound human rights obligations should not be privatized. Thus, states are still the only actors obligated to respect, protect, and realize human rights, whereas companies are primarily obligated only to respect them.<sup>39</sup> From this line of reasoning follows the argument that Statoil and all other oil companies should not be understood or treated as political actors.

However, there is little doubt that many companies, Statoil included, directly or indirectly have acted or been perceived as political actors. This is evident from the business history literature and from the cases presented in this article. So how realistic is this argument, then? And what does it really mean to see firms as political actors? Political philosopher Pierre-Yves Neron has proposed alternative ways to think politically about corporations. For this article's purpose, the most salient ones are the notion of corporations as distributive agents and the interpretation of their practices and policies as citizenship issues. The first notion suggests corporations wield significant financial and organizational influence over resource distribution.<sup>40</sup> Multinational oil companies exemplify this clout in global resource allocation. The second idea highlights the shifting political focus of citizens from governments to corporations. This transition is evident in tactics such as "naming and shaming" after events like the Nigerian executions.<sup>41</sup>

Another way to understand oil companies as political players is to look at the sector's unique political economy. Watts asserts that the oil industry's ties to human rights are

36. Wettstein, "CSR and the Debate on Business and Human Rights," 739–740, 751–753, 760.

37. Sluyterman, *Keeping Competitive in Turbulent Markets*, 349.

38. *Aftenbladet*, "Statoil og Amnesty sammen om samfunnsansvar," October 19, 2001.

39. Watts, "Righteous Oil?" 395; Ruggie, *Just Business*, xvii; Wettstein, "CSR and the Debate on Business and Human Rights," 742–743; Wettstein, "History of 'Business And Human Rights,'" 38–39; Sauvart, "Negotiations of the United Nations Code of Conduct."

40. Neron, "Business and the *Polis*," 343, 336.

41. Neron, "Business and the *Polis*," 341–342.

intertwined with what he terms the “oil complex.” This configuration, seen in many oil-producing developing countries, encompasses a shared “petrostructure” of social, political, and economic forces. Dominant state-owned oil firms often wield power over the economy and politics, engaging in misconduct and corruption. When combined with substantial military or irregular security force presence due to oil’s geopolitical significance, it creates a conducive environment for human rights abuses.<sup>42</sup> The Nigerian crisis illustrates the challenges facing international oil companies entering the complicated landscape of “petrostates.” However, there are positive aspects related to the oil complex as well. Watts notes that the complex has in fact developed constructive ways to address human rights, with large companies becoming more aware of such rights because of the watchful eye of human rights organizations and UN organs; furthermore, multilateral development agencies such as the International Monetary Fund (IMF) and the International Bank for Reconstruction and Development have brought about mostly constructive developments in various “petrostates.”<sup>43</sup> Accepting these observations requires that Statoil be understood as a political actor despite the company’s own insistence on being treated as a private economic actor. The pivotal question, then, is: Did Statoil see itself with limited human rights obligations, or did it recognize its role in a political milieu demanding broader human rights engagement?

### A Defensive, Yet Proactive Human Rights Approach

After the Ogoni crisis, Statoil’s management and board realized the risk of encountering similar problems in other countries. The combination of reputational problems at home, increased pressure from advocacy networks abroad, and other companies’ decisions to introduce multistakeholder initiatives made it impossible not to act. Multistakeholder initiatives were collaborations between the companies, civil society, and sometimes other stakeholders such as governments, aiming to address issues of mutual concern inside the sphere of sustainability and human rights. Shell, which had been subject to intense public scrutiny after the executions in Nigeria, discussed its policies with different NGOs, both in Nigeria and in other countries. BP, Shell’s competitor, which between 1990 and 1999 also happened to be Statoil’s business alliance partner, engaged in a dialogue with Christian Aid and a number of Colombian NGOs after concerns had been raised about the deterioration of human rights in the region where BP operated. Several American oil companies followed the same pattern.<sup>44</sup> Most of these multistakeholder initiatives were launched for defensive reasons and resembled traditional social development projects realized with the CSR mindset of the time. They were not effective in producing binding human rights standards that affected communities on the ground, but they marked a shift in the companies’ human rights awareness. The initiatives had a proactive character because they sought to involve the companies in the protection of

42. Watts, “Righteous Oil?” 377

43. The IMF did, for example, help Venezuela with a financial bailout when its economy was hit by a combination of falling global oil prices and accumulation of massive foreign debt. Watts, “Righteous Oil?” 380, 401.

44. Watts, “Righteous Oil?” 394–395; Sluyterman, *Keeping Competitive in Turbulent Markets*, 357–362.

rights beyond the nonviolation principle. As demonstrated by Sluyterman's work on Shell, the oil companies did not perceive human rights as distinct from other social responsibility initiatives. In Shell, the domain of human rights fell within the purview of its Social Responsibility Committee, which from the late 1990s onward reviewed all practices, policies, and procedures concerning matters of public interest.<sup>45</sup> These observations counter Wettstein's concern that the prevailing notion of human rights as "minimal rights"—legal obligations—hindered business from adopting proactive measures.

BP and Shell also took the lead in incorporating human rights awareness in strategy documents and plans. As part of what Sluyterman has called "a very public overhaul of its reputation management," Shell stopped arguing that commercial organizations had no responsibilities in politically sensitive cases. The company updated its 1976 business principles with a clause expressing "support for human rights in line with the legitimate role of business." This formulation signaled a shift in the understanding of human rights responsibility; that is, support was something more than simply respecting human rights. But, as Sluyterman points out, the clause was carefully written to avoid stakeholder expectations of too extensive responsibilities.<sup>46</sup> Nevertheless, Shell's revised "Statement on General Business Principles" in 1997 set new standards for the human rights responsibilities of oil companies. So too did BP's "What We Stand For" statement from 1998.<sup>47</sup> Statoil followed suit by including a principle of respect for human rights in its code of conduct titled "We in Statoil" in 1998.<sup>48</sup> That year marked a turning point in the company's human rights history. Motivated by the storm of critique caused by the Ogoni crisis and the changes in BP and Shell, Statoil established a new unit for international human rights and political risk assessment and staffed it with social scientists with human rights expertise. The aim was partly to improve the understanding of local political and social conditions in host countries and systematize human rights awareness and partly to assess how the influx of oil money affected foreign institutions and regimes. Based on key challenges identified by the new human rights team, Statoil's plan was to implement targeted social investment projects.<sup>49</sup>

However, Statoil's corporate management decided that it could not afford to wait for the human rights unit's first analyses to be ready before taking action. The reputational damage from the Ogoni crisis was too overwhelming, and the company needed to demonstrate willingness to take social responsibility within the field of human rights and related areas, such as local empowerment and environmental protection. Thus, Statoil established multistakeholder projects with several NGOs in numerous countries, along the same lines as BP, Shell, and other leading international oil companies. Most of these projects resembled traditional

45. Sluyterman, *Keeping Competitive in Turbulent Markets*, 358–362.

46. Sluyterman, *Keeping Competitive in Turbulent Markets*, 314–329, 358.

47. Sluyterman, *Keeping Competitive in Turbulent Markets*, 365; Watts, "Righteous Oil?" 394–395; BP Amoco, *Environmental and Social Report 1998*.

48. "Status Nigeriagruppera søndag kveld 26.11," memo, Eaf-0053, Pa 1339, Regional State Archives in Stavanger, Statoil ASA; Statoil, "A More Focused Statoil: Annual Report and Accounts 1999," 43, Equinor, Annual Reports Archive.

49. Statoil, *The Future Is Now*, 64; interview with Vold, August 31, 2018; interview with Norvik, interview with Oma Steine, former director of Information and Community Contact, Statoil, August 21, 2019; interview with Elisabeth Berge, former director of Communication, Statoil, August 20, 2019.

micro-level social development projects, either listing human rights protection or promotion as the principal objective or including it as a subgoal. Apart from this, the projects had no clear common focus or purpose, ranging from local environmental empowerment in Nigeria to human rights education of school children in Azerbaijan to landmine clearance in Angola. Financially, Statoil went from spending nothing on such efforts in 1997 to NOK 11 million (approximately US\$1.4 million) in 1998. Among its cooperating partners in Nigeria were the French NGO Pro-Natura and the British NGO Voluntary Service Overseas (NOK 2.6 million); in Angola, Instituto Nacional da Crianca, the British Red Cross, the Norwegian People's Aid, and the British Council (NOK 2.2 million); in Azerbaijan, the British Council and the Norwegian Refugee Council (NOK 2.2 million); and in Venezuela, the United Nations Development Programme (UNDP) and Amnesty International (NOK 1.5 million).<sup>50</sup>

The strategic decision to engage with NGOs largely reflected the spirit of the times not only in the oil sector but also in business more generally. As demonstrated by Geoffrey Jones and the management scholar Archie B. Carroll, among others, the globalizing 1990s was a time when a number of corporations responded to current sentiments by making systematic social investments and attempting corporate greening, often to avoid regulation.<sup>51</sup> Statoil itself was open about the corporate upside of its social investments, and Director of Communication Kai Nielsen explained that the company was simply doing what other big oil companies had been doing for years so as to “help make Statoil the partner of choice.”<sup>52</sup> This reasoning reflected Statoil's tendency to mimic other leading Western oil companies in almost all aspects of social responsibility. As demonstrated elsewhere, the company was, for example, largely a follower in its approach to climate change mitigation starting in the early 1990s.<sup>53</sup>

In some respects, though, Statoil stood out as an early mover. Crucially, from the beginning of its changes, Statoil's management, board, and staff perceived human rights and CSR as two sides of the same coin.<sup>54</sup> This view was reflected by Statoil's owner, the Norwegian government, which in 1998 initiated a consultative body with a mandate to make Norwegian business more aware of human rights issues and create a common understanding of human rights challenges among Norwegian firms, authorities, labor unions, employer organizations, and human rights organizations. This consultative body, in which Statoil participated, was called KOMpakt, which was established as a direct result of the massive criticism against the company and the subsequent political debates in the aftermath of the crisis in Nigeria. Over time, KOMpakt widened its focus from human rights to CSR more broadly. It attracted attention in EU countries, which called it “the Norwegian model” for promoting social responsibility in business and the industry, and this model served as direct inspiration for

50. *Bistandsaktuelt*, “Bistand oljer Statoils kontrakter,” no. 2 (1999).

51. Carroll, “History of Corporate Social Responsibility”; Jones, *Profits and Sustainability*, 86–135.

52. *Bistandsaktuelt*, “Bistand oljer Statoils kontrakter.”

53. Nissen, “Greener Shade of Black.”

54. Statoil, *The Future Is Now*, 63–66; Statoil, *Delivering What We Promise. Statoil and Sustainable Development*, 42–52, Equinor, Sustainability Reports Archive; interview with Norvik; interview with Vold, August 31, 2018; interview with Rolf Magne Larsen, former director of International Exploration and Production, Statoil, September 9, 2019; interview with Thor Inge Willumsen, former director of Marketing, Statoil, September 9, 2019.

the UN's Global Compact established two years later.<sup>55</sup> As such, KOMpakt can be understood as an early example in what Ramasastry calls the “smart mix” of regulation and voluntary incentives to make corporations change behavior.<sup>56</sup> KOMpakt was established about the same time as the Norwegian Parliament passed the Human Rights Act, which created five key conventions to prevail in the event of a conflict with domestic legislation.<sup>57</sup> Businesses were thereafter generally held to high human rights standards within Norwegian borders, but specific human rights legislation for business was not in place before Parliament passed the Transparency Act for companies in 2021.<sup>58</sup> Thus, Norwegian companies operating abroad in the 1990s and 2000s encountered growing expectations from the Norwegian government and civil society regarding human rights awareness but no common standards for how this awareness should manifest itself in practice beyond respecting human rights law incorporated in host states' domestic legal systems.

Analyzing Statoil's first human rights-oriented NGO collaborations, they appear as test programs with a mix of defensive and proactive actions. For example, Statoil started projects in Azerbaijan and in Venezuela that aimed to raise human rights awareness in those two countries and their state apparatuses. This does not harmonize with the argument about its preference to be perceived as a private economic entity and its reluctance to engage actively in human rights development during the late 1990s and early 2000s.

In 1992 in Azerbaijan, a country with what Watts called an obvious “petrostructure,” the BP–Statoil alliance opened its headquarters and formed part of the consortium Azerbaijan International Operating Company, along with some international operating companies and the local State Oil Company of the Azerbaijani Republic.<sup>59</sup> The alliance had no common human rights or CRS policy, but Statoil supported several projects run by the Norwegian Refugee Council. This included a project to make teachers and pupils more aware of human rights and to offer workshops and seminars on human rights for relevant government and private institutions. The most political project, however, was a project that aimed to revise Azerbaijan's electoral law to bring it more in line with international standards for democracy, fairness, and transparency. This work was carried out by Azeri authorities and the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights and did not involve any active participation from Statoil. Yet the company was

55. *Menneskeverd i sentrum*, 132–133, 136, and 188–198, Norwegian Ministry of Foreign Affairs Archives; Norwegian Ministry of Trade and Fisheries, *Et mindre og nedre statlig eierskap*; Norwegian Government, “Revitalisering av KOMpakt 2010–2011.”

56. Ramasastry, “Corporate Social Responsibility,” 250.

57. This included the European Convention on Human Rights, the International Convention on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child.

58. In 2015, the Norwegian Ministry of Foreign Affairs launched a national action plan for the implementation of the UN Guiding Principles; in 2021, Parliament passed the Norwegian Transparency Act, which requires the country's largest companies (estimated at more than eight thousand in total) to carry out human rights due diligence in line with the OECD Guidelines. Norwegian Ministry of Foreign Affairs, *Business and Human Rights*; Norwegian Ministry of Children and Families, *Act Relating To Enterprises' Transparency* (Transparency Act).

59. “Norge-Aserbajdsjan. Statoils interesser,” memo, September 25, 1992, 52.4.217B, File 1, 1.9.1992, Norwegian Ministry of Foreign Affairs Archive.

involved in the sense that it was a project partner and contributed significant amounts of money to change Azeri law.<sup>60</sup>

As argued by McDonnell et al., it is not uncommon that companies that are chronically targeted by social activists or other pressure groups implement human rights policies for defensive reasons. New management devices are frequently adopted to demonstrate a company's normative appropriateness, a clear example of Statoil's new unit for National Risk and Human Rights. After a while, a company often expands its repertoire of defensive practices that become less defensive and more inclined toward demonstrating a lasting commitment to social responsibility in general.<sup>61</sup> This observation can be made for Statoil. Both the projects in Azerbaijan and in Venezuela were proactive expansions of originally defensive efforts and expressions of a growing need for lasting social commitment. From the company's viewpoint, its human rights commitment was merely part of its evolving CSR policy. As was the case with Shell, there were no clear distinctions between human rights obligations and CSR—rather, Statoil regarded them as closely intertwined. In the next section, I explore the unconventional project in Venezuela in detail, revealing how Statoil did not shy away from proactive human rights initiatives that were deeply intertwined with macro-level politics. I then move on to discuss Statoil's understanding of its human rights obligations more generally.

### Educating the Venezuelan Judiciary

Venezuela was Statoil's biggest solo venture outside Northern Europe, which the company entered after Venezuela opened its oil sector and abolished the monopoly of its national oil company *Petróleos de Venezuela (PDVSA)* in 1995. Statoil and French Total joined PDVSA in 1997 for heavy oil recovery in the onshore Orinoco belt. Additionally, Statoil obtained rights from PDVSA to enhance a Lake Maracaibo platform, collaborating with Chevron (operator), Phillips, and Arco.<sup>62</sup> The problem with this plan was that local Indigenous groups and fishermen opposed it. At Lake Maracaibo, fishermen were negatively affected by oil spills, while Indigenous groups and Venezuelan NGOs protested heavy oil production near the Orinoco River because of environmental degradation.<sup>63</sup> Operating in this context required active building of stakeholder trust. BP, Statoil's former alliance partner and source of inspiration (now BP Amoco; the alliance with Statoil was dissolved in 1999) ran a local project for Indigenous health and education in the Orinoco Delta, a preferred type of social investment for most oil companies at the time. Statoil, however, decided to go for an unconventional project to embed human rights within Venezuela's legal system.<sup>64</sup>

60. Statoil, *The Future Is Now*, 64.

61. McDonnell, King, and Soule, "Dynamic Process Model," 654–655.

62. Tarjei Leer-Salvesen, "Statoil and Hydro with Heavy Involvement in Venezuela: Oil Drilling Met with Protests," *Norwatch, Framtiden i våre hender*, June 15, 1997.

63. Tarjei Leer-Salvesen, "I gode hender? - en uautorisert Helse, miljø- og sikkerhetsrapport om Statoils aktiviteter i utlandet," *Norwatch, Framtiden i våre hender*, 1998, 9; Leer-Salvesen, "Statoil and Hydro with Heavy Involvement in Venezuela."

64. Frynas, *Beyond Corporate Social Responsibility*, 62–63; Frynas, "False Developmental Promise"; BP Amoco, *Environmental and Social Report 1998*, 37; Wayne Dunn & Associates, *Indigenous Relations: Meeting*



This decision was driven by several motivations. First, Statoil needed to improve its reputation in the aftermath of the Ogoni crisis in Nigeria. As previously noted, the company had established a human rights unit and was ready to embark on social investment projects. Second, it needed to build local stakeholder trust to secure a license to operate. Third, the newly elected president of Venezuela, Hugo Chávez, pledged to reform the country's Constitution for a more inclusive democracy. Its 1999 Constitution thus expanded human rights; prioritized international obligations over domestic law; established a new Supreme Court; and fortified judicial independence, enabling the judiciary to safeguard the rule of law and citizens' rights. As part of this process, Venezuela shifted from the presumption that a suspect was guilty unless or until proven innocent to the presumption of innocence as a legal principle.<sup>65</sup> With the presumption of innocence included as an international human right under Article 11 of the UN's Universal Declaration of Human Rights (UDHR), the UNDP, and Amnesty International, Venezuela developed a training program in human rights and international law directed at the Venezuelan judiciary. This program was open to sponsors and partners.<sup>66</sup> Fourth, Statoil collaborated on in-house human rights training with Amnesty International Norway since the mid-1990s and knew the organization well. At home, Amnesty advised Statoil on how to develop consistent human rights policies and report systems and organized human rights education for employees in Statoil as well as for its Norwegian competitor Hydro.<sup>67</sup> The bilateral cooperation with the UNDP, on the other hand, was something new. Statoil was likely among the first oil companies, if not the first, to formalize such a partnership with a UN organization. This trend, often termed "bluewashing" as a counterpart to "greenwashing," quickly gained momentum. The management scholar Jędrzej George Frynas observed, for example, that ChevronTexaco partnered with USAID and UNDP in Angola in the early 2000s during negotiations about an oil concession.<sup>68</sup> These partnerships mirrored a general UN trend where organs such as the UNDP, the Office of the UN High Commissioner for Human Rights, and later the UN Global Compact increasingly addressed the social responsibility and irresponsibility of multinational companies.<sup>69</sup>

Thus, after consultations with various local NGOs, Statoil decided to actively support the UNDP and Amnesty International Venezuela's training program directed at the Venezuelan judiciary. The program—which included the Consejo de la Judicatura, the Venezuelan state agency that appointed and trained judges—involved a three-week training session for twenty-four volunteer judges, guided by Amnesty Venezuela in interactive sessions. The judiciary oversaw the project, the UNDP coordinated, and Statoil financed and monitored the

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the Challenge—Responsibility and Sustainability, *report prepared for BP Venezuela, March 14, 1998, Mill Bay, Canada.*

65. Soto, Meucci, and Urribarrí, "Winds of Change."

66. At this point, human rights were integrated into Venezuelan legislation through the UDHR (ratified in 1948), the Inter-American Covenant of Human Rights (ratified in 1977), and the Statute of Rome (adopted 1998). Later, Venezuela denounced its ratification of the American Convention on Human Rights (2012) and withdrew its acceptance of the jurisdiction of the Inter-American Court of Human Rights (2012).

67. Amnesty International, "Statoil og Hydro-samarbeidet," August 5, 2011, "Support Us" webpage, <https://amnesty.no/statoil-og-hydro-samarbeidet>; Brand, Blok, and Verweij, "Stakeholder Dialogue."

68. Frynas, "False Developmental Promise," 584.

69. Watts, "Righteous Oil?" 375–376.

progression. The program expanded in the second and third phases until it included all Venezuelan judges, with the aim of being integrated into the general introduction program for new judges.<sup>70</sup> According to a Statoil press release, the purpose of this trisector agreement (civil society, government institutions, and the oil sector) was to “enhance expertise about human rights in the legal system and thereby prevent the breaches of international law and rules which occur in the Latin American country.”<sup>71</sup>

The training program was first launched in the petroleum states of Anzoategui and Zulia, where Statoil's Sincor (Orionoco) and LL652 (Lake Maracaibo) projects were located and the company needed social acceptance.<sup>72</sup> Even though all the program partners praised the program for its success, hailing it as a model to be replicated elsewhere, it existed amid serious political instability.<sup>73</sup> With the benefit of hindsight, it is obvious that Chávez's reforms were the start of Venezuela's democratic backsliding.<sup>74</sup> Already in 1999, the year the training program started, the signs of this downfall were obvious. That year, Venezuela's constitutional assembly ousted 20 percent of the country's judges over alleged corruption and inefficiency, and 30 percent of prosecutors left the court system. Many judges and human rights organizations contested these reforms, claiming that Chávez was using the wrong cure to fix Venezuela's systemic problems.<sup>75</sup>

Considering Statoil's (and other oil companies') previous tendency to emphasize their nonpolitical status, one might anticipate the company's leadership to, at some point, assess the political implications of this program. Surprisingly, though, the historical records lack any trace of such assessments. Rather, the archives overwhelmingly reflect the enthusiasm Statoil had for its ability to realize human rights in Venezuela.<sup>76</sup> In Statoil's internal magazine, the critical situation in 1999 was portrayed as if the dismissed judges were reactionaries who prevented reforms and had decided to retire themselves. The ongoing restructuring of the judicial system was described as “somewhat tumultuous,” with no further reflection on Venezuela's political turmoil.<sup>77</sup> To the contrary, Statoil's management reasoned that Chávez's disputed reform was an asset because it allowed for the human rights training program to be realized. The fact that Statoil, through the program, offered substantial advantages to the

70. “An Alliance for Human Rights in Venezuela,” presentation by Staffan Riben, at the Simposio de Responsabilidad Empresarial en las Américas, June 10–12, 2001, and “Corporate Engagement in Human Rights Capacity Building,” summary of HR workshop, in London, June 14, 2001,” Equinor, Digital Corporate Archive; Statoil, *Delivering What We Promise*, 45.

71. “Training in Human Rights,” May 28, 1999, Equinor, News Archive.

72. “An Alliance for Human Rights in Venezuela,” presentation by Staffan Riben, and “Corporate Engagement in Human Rights Capacity Building,” summary of HR Workshop; Statoil, *Delivering What We Promise*, 45.

73. “More Training for Judges,” Statoil press release, October 2, 2001, Equinor, News Archive, <https://www.equinor.com/news/archive/2001/10/02/MoreTrainingForJudges>; “Corporate Engagement in Human Rights Capacity Building,” summary of HR Workshop; Statoil, *Delivering What We Promise*.

74. “The Venezuelan example is a cautionary tale with respect to embracing all-encompassing efforts to replace the constitution without agreed, preestablished limits on the reforming body's prerogatives and/or with adequate accountability mechanisms in place.” See Soto, Meucci, and Urribarrí, “Winds of Change,” 316–317.

75. Human Rights Watch, *Decade Under Chávez*, 36–37; “Judicial System Is Under Siege as Chavez Launches Reform,” October 1, 1999, *The Wall Street Journal*; International Commission of Jurists, *Attacks on Justice 2000*.

76. “An Alliance for Human Rights in Venezuela,” presentation by Staffan Riben, and “Corporate Engagement in Human Rights Capacity Building,” summary of HR Workshop; Statoil, *Delivering What We Promise*, 45.

77. *Statoil Magasin*, “Med meningers mot,” 21, no. 3 (1999): 23.

Venezuelan authorities—in the guise of an opportunity for them to demonstrate a willingness to modernize and become more accountable to the needs of the electorate—was not problematized but seen as a simple truth. This lack of reflection on how the program tied Statoil to Venezuelan politics is hard to comprehend, given the company’s continuous insistence on not overstepping its role as a commercial entity in Venezuelan society.<sup>78</sup>

### Statoil’s Understanding of Its Human Rights Obligations

Statoil’s human rights projects in Azerbaijan and Venezuela indicate a dissonance between the insistence on staying out of politics and the willingness to engage proactively in human rights in host states. When asked why Statoil did not do something more traditional like BP Amoco’s micro-level social development project in the Orinoco Delta, the director of Statoil Venezuela, Staffan Riben, responded: “Our fundamental motive is that it is ethically right to demonstrate our values.”<sup>79</sup> Considering how Statoil reasoned in Nigeria only a few years earlier, this was a significant shift. What exactly prompted this shift, and what values was Riben referring to?

On the one hand, Statoil’s decision to join the programs in Azerbaijan and Venezuela was motivated by defense to restore the company’s reputation after the problems in Nigeria. At the same time, their initiatives were distinctly proactive because they moved beyond the traditional understanding of BHR to respect human rights to realize them in arenas where they had not yet been fulfilled. This proactive stance aligns with a theory developed by the philosopher Henry Shue in the 1990s. Shue presented three types of human rights obligations, on which Wettstein predicated large parts of his argument about how to make business engage proactively in human rights. Shue suggested that the existence of any human right always implies a corresponding obligation from any agent with the capability to pursue it. These obligations encompass respecting rights, protecting rights against threats, and realizing rights where they have been violated or unfulfilled. Shue contended that all agents, individuals, or institutions, hold these duties, albeit not always extensively. Whereas the duty to respect human rights applies to everyone individually and equally, the positive obligations (protect and realize beyond the do-no-harm principle) vary based on the agent’s capability to pursue them.<sup>80</sup> According to Shue’s typology, then, there were normative reasons for corporations to proactively pursue protection and realization of human rights like Statoil did in Azerbaijan and Venezuela.

From a historical perspective, this way of thinking is not new. As mentioned at the beginning of this article, the business history literature reveals that commitment to embedding humane values in business has deep and global roots. Going back to Quaker capitalism, Jones identified historical lines of reasoning that resonate with Shue’s more modern ideas about moral rights.<sup>81</sup> In terms of human rights, Wettstein maintained that a sense of purpose and

78. “Corporate Engagement in Human Rights Capacity Building,” summary of HR Workshop.

79. *Statoil Magasin*, “Med meningers mot,” 24.

80. Shue, *Basic Rights*, 52.

81. Jones, *Deeply Responsible Business*, 17–98, 342–359.

mission is a key determinant for firms to engage proactively in human rights endeavors. To integrate the protection and realization of human rights into this sense of purpose and mission, a firm must understand human rights as moral rights, not simply legal obligations. Despite all the challenges, failures, and trade-offs in the history of business relationships with human rights, this insight is obvious also from the historical literature on values-driven business. Quaker investors were, for example, clearly driven by moral conviction, not legal restrictions, to use ethical commerce to undermine slavery or implement social programs for workers.<sup>82</sup> The central question for this article, then, is whether Statoil management reasoned along lines that somehow reflect these historical trends.

When listing the reasons for engaging in the human rights training program in Venezuela, Statoil's Venezuela director underlined that the company wanted to be "value-driven" with better internal human rights awareness. Among its self-defined guiding principles for the human rights program was the following: "Stand up for human rights as an active participant and not as a silent bystander."<sup>83</sup> Statoil's CEO explained the company's motivation in the following way: "Everybody in such countries would benefit from a stronger judicial system. Good governance and sound CSR or SD [sustainable development] performance depend on such institutions. So, we are happy to be given the opportunity to help there."<sup>84</sup> Although these statements were quite vague, they still indicated a certain way of tying human rights obligations to purpose and mission. First, Statoil management saw it as a duty to be actively involved in human rights protection and promotion because this was morally right for the kind of "value-driven" company Statoil wanted to be. Second, management perceived human rights to be closely related to state-building and good governance. The latter was a view that largely reflected the UNDP's rights-based understanding of development.

Among the UN organs, the UNDP was the unit that in the 1990s most significantly shaped the link between human rights and economic development. The UNDP advocated a specific development concept that saw human rights as an intrinsic part of development, and development as a means to realize human rights. Partnering with oil companies and other multinationals was a way for the UN to influence corporate human rights awareness during a period when efforts to develop common regulation stagnated.<sup>85</sup> Most likely, the UNDP's rights-based view on development influenced the notions of Statoil and other companies that human rights and CSR were two sides of the same coin.

In a human rights perspective, good governance, which Statoil's CEO referred to when he explained the motivation behind the company's initiatives, describes the process whereby public institutions guarantee the realization of rights. In development theory and practice, it is well known that capacity-building in the justice and security sectors is crucial for countries' abilities to fulfill human rights obligations to their own citizens as well as to combat structural discrimination and corruption. From this point of view, the training program in Venezuela

82. Wettstein, "CSR and the Debate on Business and Human Rights," 740, 760; Everill, *Not Made by Slaves*; Jones, *Deeply Responsible Business*, 17–98, 342–359.

83. "Corporate Engagement in Human Rights Capacity Building," summary of HR Workshop.

84. Statoil, *The Future Is Now*, 14.

Statoil, *Delivering What We Promise*, 14.

85. UNDP, *Human Development Report 1990*; UNDP, *Human Development Report 1997*; UNDP, *Human Development Report 2000*; Lengfelder, *Policies for Human Development*, 7–8; cf. Ruggie, *Just Business*, xv–xxiv.

was both a CSR and BHR initiative, and Statoil management made no attempt to distinguish between the company's human rights obligations and other types of social responsibility. It was all part of the same whole.

However, Statoil's motivation for adopting a proactive human rights policy was also driven by the business case argument. A more nuanced justification of the project in Venezuela was that a well-functioning rule of law was fundamental to an effective tax system and to the fight against illegal capital flight. These structural conditions could be crucial for corporations from democratic states operating in other countries. As Statoil put it in its second sustainability report: "The rule of law and respect for human rights protect investments by ensuring stability and predictability."<sup>86</sup> Like most other companies, Statoil explained quite simply that it worked on social responsibility, of which human rights efforts were a natural part not only to "live up to ethical standards and behave properly, but also to increase commercial opportunities."<sup>87</sup> As for other Western oil companies, securing a good reputation to obtain licenses to operate was an obvious driving force. So were securing more stable operation frameworks to guarantee profits. At the same time, it is possible to argue that the establishment of the new human rights unit, the agreement on in-house human rights training with Amnesty International, the participation in KOMpakt, and the untraditional human rights initiative in Venezuela were signs that positive human rights obligations actually had started to matter at Statoil. This is an interesting concept because Wettstein indicated that an emphasis on positive human rights obligations was largely absent in many firms between 1995 and 2011, the period he described as the formative years of the BHR–CSR debate.<sup>88</sup>

Considering the above, it is impossible to ignore Statoil's national culture as an important precondition for its evolving human rights awareness. As argued by Robertson and Fadil, we must integrate the influence of cultural values into the ethical decision-making paradigm.<sup>89</sup> It is outside the scope of this article to discuss the exact relevance of national culture in detail, but it is evident that Statoil's Norwegian identity and state ownership were significant for the company's self-perception and its understanding of its human rights obligations. For decades, it had been more or less self-evident to Statoil management that the company's corporate values consisted in making profits while reflecting principles of freedom, equality, participation, accountability, and the rule of law—democratic norms deeply ingrained in Norwegian society. From this perspective, pursuing proactive human rights efforts in other parts of the world was an extension of Norwegian democratic culture.<sup>90</sup> Yet Statoil did not initiate any human rights efforts on its own prior to those launched by BP and Shell, two companies that Statoil was close to both in terms of business culture and professional connections.

86. Statoil, *Delivering What We Promise*, 47.

87. Statoil, "A More Focused Statoil."

88. Wettstein, "History of 'Business and Human Rights,'" 28–30.

89. Robertson and Fadil, "Ethical Decision Making."

90. Nissen, "Oil Company as a Force for Good?"

## Concluding Remarks

This article has examined changes in the attitudes of Western oil companies toward human rights from the mid-1990s to the 2000s. The intention has been to offer a historical perspective on a debate within the business ethics and management literature concerning an alleged problematic divide between CSR and BHR. According to the debate, this divide is caused by the different historical origins of the two fields; that is, – human rights have been understood as legal or quasi-legal obligations that should be respected, whereas CSR has been understood as voluntary norms that should be proactively pursued. Legal scholars and business ethicists see the problem as a legal and historical one, where scholars and practitioners' limited understanding of human rights has hindered businesses from taking proactive human rights initiatives, which has restricted their contribution to positive global human rights development.

From a historical perspective, however, the roots of CSR and BHR are closely intertwined and not so easy to separate. Although the UDHR's 1948 declaration marks an obvious shift in the legal status of human rights, business leaders' ways of thinking about and acting on social responsibility have long involved forerunners to today's legally grounded rights. Thus, separating human rights responsibilities from other social responsibilities appears as somewhat ahistorical. This analysis of how human rights awareness developed in the oil sector during the 1990s and 2000s demonstrates that large, influential corporations understood human rights as part of the CSR concept also in a period when the BHR–CSR debate claims that this was not the case. The range of proactive human rights initiatives launched by leading Western oil companies in this period was largely motivated by their need for reputational dividends after massive criticism of their ignorant attitude to human rights, and thus they implemented such initiatives for defensive purposes. Yet, some went beyond the limited understanding of the companies' responsibility to only respect human rights, aiming to also realize human rights where they had not been fulfilled.

However, this observation does not mean that the oil companies' human rights initiatives were overwhelmingly motivated by moral considerations. They were driven just as much by reputational and commercial considerations. As illustrated by Statoil's human rights efforts in Venezuela, the company was willing to take great political risk not only because it wanted to be a value-driven company with moral concerns but also because the project offered a reputational dividend post-Nigeria and helped Statoil to position itself vis-à-vis Venezuelan authorities and other stakeholders in the competition for licenses. This observation harmonizes with insights drawn from the historical literature on responsible business. In the past, value-driven business leaders navigated conflicting responsibilities by being motivated through a combination of profits and social purpose. This implies that it does not have to be either/or for a business to pursue positive human rights obligations. Although it is probably beneficial for a company to view the promotion of human rights as integral to its purpose, vision, and mission, it can also contribute positively to the realization of human rights when driven by commercial incentives. A company can, in other words, understand human rights as moral rights but pursue them for more cynical or pragmatic reasons. One does not exclude the other.

Likewise, a company's understanding of CSR does not necessarily exclude human rights. As demonstrated by this article, oil companies did not distinguish sharply between human rights obligations and other social responsibilities. Rather, they perceived them as integrated phenomena. For companies such as BP, Shell, and Statoil, the new human rights awareness, born out of massive criticism of their ignorant attitude to human rights, was central to their establishment of holistic CSR policies. This finding does not correspond to the literature's conceptual description as a "gap" or "divide" in business' understanding of its human rights and its CSR obligations. Although this gap was present in high-level juridical UN negotiations on common human rights regulation as well as in scholarly discussions about the two issues, it was not reflected in the practical understanding and implementation of human rights and CSR policies by leading Western oil companies. Accordingly, the oil companies studied in this article seem to have demonstrated a less "minimal" understanding of their human rights obligations than what the BHR–CSR literature suggests was typical in the late 1990s and early 2000s.

This was probably because the oil companies eventually understood themselves as political actors who participated in political interplays. The companies were powerful players who impacted the global distribution of resources and experienced how citizens increasingly redirected political hopes and grievances related to human rights toward them. Since the self-understanding of corporations as political actors is a crucial precondition for charging them with human rights responsibilities beyond nonviolation, the banal, yet important insight that oil companies were political actors, —and saw themselves as just that, helps explain their defensively motivated yet increasingly proactive human rights initiatives. The oil companies' balancing act consisted in demonstrating commitment to human rights by including them in strategy documents, social investment schemes, and multistakeholder projects while also securing profits and avoiding accusations of too much political interference and "neocolonialism." Considering history, this was in essence not so different from corporate concerns with social responsibilities and impact in earlier periods.

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